



Statutory Planning Committee

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

Meeting No. 7629

Tuesday, 4 February, 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 | |
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| 5. | Declaration of due consideration | |
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| 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. 7628
Tuesday, 21 January, 2020

- Members: David Caddy - Chairman WAPC
Megan Adair - WAPC Appointee
Paddi Creevey - Nominee of the Regional Minister
Kym Davis - Community Representative
Lino Iacomella - WAPC Appointee
Leonard Kosova - Local Government Representative
Nina Lyhne - WAPC Appointee
Marion Thompson - Professions Representative
- Apologies: Vaughan Davies – Nominee of the Director General
- Others present: Andrew Cook - Planning Manager, Metro North
Shau Chong - Principal Planning Officer, Schemes and Amendments
Jemma Douglas - Senior Planning Officer, Metro North
James Dorn - Senior Planning Officer, Schemes and Amendments
Sam Fagan - Manager, Commission Business
Jessica Gavranic - Graduate Officer, Department of Planning, Lands and Heritage
Sam Lissiman - Senior Planning Officer, Schemes and Amendments
Damien Martin - Assistant Director General, Strategy and Engagement
Michelle Matthewman - Commission Support Officer
Rohan Miller - Planning Director, Schemes and Amendments
Ben Nayton - Senior Planning Officer, Strategy and Engagement
Rachel O'Dea - Graduate, Department of Planning, Lands and Heritage
Lisa Powell - A/Planning Director Metro South and Peel
John Pride - Principal Planning Officer, Metro South and Peel
Michael Schramm - Planning Director, Regional South West
Mathew Selby - Planning Director, Metro North
Ryan Shaw – Planning Manager, Metro North
Rebecca Risteski - Senior Planning Officer, Schemes and Amendments

1. Declaration of opening

The Chairman declared the meeting open at 9:22am, 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

Mr Vaughan Davies - Nominee of the Director General, Department of Planning, Lands and Heritage

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

Ms Nina Lyhne made an application for a leave of absence from the Statutory Planning Committee on the following dates:

5 May 2020

19 May 2020

9 June 2020

1 September 2020

4. Disclosure of interests

Ms Lyhne advised the Committee that she was previously a member of the Ocean Reef Marina Steering Committee, members acknowledged Ms Lyhne's disclosure and agreed it would not impact her consideration of Item 9.2 Ocean Reef Marina Improvement Scheme - Resolution to prepare.

Mr Kosova declared an Impartiality Interest on Item 8.2 Amendment to Local Development Plan - The Brook at Byford Plan 2 - Variations under Clause 7.3.2 of the Residential Design Codes. Mr Kosova stated the Shire of Serpentine Jarrahdale was, until recently, a client of his private consultancy LK Advisory. Members agreed Mr Kosova is permitted to be present during the discussion/and or decision making procedure on the item as this is unlikely to influence Mr Kosova's conduct in relation to the matter.

Mr Kosova declared an Indirect Pecuniary Interest on Item 9.7 City of Swan - Local Planning Scheme No. 17, Amendment No. 142 - For Final Determination. Mr Kosova stated that Peet, Parcel and Cedar Woods are submitters on the proposal and are all clients of his private consultancy LK Advisory. Members agreed Mr Kosova should not be present during the discussion/and or decision making procedure 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. 7627, on Tuesday, 10 December 2019

Moved by Ms Davis

Seconded by Ms Creevey

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 10 December 2019, be confirmed as a true and correct record of the proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 Local Structure Plan Proposal - Mount Helena (Item 8.3)

Presenters: Morgan Oliver - Landowner

Mr Oliver presented to the Statutory Planning Committee as a landowner in the Mount Helena Local Structure Plan Area and thanked the Committee for the opportunity to speak against point one of the recommendation regarding Charlotte Creek being incorporated into a reserve. Mr Oliver provided a detailed background on how the original Structure Plan came to be, stating that landowners came together to put together a modern example of a Perth hills structure plan which was supported by the Shire of Mundaring.

Mr Oliver discussed the practical and pragmatic approach, noting site-specific issues relating to the creek line including proximity to the heritage trail, accessibility and flat ground which all support a portion of the creek line be included in public open space. Mr Oliver commented on water custodian lots with easements noting the smallest lot will be in the vicinity of 5000 square metres.

Mr Oliver acknowledged the potential management costs for the Shire of Mundaring in maintaining part of the creek line in public open space, and discussed the Shire's view to not have additional sections of the creek in public open space.

Members queried why Lot 27 Johnson Street was not included in the Structure Plan area. It was noted the lot is not zoned urban and is mostly bushland. Mr Oliver stated the owner was not interested in development. Members queried the link between the proposed open space and reservations in the Mount Helena town site. It was noted Bernard street has a gravel access way, and lot 27 backs onto the heritage railway trail.

Members queried the R-Code of Lot 41 Hummerston Street which was identified as R5 as opposed to lots opposite which are R2.5, members discussed how R2.5 would provide more opportunity should the creek run through the properties. It was noted the change was due to the high-water level at the back of Lot 41 and the practicality of having R5 so that future lots could be 3500 square metres with the inclusion of the creek.

7.2 Local Structure Plan Proposal - Mount Helena (Item 8.3)

Presenters: Martin Flint - Flint Legal, Ray and Dale Bacon - Land Owner Lot 28 Bernard Street, Mount Helena

Mr Flint presented to the Statutory Planning Committee from Flint Legal together with Mr and Mrs Bacon, owners of Lot 28 Bernard Street, Mount Helena. Mr Flint thanked the Committee for the opportunity to address his clients concerns with the public open space and drainage proposal of the Mount Helena Local Structure Plan in the context of Lot 28.

Mr Flint noted that his clients have lived on the property since 1973, and intend to remain on the property and not subdivide their land. Mr Flint noted that the structure plan's proposed subdivision of Lot 28 would be in the fourth and final stage of development, and noted that it would cause the property to be inappropriately and unfairly burdened with public open space.

Mr Flint discussed the cost of acquisition, that the purchase of land for public open space would be ceded and reimbursed at such a time as clients choose to subdivide, which may not transpire. Cash-in-lieu would be collected from other landowners within the structure plan area in respect of public open space provided by his clients in excess of the standard 10% contribution. Mr Flint expressed doubt in the validity of such a condition stating that there is no way to determine how much would be paid. It was noted there is no such agreement for 'joint subdivision' that his clients have entered into.

Mr Flint discussed the proposed drainage management of the structure plan in relation to lot 28 and the use of his client's land for the construction of two swales. Mr Flint noted it was understood lot 28 would not be used for over ground drainage, and that construction of swales without his client's consent was inconsistent with their rights as landowners.

Mr Flint summarised by proposing consideration of the early purchase of the public open space deemed appropriate on lot 28, and to modify the structure plan to ensure that the lot is not used for overland drainage.

Members queried if Mr and Mrs Bacon are willing participants in the joint venture with other landowners. It was noted they are not opposed to subdivision, but were content to not be a part of the subdivision. Members queried if they were aware of swales and drainage propositions on their land, Mr Bacon stated it was not in the original plan, however, it was included in the second plan that was considered by the Shire of Mundaring. Members queried the impact of drainage on lot 28, Mr Bacon stated that it would undo rehabilitation they have undertaken on the creek, would deteriorate the value of the land and would cause issues with excessive water flow from higher lots and fire breaks.

7.3 Local Structure Plan Proposal - Mount Helena (Item 8.3)

Presenters: Simon O'Hara - Statewest Planning

Mr O'Hara thanked the Statutory Planning Committee on behalf of Statewest Planning for the opportunity to present. Mr O'Hara gave a detailed background of the design elements and issues considered when determining whether the entirety of Charlotte's Creek be included in the public open space including achieving road access, dual frontages, demolition of existing housing, BAL ratings and bushfire risk.

Mr O'Hara discussed how they worked through the issues identified with the Shire of Mundaring and acknowledged the need to improve the ecological value of the creek through vegetation rehabilitation and

custodial lots. It was stated this was presented to the Department of Water and Environmental Regulation whom agreed with the objectives and signed a letter supporting the Local Water Management Strategy.

Mr O'Hara discussed how SPP 2.9 - Water Resources refers to the need to protect, enhance and conserve significant waterways, but does not require all waterways to be reserved. Mr O'Hara noted that the structure plan does identify that the creek has value and seeks to achieve the aforementioned objective. Mr O'Hara discussed that the Shire does not want the creek as a reserve.

Mr O'Hara discussed how SPP 2.10 relates to a specific area, being the Swan-Canning river system, and that Charlotte's Creek is not recorded on the Swan River System Landscape Description map. Mr O'Hara stated this does not support a requirement to transfer any of the water course into a public reserve.

Mr O'Hara noted how Liveable Neighbourhoods cross references these policies and noted that R9 states that non-perennial streams may not always require a foreshore reserve. Mr O'Hara discussed how the water course in the structure plan is non-perennial which allows discretion as to whether the watercourse should be reserved or not.

Mr O'Hara stated that element one requires critical review, summarising that the policy references protection of creek lines but does not specify open creek. Mr O'Hara asks that the Committee consider removal of point one of the recommendation.

Members queried the duration of time that Mr O'Hara had worked with landowners and it was noted that he was brought in at the structure plan stage and that rezoning was done through a different consultancy firm.

Members queried if discussion had taken place with landowners and compensation for those giving up land for public open space. It was noted the Shire of Mundaring strongly objects to that been incorporated into their scheme. It was noted landowners would expect to be compensated through normal processes as detailed in the Planning and Development Act and that the council would need to respond with how they would cope with compensating landowners that might be giving up 21-25% without a development contribution plan in place.

Members queried the drainage issues and over land flows that lots 28 to 30 would face and Mr O'Hara discussed how drainage would come down from Lion Street to Bernard Street where a series of potential basins where water infiltration occurs and geofabric planting could assist with water retention so that the flow would run through the existing creek line and be retained at current levels.

7.4 Local Structure Plan Proposal - Mount Helena (Item 8.3)

Presenters: Angus Money - Shire of Mundaring

Mr Money presented to the Statutory Planning Committee on behalf of the Shire of Mundaring. Mr Money highlighted the unique situation of

Perth hills and the statutory provisions in the scheme that fit these particular situations, to achieve good balanced outcomes. Mr Money discussed how rehabilitating and enhancing the creek is critical, however, public access along the entire length is not supported.

Mr Money discussed how the creation of linear public open space becomes difficult to manage from a bushfire perspective. It was also noted that 18% of properties in the area already traverse the waterway. Mr Money discussed how the Mount Helena MRS reservation and public open space accounts for 20% of the whole suburb and therefore the Shire cannot take on management of the whole creek line.

Mr Money discussed scheme provisions the Shire of Mundaring can enforce, those being watercourse protection, stormwater management, landscaping, vegetation protection and rehabilitation of land. Mr Money stated the Shire does not want a reserve, and requested that consideration be given to having at least 10 metre setbacks on both sides. Mr Money stated lots could be defined as waterway custodian lots and landowners would be made aware of obligations relating to bushfire management and creek vegetation.

Mr Money discussed how Lot 27 which follows the railway reserve heritage trail should be included in the structure plan to continue logic on public open space and achieve orderly and proper planning. Mr Money stated that the scheme is geared to resolve bushfire and access issues given the reserves have steep embankments and the track would give cells for strategic fire management and allow access through to Mount Helena townsite.

Members queried how, if included, the Shire would fairly compensate lot 27. It was noted given the current public open space requirements rural for residential subdivisions give up 5% and 10% for urban development. Mr Money gave an example that public open space only adds 8% of 10% and the remaining 2% would be spent maintaining Shire land and the Mount Helena townsite.

Members queried the number of likely subdivision applications and it was noted there would be multiple and that the Shire would be prepared to enter into subdivision agreements with all landowners. Members queried if provisions had been included in the current structure plan that establish collection of the affected landowners; Mr Money stated those conversations have not yet advanced. Members queried why lot 27 was not included in the structure plan and it was noted this was due to concerns around bushfire risk.

7.5 Local Structure Plan No. 9 - Lot 660 La Perouse Road, Goode Beach (Albany) (Item 9.1)

Presenters: Catherine MacDonald - Frenchman Bay Association

Ms MacDonald presented to the Statutory Planning Committee as the President of the Frenchman Bay Association, representing the community of Goode Beach. Ms MacDonald stated online and paper submissions that have collected over 20,000 signatures in opposition to the proposed resort.

Ms MacDonald discussed the impact of coastal erosion, and the poor accessibility for ten chalets on the site. Ms MacDonald stated the proposed resort is of inappropriate scale and would have negative environmental impact on the area. Ms MacDonald highlighted that more than twice the area of pristine bush land would be cleared, there would be an increase of five times the number of people and ten times the amount of traffic.

Ms MacDonald discussed how the standard 100 years set back would preclude the proposal and that the lake restricted anything further. Ms MacDonald stated that proponent tried to create a buffer from the water's edge and discussed how the ground water flows towards the lake. Ms MacDonald discussed the danger of effluent disposal in the area and the proximity of sewerage treatment plants.

Ms MacDonald discussed the bush fire prone nature of the peninsula, noting that the Goode Beach settlement only has one access road. Ms MacDonald stated that cultural and natural heritage has been undervalued and that local Noongar people have not been consulted. Ms MacDonald stated that there is several endangered flora and fauna surrounding the site.

Members queried if Ms MacDonald was able to access the latest and most up to date scientific information about the natural area. It was stated that the Frenchman Bay Association has highly skilled individuals who are involved through their own networks. Ms MacDonald stated that if you are not currently enrolled or in university you cannot access information and individual articles must be paid for and that the process for third parties is difficult.

7.6 City of Rockingham - Town Planning Scheme No. 2, Amendment No. 176 - For Final Decision (Item 9.3)

Presenters: Steve Allarding - Allarding and Associates and John Wood - National Lifestyle Villages

Mr Allarding presented to the Statutory Planning Committee representing Allarding and Associates with Mr Wood whom is the founder and former managing director of National Lifestyle Villages. Mr Allarding discussed the submission to the City of Rockingham on proposal number 6 of the amendment which is for the prohibition of Park Home Parks across the entire locality of the City of Rockingham. Mr Allarding stated that the proposal left developments as a non-conforming use and offered little room for expansion. Mr Allarding stated that he did not object to amendment number 176, however, requested land use permissibility so they did not operate under non-conforming use rights.

Mr Wood provided a detailed background of two National Lifestyle Villages that already operate within the City of Rockingham. Those been the Vibe Village, which has a current application for expansion and Tuart Lakes Lifestyle Village, which is in the process of undertaking a structure plan amendment to facilitate modifications and

expansion. Mr Wood discussed how both villages represent affordable aging accommodation.

Mr Wood discussed the strong demand for the permanent living caravan parks model that evolved from collaboration with the State Government. He highlighted that the model has a foot hold in Western Australia under the current WA planning framework. Mr Wood discussed the adoption of innovative planning policy to ensure the survival, investment from a wider market and to facilitate further planning.

Mr Wood concluded by asking that proposal number 6 be removed from amendment number 176, so that the matter could be more comprehensively considered when the Council undertakes review of its Scheme.

Members queried the planning bulletin that relates to Park Home Parks and caravan parks and the additional and special use provisions. It was noted land is zoned urban which provides options for flexibility when dealing with residential parks and that it makes sense for it to be retained as an additional use.

Members queried how many other Park Home Parks are located within the City of Rockingham and the response to Mr Wood's proposal. It was noted that there are no other Park Home Parks for permanent residents and that there were no objections or issues with current villages and they were willing to amend the scheme to incorporate other or special uses.

7.7 Town of Cottesloe Local Planning Scheme No. 3 - Amendment No. 8 - For Final Decision (Item 9.4)

Presenters: Mark Goodlet - Owner 8 Dalgety Street, Cottesloe

THIS ITEM IS CONFIDENTIAL AT THE REQUEST OF THE PRESENTER

7.8 Town of Cottesloe Local Planning Scheme No. 3 - Amendment No. 8 - For Final Decision (Item 9.4)

Presenters: Benjamin Webb - Owner 120 Eric Street, Cottesloe

Mr Webb presented to the Statutory Planning Committee as the owner of 120 Eric Street, Cottesloe. Mr Webb discussed that he is seeking further amendment to the Town of Cottesloe to include Lots 116, 118 and 120 Eric Street in the rezoned area. Mr Webb stated that the joint proposal was previously included in Scheme Amendment No. 8, however, when the amendment was voted on in September 2019 the amendment was withdrawn.

Mr Webb discussed how the properties are in ideal location to help achieve local government infill targets and that the land is in close proximity to the Grant Street train station, transport routes and side streets along Stirling Highway. Mr Webb stated the properties have no heritage value.

Mr Webb discussed how wide verges and large offsets from surrounding properties would support higher density construction in the location. Mr Webb asked that the WAPC consider the properties for rezoning, stating that higher densities could be accommodated and that split coding would result in fragmented outcomes for the community.

Members queried the why the properties had originally been included in the Scheme and then later removed by the Council. It was stated that the proposal had not been included in the original advertisement and that there was no debate about the merits of individual proposals for zoning. It was stated that Mr Webb was not consulted about the exclusion.

7.9 City of South Perth - Local Planning Scheme No. 6, Amendment No. 59 – For Final Determination (Item 9.5)

Presenters: Warren Giddens and Matthew Andrews - City of South Perth

Mr Giddens and Mr Andrews presented to the Statutory Planning Committee representing the City of South Perth. Mr Giddens thanked the Committee for the opportunity to address key elements of Manning Road in regards to density and building height. Mr Giddens discussed how the amendment has been ongoing since 2010 and the community's general acceptance of the Waterford design study. Mr Giddens discussed how an increase in density coding would interface between four storey buildings adjacent to single storey buildings.

Mr Giddens discussed the community concern and trust of community in future undertakings. Mr Giddens discussed the need for consideration around high-water flow after comments from the Water Corporation. Mr Giddens discussed the strategic approach to the City of South Perth achieving development targets noting that the City is on track to exceeding these in the future. Mr Giddens discussed the future widening of Manning Road, noting the 6-metre set back will provide adequate deep soil zone and significant areas for back gardens and deep planting whilst also providing a natural shield from Manning Road along with screens that may be erected.

Mr Giddens discussed State Planning Policy 5.4 in regard to road and rail noise stating that a setback of 5 metres or less would result in excessive drilling and noise levels. Mr Giddens stated the City is understanding of the community's desire to finalise the process, and potentially undertake their own requirements in relation to coding. Mr Giddens noted the City of South Perth did not have issue with Amendment No. 60.

7.10 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For Final Determination (Item 9.7)

Presenters: Justin Page - Element Advisory and Warren Spencer - Terranovis

Mr Page presented to the Statutory Planning Committee representing Element Advisory along with Mr Spencer from Terranovis. Mr Page discussed the 2009 transport report, which states a roundabout would be required at the Lord and Park Street intersection. Mr Page noted the reference to a staged approach to transport planning due to the future construction and expansion of Brabham.

Ms Creevey left the meeting at 10:51am

Mr Page discussed that the report also stated a roundabout would need to be established before the proposed Perth to Darwin highway was constructed, therefore should have been included in the DCA. Mr Page discussed how members queried why the applicant did not make an application at the that time. It was noted that when the DCA was prepared there was already a roundabout shown at Park Street, not specifying who would rebuild the roundabout, therefore no submission was necessary. Mr Page stated it was known at the time that Stockland was providing another roundabout to the south and the Park Street roundabout would be deferred until highway construction began.

Mr Page noted that the 2012 LSP 1A structure plan was approved for Whiteman Edge, resulting in a deviation to the SLM 2009 transport planning and that the roundabout at Park Street was deemed sufficient. Mr Page discussed that in 2014 the Avonlee LSP3A was approved which reverted back to the SKM 2009 recommendation for a roundabout at the Lord and Park Street intersection based on the interim T intersection was deemed insufficient to cope with traffic. Traffic using the Stockland round about would create an undesirable 'rat run' and the Perth to Darwin highway relocation meant the roundabout would not be funded by Main Roads.

Ms Creevey returned to the meeting at 10:53am

Mr Page discussed how the City of Swan should have initiated its own DCA to rectify situations for missing infrastructure rather than relying on Main Roads constructing the roundabout. Mr Page further discussed that in 2013 when the City of Swan became aware Main Roads would not commit to constructing the roundabout that they should have taken action.

Members queried the Stockland roundabout, it was stated this no longer exists as was temporary and was single lane. It was noted there is now a new dual lane roundabout at Youle-Dean Road. Members queried if a regional road existed would the traffic generate need for a dual lane roundabout. It was stated that approximately 5000-6000 cars use the roundabout daily, and this was the context lodged by the applicant. Mr Page stated that a review of the transport modelling showed that it was not going to be sufficient at the time when Cedar

Woods came on board. It was noted a permanent roundabout was always envisioned at the time of the 2009 report, and all planning had led back to a roundabout at Park Street and that the DCA had been advanced.

7.11 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For Final Determination (Item 9.7)

Presenters: Rachel Chapman - Taylor Burrell Barnett

Ms Chapman presented to the Statutory Planning Committee representing Cedar Woods to reiterate the fundamental flaws in the amendment to include the construction of the roundabout after the DCA in Brabham.

Ms Chapman discussed certainty, noting that there was no request for inclusion of the roundabout until 6 months after it was gazetted. Ms Chapman stated the inclusion of costly infrastructure should have been considered as part of the DCP. Ms Chapman stated the LPS3A around the structure plan which encompass Avonlee does not state the WAPC may invoke the requirement of a dual lane roundabout by the landowner at the landowners cost.

Ms Chapman discussed need and nexus and the need to have traffic modelling that supports the inclusion to be substantiated as requested. Ms Chapman discussed how traffic forecasts in the future would not be confided to the Albion district structure plan area.

Ms Chapman discussed equity, that 50% of the DCA had been developed and that 100% cost of the infrastructure would be levied on remaining developers in the DCA area. Mr Chapman discussed the upgrade of the roundabout which has now been made redundant. Ms Chapman stated no developers were asked to contribute to the roundabout and that Whiteman Edge constructed their own permanent connection from Lord Street.

Ms Chapman discussed the minutes from the meeting in December 2019, stating that Cedar Woods only acquired Lot 500 in 2019, well after any upgrade to Park Street. Ms Chapman stated that as part of their Structure Plan and development they will be required to upgrade Park Street further, including a new turning lane.

7.12 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For Final Determination (Item 9.7)

Presenters: Cameron Leckey - CLE Town Planning + Design and Fenulla O'Brien - Parcel

Mr Leckey presented to the Statutory Planning Committee representing Stockland and Ms O'Brien representing Parcel Property. Mr Leckey noted the Committee's firm understanding of the issues relating to the Amendment that had been discussed in December 2019.

Mr Leckey discussed clarifying some points regarding the applicants cited financial pressures, acknowledging that his clients are no strangers to these issues, that his clients offered to withdraw some

items at the time and the sacrificial roundabout. Mr Leckey stated the proposed amendment does not satisfy the 8 core principals of need and nexus, equity and certainty. Mr Leckey stated that his clients did not need the roundabout at Park Street, as the access to their development is via Youle-Dean Road and travel further north is illogical.

Mr Leckey stated that the information provided in support of the amendment does not satisfy need and nexus. That the need for infrastructure be included in the development contribution plan, and the connection between the demand and development should be clearly established. Mr Leckey discussed that development contributions should be levied from all developments with the development contribution area, based on their relative contribution to the need. Mr Leckey discussed that all development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of development.

Mr Leckey stated the DCP has been operating in its final form since 2014 and that policy does not say a DCP can seek retrospective cost recovery given the proposal fails to support these.

Mr Leckey discussed the Henley Brook Structure Plan which notes 3,500 dwellings from Park Street to Gnangara Road, which will have a separate contribution plan prepared. Mr Leckey stated that based on projected traffic volumes Park Street will need widening to a 4-lane road, therefore it would seem logical for it to be included in the Henley Brook DCP as opposed to Brabham.

The meeting was adjourned at 11:18am

The meeting was resumed at 11:26am with all members present

ITEMS FOR DECISION

8.2 Amendment to Local Development Plan - The Brook at Byford Plan 2 - Variations under Clause 7.3.2 of the Residential Design Codes

Moved by Mr Iacomella

Seconded by Ms Creevey

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.*

The motion was put and carried

9.2 Ocean Reef Marina Improvement Scheme - Resolution to prepare

THIS ITEM IS CONFIDENTIAL

8.1 Development Application - Proposed Men's Shed - Lot 3906 Springdale Road, Karragullen

Members noted that the report does not detail inconsistency with State Policy Planning 3.4, and discussed that the basis for assessment was bushfire risk outlined in policy.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage with the amendment to the resolution to delete point 2 of the recommendation noting the proposed development is inconsistent with State Planning Policy 3.4 – Natural Hazards and Disasters.

Moved by Mr Kosova

Seconded by Ms Thompson

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. *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.*
3. *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.*

The motion was put and carried

8.3 Local Structure Plan Proposal - Mount Helena

Members discussed the subdivision and who would pay for the public open space in the proposed structure plan. It was noted that the

structure plan was not yet at the required level and further investigation to determine issues is necessary.

Members discussed the Shire of Mundaring request to include lot 27 in the structure plan and the fire risk associated with the lot. It was noted that the Department of Fire and Emergency Services (DFES) did not support the MRS amendment. DFES raised issues with the vegetation on the lot and subsequently the lot was removed from the structure plan along with others that front onto the railway heritage trail. It was noted that should the lot be re-included the bushfire management plan would be need to be updated, whilst maintaining the vegetation and the creek line.

Members noted how the structure plan was in the early stages of planning, and discussed different scenarios which could deliver a more workable structure plan.

Members discussed the proposed condition 2b of the recommendation as a response to bio in the creek. It was noted the Environmental Protection Authority requested the applicant do a new flora assessment.

Members queried the requirement from the Department of Water and Environmental Regulation for biophysical survey. It was noted that if a view is taken that the creek line is in public ownership then foreshore assessment would need to occur to determine the reserve width.

Members discussed the policy and practice of placing creek lines in public and private ownership, and discussed the pros and cons of both. Members noted how the private ownership of the creek line was implemented into the structure plan from the beginning; prior to consultation with all authorities and that the Committee is requested to make a decision to achieve a balanced outcome.

Members discussed how if the creek was to become a reserve it would be asking landowners to cede the creek line and public open space contribution. Members raised concern with the acquisition of land required for open space on lots 28 to 30. Members discussed benefits of investigating R2.5 and R5 and what is desirable for public open space.

Members discussed the buffer for the chicken farm which was shown at 200metres and it was stated the buffer zone should be 300metres.

Members discussed the Shire of Mundaring's request to have lot 27 included in the structure plan and it was noted that the Shire does not wish to readvertise the structure plan.

Members discussed the relevant issues in the structure plan and whether the creek should be in reserve or not. It was stated that as the structure plan is in the early stages further investigation and planning could progress over the next 12 months.

Members moved a motion for the removal of point 2 of the recommendation of the Department of Planning, Lands and Heritage.

Moved by Ms Lyhne
Seconded by Mr Iacomella

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;*

The motion was put and lost

Members moved to amend the recommendation of the Department of Planning, Lands and Heritage to remove point 1, amend point 2(e) to “*note that there are issues that remain unresolved*” and to include an additional point (f) to outline “*Resolution of mechanisms for the acquisition of public open space on Lots 28,29 and 30*”.

Moved by Ms Adair
Seconded by Ms Creevey

That the Statutory Planning Committee resolves to:

1. 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 remain unresolved.*
 - f. *Resolution of mechanisms for the acquisition of public open space on Lots 28,29 and 30.*

The motion was put and carried

9.1 Local Structure Plan No. 9 - Lot 660 La Perouse Road, Goode Beach (Albany)

THIS ITEM IS CONFIDENTIAL

9.3 City of Rockingham - Town Planning Scheme No. 2, Amendment No. 176 - For Final Decision

THIS ITEM IS CONFIDENTIAL

9.4 Town of Cottesloe - Local Planning Scheme No. 3 - Amendment No. 8 - For Final Decision

THIS ITEM IS CONFIDENTIAL

- 9.5 City of South Perth - Local Planning Scheme No. 6, Amendment No. 59 – For Final Determination**

THIS ITEM IS CONFIDENTIAL

- 9.6 City of South Perth - Local Planning Scheme No. 6, Amendment No. 60 – For Final Determination**

THIS ITEM IS CONFIDENTIAL

Ms Creevey left the meeting at 12:35pm and did not return

- 9.7 City of Swan – Local Planning Scheme No. 17, Amendment No. 142 – For Final Determination**

THIS ITEM IS CONFIDENTIAL

- 9.8 Review of Perth and Peel Local Government Strategies, Schemes and Reports of Review**

THIS ITEM IS CONFIDENTIAL

- 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, 4 February 2020.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 12:52pm.

CHAIRMAN

DATE



| | | | |
|--|--|---------------------|------------|
| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | 23-50506-1 |
| Subject | Protective Resin Coatings and Blasting on Public Purpose – WSD Reserve (Decommissioned Pump Station) | | |
| Purpose | Requires WAPC decision | | |
| Title of Approving Officer | A/ Planning Director – Metro 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 Cockburn | | |
| Landowner/Consultant | Landowner - Water Corporation Applicant - Kim Boschman - Protective Resin Coatings Consultants - B Beverley and B Wilson - Marshall Day Acoustics - Noise Assessment | | |
| Location map | Attachment 1 | | |
| Bushfire Prone Area | NO | | |
| Statutory Planning Committee | | | |
| Region scheme reservation | Public Purposes - WSD (Water Authority of Western Australia) | | |
| Council's recommendations | REFUSE | | |
| Receipt date | 1 October 2019 | Process days | 88 |
| Property Address | Lots 16 and 14 Mayor Drive, Munster | | |
| SUMMARY | | | |
| <p>Australian Resin Coatings (ARC) seeks Western Australian Planning Commission (WAPC) approval on a portion of Lot 16 (and Lot 14 for vehicular access) Mayor Road, Munster to apply resin to industrial material (primarily spray applied for pulleys on conveyor belts) and occasional blasting inside a decommissioned Water Corporation Pump Station (the Pump Station) (Attachment 1 - Metropolitan Region Scheme Locality Plan; Attachment 2 - Existing Pump Station).</p> <p>The matter is referred to the Statutory Planning Committee for determination because the proposed industrial use is inconsistent with the Public Purpose – WSD (Water Authority of WA) under the Metropolitan Region Scheme (MRS).</p> <p>The Water Corporation (a public authority) is the landowner of four reserved lots in the MRS being Lots 2, 14, 16 and 60 Mayor Drive, Munster, with a total area of 6.4882 hectares. The Water Corporation has entered into a lease with ARC for an initial period of 5 years with a possible 5 year extension. The Water Corporation also funded a Noise Assessment, on behalf of the ARC, to demonstrate compliance with the <i>Western Australian Environmental Protection (Noise)</i></p> | | | |

Regulations 1997.

The proposed development is recommended for refusal.

DETAILS OF PROPOSAL

ARC seeks development approval for blasting and application of resin coatings to materials on the subject site. The activity is to be undertaken inside the large underground concrete storage tank inside the decommissioned pump station building on Lot 16 with vehicular access to be obtained from the existing crossover and driveway on 14 Mayor Road.

The site area of the application comprises 0.4972 hectares, consistent with the lease area agreed to with the Water Corporation (**Attachment 3** - Signed Lease Area). The lease will operate for an initial period of 5 years, with one renewal option for another 5 years and provides for the following:

- use of the existing building, driveway at Lot 14 Mayor Road and surrounding vacant land; and
- ensures the Water Corporation can undertake operational activities over the entire site as and when required.

One requirement for the lease to be activated is to achieve WAPC conditional development approval.

Four employees are proposed to work inside the Pump Station with sufficient parking available at the rear (**Attachment 4** - Aerial Photo). Any movements to or from the Pump Station can circulate around the site with the ability to exit in a forward gear onto Mayor Road (See **Attachment 4**).

Of the other two lots which comprise the reserved landholdings owned by Water Corporation, Lot 2 currently accommodates an above ground sewer overflow basin with Lot 60 vacant other than a small amount of infrastructure in the south western corner. The Water Corporation has advised that it requires all four lots for its ongoing operational activities.

Waste products generated by the ARC after resin coatings are applied, cures into a solid mass, collected in rubbish bins with used cleaning solvents stored in 44 gallon drums collected by Toxfree.

BACKGROUND

The Water Corporation decommissioned the Pump Station in 2002 (constructed in 1982). The Pump Station is the last significant freehold parcel of land owned by the Water Corporation before wastewater flows reach the Woodman Point Wastewater Treatment Plant. The subject land contains significant wastewater infrastructure and has the capacity to accommodate overflows of wastewater in the unlikely event that this occurs.

The Water Corporation has advised that it requires all four lots for its ongoing operational activities, and those activities remain consistent with the public purpose reservation of the land in the MRS. The Water Corporation advised that it plans to retain all four lots for at least another 10 years. At such time that all operational activities have ceases, it will seek to amend the MRS (and Local Planning Scheme No. 3) to lift the reserved status of the land and zone it Urban to facilitate a future residential subdivision and subsequently dispose of the land.

Since the decommissioning of the Pump Station, the Water Corporation has advised that the site has been subject to antisocial behaviour, vandalism and graffiti. The Water Corporation is seeking to activate the site with a use that will assist in mitigating those risks/impacts and substantially reduce the ongoing costs and repairs, until such time as the asset is ready for disposal.

| KEY ISSUES | | |
|--|--|---|
| Consistency with WAPC Policies & Planning Framework | Metropolitan Region Scheme Text | Some inconsistency, variation not recommended |
| | WAPC Development Control Policy 1.2 Development Control - General Principles | Some inconsistency, variation not recommended |
| Government Considerations | Perth and Peel | Broadly consistent, some discretion required |
| Consultation | <p>Other than the City of Cockburn, all other required referral agencies have no objection to (or no comment on) the proposal.</p> <p>The City recommends the proposal be refused because it does not meet the intended purpose of the Public Purposes reservation in the MRS and insufficient documentation has been submitted to assure the City that noise and dust can be contained within the site.</p> | |
| PLANNING ASSESSMENT | | |
| <u>Metropolitan Region Scheme Assessment</u> | | |
| <p>In determining development proposals under the MRS, Clause 30(1) is relevant with the WAPC to have regard to:</p> <ul style="list-style-type: none"> • The purpose for which the land is zoned or reserved; • The orderly and proper planning of the locality; and • The preservation of amenities of the locality. | | |
| <u>Purpose of the Reserved Land</u> | | |
| <p>The Pump Station on Lot 16 is a decommissioned asset, that the Water Corporation is seeking to lease for an interim period until such time as the entirety of the reserved site is redundant and ready for disposal. The Water Corporation intends to sell the land once the reserved status is lifted in the MRS and City LPS 3 via an amendment. The Water Corporation has advised it requires the entirety of the site for at least 10 years for its operational activities, being the sewer overflow basin and considers the proposed use of Lots 16 and 14 for protective resin coating and blasting by ARC is incidental to the primary use occurring across the landholdings, which remains consistent with the MRS reservation.</p> | | |
| <p>The proposed use is inconsistent with the MRS reservation for Water Corporation infrastructure. The use of the site by a private company to undertake blasting and application of resin coatings is essentially an industrial land use which cannot be reconciled with the purpose for which the land is reserved, being:</p> | | |
| <p><i>“for the purpose of works for the purpose of or in connection with the supply of water, electricity or gas, or the drainage or treatment of waste, water or sewerage”.</i></p> <p>whereby development that accords with that criteria would be deemed permitted and exempt from requiring approval under the MRS.</p> | | |
| <p>Spatially, the resin coating and blasting will be occurring in a smaller footprint across the site than the overflow basin, such that the proposed use to be an incidental or ‘minor’ use to the predominant use occurring, however, in terms of amenity and impact, the presence of the resin coating and blasting on this site and its associated employees will be greater than the overflow basin which remains unmanned as per Water Corporation advice.</p> | | |

On balance, the proposed land use is not considered to align with the intent of the purpose for which the land is reserved.

Orderly and Proper Planning

It is acknowledged that the Part 2, Division 2, Clause 16(2) of the MRS states that “*Reserved land owned by or vested in a public authority may be used or developed for any other purpose approved by the Commission with or without conditions*”.

The proposed business currently has 4 employees with the existing pump station purpose built with car parking bays and a roundabout driveway. The applicant advised that a maximum of 4 car parking bays will be used at any time, positioned at the rear of the pump station, with any deliveries using the roundabout driveway to exit in forward gear.

Notwithstanding the misalignment of the proposed use with the intent of the MRS reservation, if the WAPC forms the view that an approval is warranted, the existing crossover and driveway should be upgraded to meet current requirements. A site inspection undertaken on 22 November 2019 revealed the crossover and beginning of the driveway requires upgrading to ensure safe vehicular access (See **Attachment 2**). In the event of an approval, a condition to address this matter is recommended.

Preservation of Amenity

A Noise Assessment for the proposal has been completed in accordance with the *Western Australian Environmental Protection (Noise) Regulations 1997* (Noise Regulations).

Monitoring was undertaken at seven locations across the site (**Attachment 5** - Noise Assessment Locations). It is noted that blasting inside the building (location 1 in **Attachment 5**) was recorded at 85 decibels. An additional six noise measurements were taken at the periphery of the subject site close to a number of the nearest sensitive land uses (locations 2-7 in **Attachment 5**). The Noise Assessment determined that at the six locations, compliance with the *Western Australian Environmental Protection (Noise) Regulations 1997* is achieved in comparing operational (2, 4 and 6) and ambient (3, 5 and 7) noise levels.

However, compliance at receptor 6 was marginal at 49 decibels which is the same level as the maximum permitted. This marginal compliance is likely due to the external location of the compressor that could be relocated indoors as a condition prior to commencing development should the WAPC be of the view to approve the proposal.

WAPC Development Control Policy 1.2

WAPC Development Control Policy 1.2 (DC 1.2) objectives in exercising development control under clause 2 ensure:

- the control of land development within the framework of the relevant legislation;
- the protection of the integrity and purpose of the reservation under the MRS;
- development is in accordance with sound planning principles; and
- its acquisition or any development for its intended purpose is not prejudiced by the proposed development (at clause 4.1.2).

This legislative framework promotes uses on reserved land to align with the purpose of the reservation as a sound planning principle to protect its integrity and purpose. The proposal for a quasi-industrial use operating on reserved land which is intended for activities associated with Water Corporation responsibilities is inconsistent with the framework of the relevant legislation under the policy objectives of DC 1.2.

CONCLUSION

Refusal is recommended, based on the inconsistency between the purpose of the reservation and the proposed use that is not associated with the activities, nor responsibilities of the Water Corporation.

It is acknowledged that the Part 2, Division 2, Clause 16(2) of the MRS provides the WAPC with the ability to approve land uses on reserved land which owned by, or vested in a public authority for any other purpose.

In this instance, the proposed use is considered to be industrial in nature, is surrounded by residential/sensitive land uses and its ability to achieve compliance with the Noise Regulations is marginal and uncertain which may produce amenity impacts.

For these reasons, the proposal is recommended for refusal.

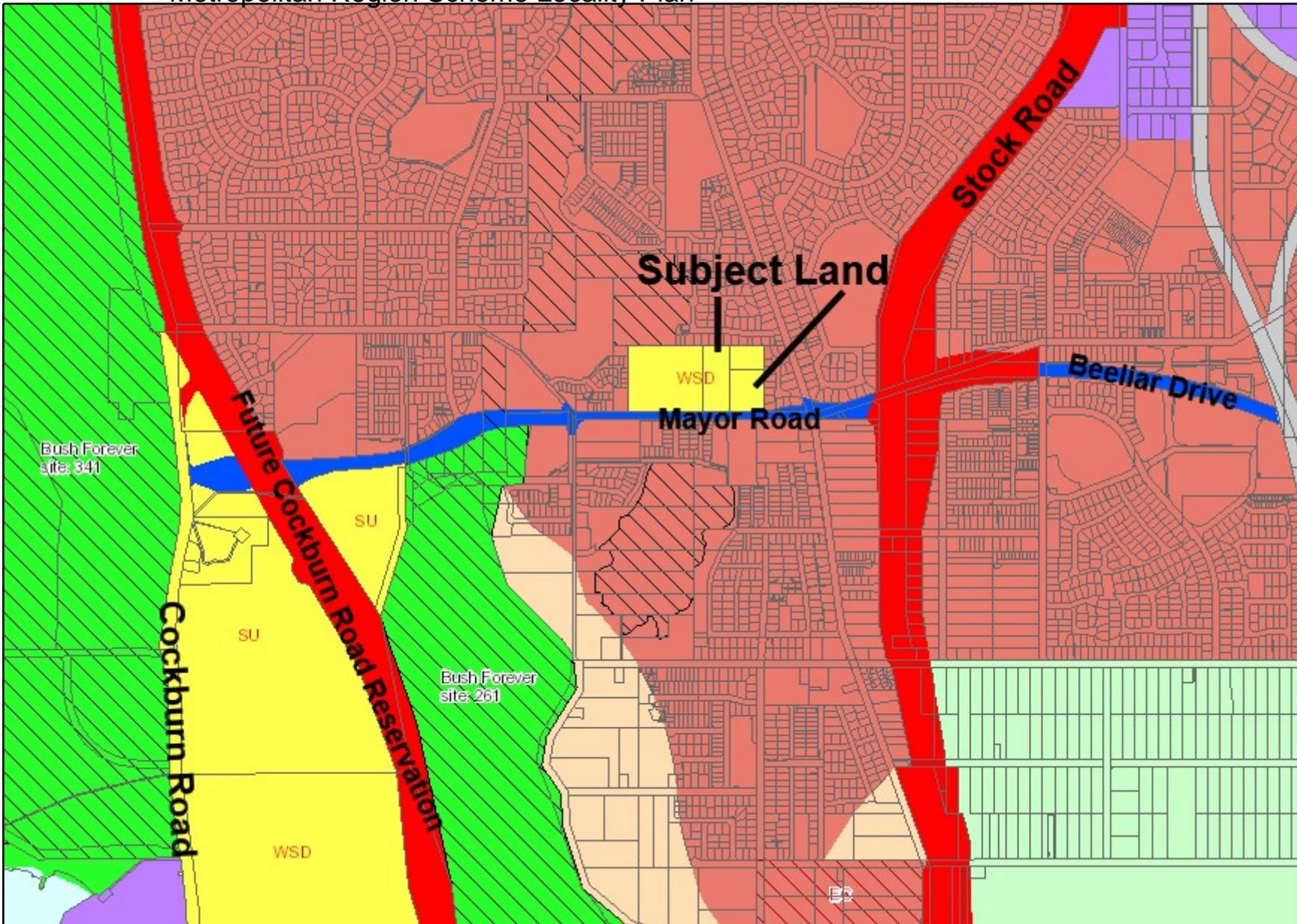
RECOMMENDATION

That the Statutory Planning Committee resolves to refuse the application for the use of a portion of Lots 16 and 14 Mayor Road as per the plans dated 1 October 2019 for the application of resin coatings and blasting for the following reasons:

- 1. The proposed use is inconsistent with the Public Purpose - WSD reservation of the land under the Metropolitan Region Scheme, which is intended for the use and delivery of activities and infrastructure associated with the Water Corporation of Western Australia.***
- 2. The proposal has not satisfactorily demonstrated that the proposed land use will not have an adverse impact on the amenity of the surrounding residential area.***

ATTACHMENTS

Attachment 1 - Metropolitan Region Scheme Locality Plan
Attachment 2 - Existing Pump Station
Attachment 3 - Signed Lease Area
Attachment 4 - Aerial Photo
Attachment 5 - Noise Assessment Locations



Legend

- Cadastre (View 1)
- Region Scheme Boundary
- Bush Forever Areas
- Environmental Conditions

Region Scheme Zones and Rese

- Industrial
- Other regional roads
- Parks and recreation
- Primary regional roads
- Public purposes - Water Authority of W
- Public purposes - special uses
- Railways
- Rural
- Urban
- Urban deferred
- Waterways

Notes:

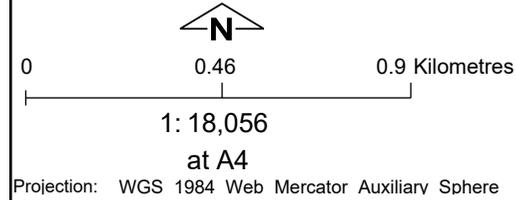
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Map was produced using DPLH's InQuery.

InQuery Map

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



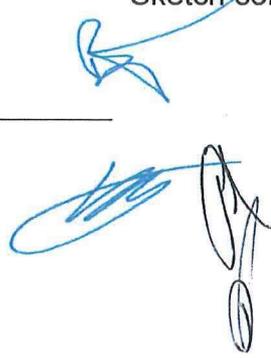
Date produced: 06-Jan-2020

Existing Pump Station



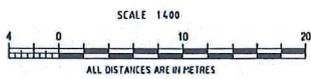
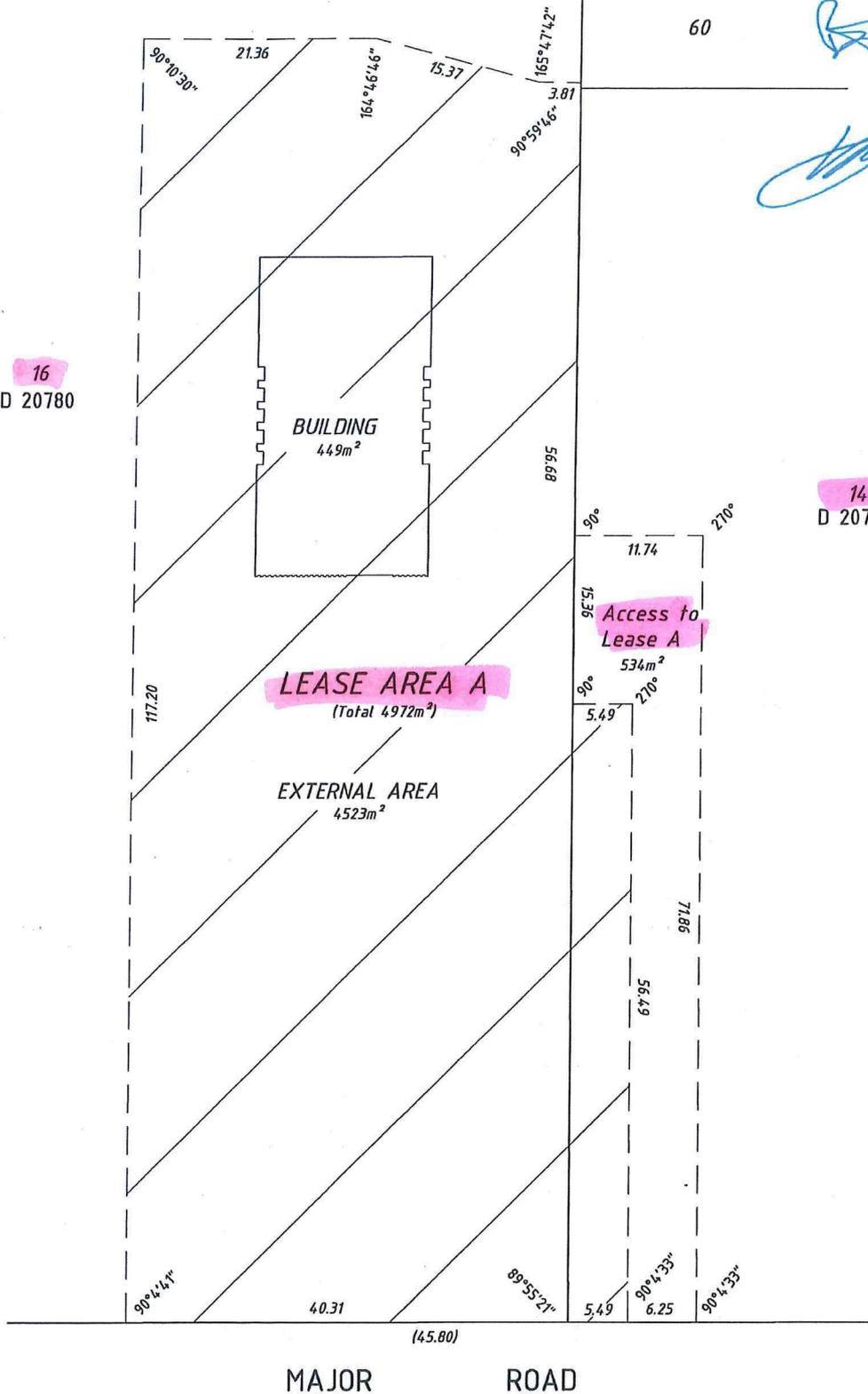
Signed Lease Area

Sketch correct.



16
D 20780

14
D 20780



Client: WATER CORPORATION

Surveyed By: HC

Drawn By: TVW

Approved By: PJB

Scale (A3): 1:400

Hor Datum: PCG94

Vert Datum: AHD (Based on SSM Coogee 11A)



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LEASE AREA SURVEY
LEASE A
LOT 16 & 60
MAJOR ROAD, MUNSTER

| Job No | Item No | Plan No | Rev |
|----------------|---------|---------|-----|
| 635925 | 000 | 001 | 00 |
| Sheet 01 of 03 | | | |





Department of Planning,
Lands and Heritage

Legend

Cadastre (View 1)

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.

InQuery Map

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



0 0.06 0.1 Kilometres

1: 2,257
at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere

Date produced: 06-Jan-2020

Noise Assessment Locations



| | | | |
|---|--|---------------------|-----------|
| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | SPN/0844M |
| Subject | Proposed Amendment to Structure Plan - City of Gosnells, Southern River Precinct 5 | | |
| Purpose | Requires WAPC decision | | |
| Title of Approving Officer | A/ Planning Director – Metro 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 Gosnells | | |
| Landowner/Consultant | Jarg Pty Ltd & BMC Properties (Australia) Pty Ltd/Taylor Burrell Barnett | | |
| Location map | Attachment 1 | | |
| Bushfire Prone Area | YES | | |
| Statutory Planning Committee - SMART/Structure Plans only | | | |
| Region scheme zoning | Urban | | |
| Local Scheme Zoning | Residential Development | | |
| Council's recommendations | APPROVE | | |
| Receipt date | 3 September 2019 | Process days | 154 |
| Property Address | Lot 1 (606) Warton Road, Southern River | | |
| SUMMARY | | | |
| <p>The City of Gosnells requests approval to a modification to the Southern River Precinct 5 Outline Development Plan (structure plan). The modification proposes to prescribe motor vehicle repair as an additional use that can be considered at the subject site, Lot 1 (606) Warton Road, Southern River.</p> <p>It is considered that the proposed modification should be refused as it seeks to utilise a structure plan provision to overcome a land use permissibility constraint under the local planning scheme. It would be more appropriate for such a constraint to be addressed by an amendment to the local planning scheme.</p> <p>This item is being presented to the Statutory Planning Committee for determination as there is no delegated authority to refuse a proposed modification to a local structure plan.</p> | | | |
| DETAILS OF PROPOSAL | | | |
| <p>Lot 1 (606) Warton Road has an area of approximately 2.85 hectares and is located at the corner of Warton and Ranford Roads in the City of Gosnells (Attachment 1 - Location Plan).</p> | | | |

The land is undeveloped, zoned Urban in the Metropolitan Region Scheme (MRS) and zoned Residential Development under the local planning scheme. Development of the Residential Development zone is required to be generally in accordance with a local structure plan.

The structure plan identifies the land for mixed business purposes and the modification proposes to add an 'Additional Use - Motor Vehicle Repair' for the subject lot (**Attachment 2** - Existing and Proposed Structure Plan).

BACKGROUND

Local Planning Scheme 6 (LPS 6) was gazetted in February 2002.

The objective of the Residential Development zone is to provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development generally in accordance with a structure plan.

The subject lot was created through the subdivision of former Lot 11 Warton Road in 2009, which was owned by the Canine Association of WA. At the time, Lot 11 was subdivided into two lots, with one of the lots (Lot 2) being retained by the Canine Association and the other lot (Lot 1) being surplus to the Canine Association's needs.

An amendment to the MRS rezoned the site from Private Recreation to Urban as part of an omnibus amendment endorsed by the Minister for Planning in December 2017.

The structure plan predates the current local planning scheme and has been amended a number of times. The most recent amendment was approved by the Western Australian Planning Commission (WAPC) in March 2018, at which time the subject property was reclassified from Private Club - Canine Association to Mixed Business.

KEY ISSUES

| | | |
|--|--|---|
| Consistency with WAPC Policies & Planning Framework | State Planning Policy 3.7 - Planning in Bushfire Prone Areas | Some inconsistency, variation warranted |
| Government Considerations | N/A | N/A |
| Budget | None | |
| Consultation | The structure plan modification was advertised for 28 days in June and July 2019. Three submissions were received, all from government agencies and expressing no concerns (Attachment 3 - Schedule of Submissions). | |

PLANNING ASSESSMENT

Statutory Planning Considerations

The structure plan amendment report states in sections 1 and 2 that:

- the March 2018 amendment to the structure plan 'rezoned' the subject site as a Mixed Business zone;
- there is no scope for the City to approve a service or motor vehicle repair landuse on the site as this use is identified as an X (prohibited) use within the Mixed Business zone; and
- the additional use designation will introduce motor vehicle repair as a permissible use and will facilitate the City of Gosnells assessing this landuse as a discretionary use within the context of a broader mixed use development of the site.

However, the above statements are problematic as a structure plan does not have the force and effect of a local planning scheme. The current zoning of the land is Residential Development, not Mixed Business. The permissibility of motor vehicle repair is determined by reference to the Residential Development zone, not the Mixed Business zone. The March 2018 structure plan modification did not actually 'rezone the land' as suggested by the proponent and the proposed additional use designation would not overcome the constraint caused by motor vehicle repair being listed as an X use in the Residential Development zone.

The officer's report to Council also refers to the permissibility of motor vehicle repair being an X use within the Mixed Business zone, rather than focussing on the fact that motor vehicle repair is an X use in the Residential Development zone. Furthermore, the officer's report goes on to discuss that the intended future zoning of the site under proposed Local Planning Scheme 24 (LPS 24) provides for the use and that the modification has been lodged in order to avoid waiting for the finalisation of LPS 24. However, the permissibility of a particular land use under a proposed new local planning scheme would not overcome the constraint caused by motor vehicle repair being an X use in the Residential Development zone of the current LPS 6.

LPS 6 states that scheme text must be read in conjunction with the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). LPS 6 states that where a provision of this scheme is inconsistent with a deemed provision, the deemed provision shall prevail.

Deemed provision 27 in Schedule 2, Part 4 of the Regulations states that a decision maker for an application for development approval in an area that is covered by a structure plan is to have due regard to, but is not bound by, the structure plan when deciding the application. As a structure plan does not have the force and effect of a local planning scheme, it would have been more appropriate for the land use permissibility constraint applying to motor vehicle repair to have been addressed through an amendment to LPS 6 rather than an amendment to the local structure plan.

Initiating an amendment to LPS 6 at this time would seem impractical as the WAPC has recently granted permission for the City to advertise LPS 24 and advertising is expected to commence in early 2020. It is possible that the new local planning scheme could come into effect prior to such an amendment to LPS 6 reaching a conclusion.

Even if the structure plan modification is refused, the use-class of service station is currently a discretionary use in the Residential Development zone. This may provide another avenue for pursuing a motor vehicle repair business on the site. However, the definition of service station requires such a development to also involve the retail sale of petroleum products, which may or may not fully align with the applicant's development intentions.

Bushfire Planning Policy Considerations

The subject site is identified within a bushfire prone area. A bushfire management plan (BMP) was not submitted in support of the proposed structure plan modification.

However, a BMP for the subject land was submitted as part of the assessment for the 2017 MRS amendment. A concept development plan for the site provided as part of the MRS amendment showed no buildings being exposed to a BAL-rating exceeding BAL-29.

Requiring a BMP in support of the structure plan modification is not considered necessary in this instance as:

- further consideration of appropriate bushfire risk management measures can occur at the development or subdivision stages; and

- the structure plan modification is being recommended for refusal for reasons unrelated to bushfire risk.

Conclusion

It is recommended that the proposed structure plan modification be refused as it is not an appropriate mechanism to modify a land use permissibility constraint under LPS 6.

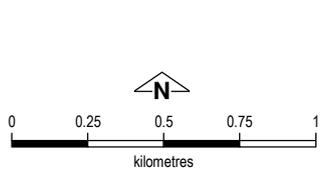
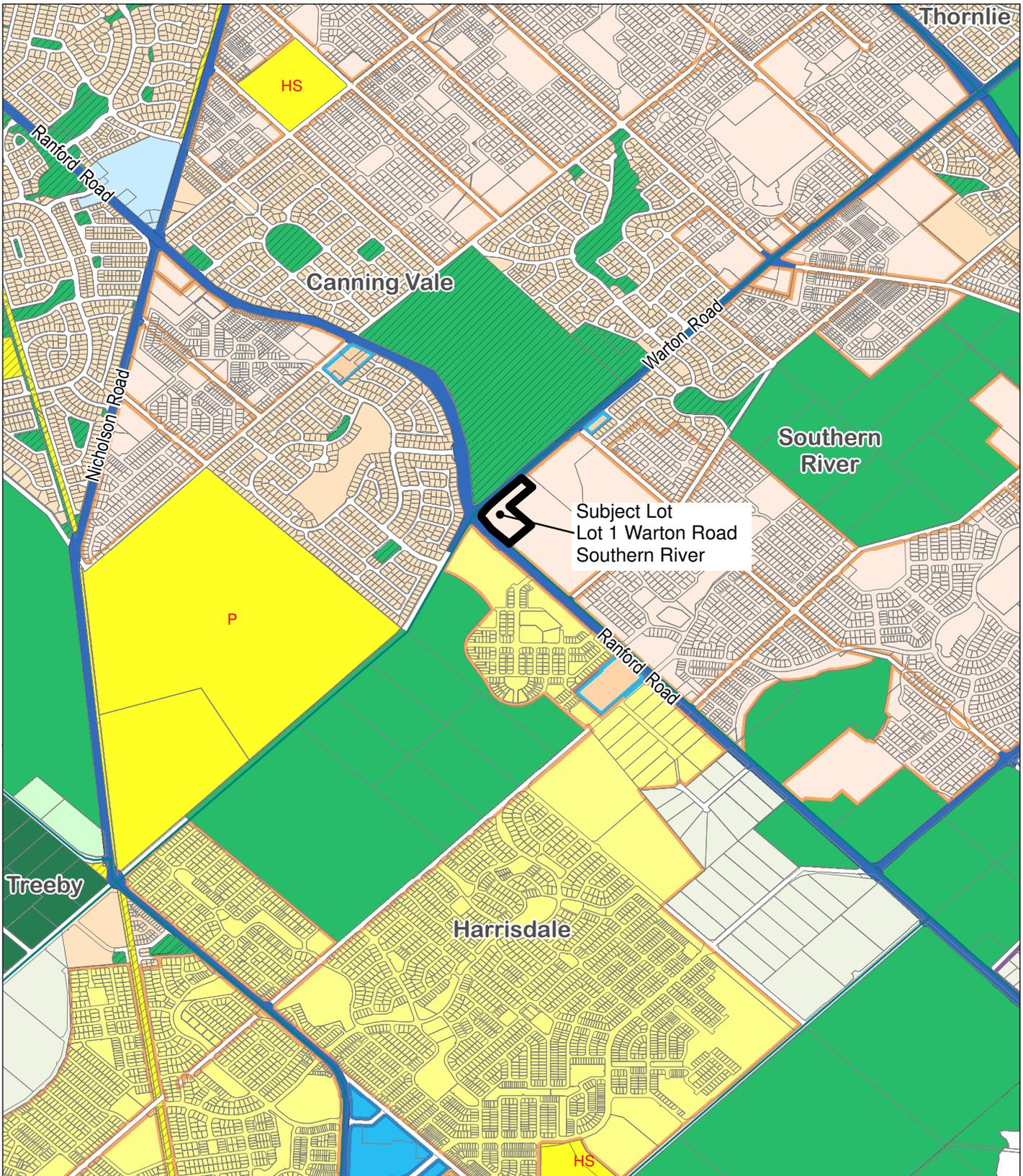
RECOMMENDATION

That the Statutory Planning Committee resolves to refuse to approve the proposed modification to Southern River Precinct 5 structure plan which seeks to identify motor vehicle repair as an additional permissible use for the following reasons:

- 1. the proposed structure plan modifications are in conflict with the zoning table of local planning scheme No.6 which identifies motor vehicle repair as an X (prohibited) landuse in the residential development zone;***
- 2. the structure plan modification would not overcome the constraint that exists within the current zoning table as it relates to the motor vehicle repair landuse and would therefore be contrary to proper and orderly planning;***
- 3. an additional permitted landuse is more appropriately set out in a local planning scheme rather than in a local structure plan.***
- 4. the City's proposed new local planning scheme has advanced to the point where it will soon be advertised for public comment. As a result, it is not considered practical for an amendment to the current local planning scheme to be initiated to reflect the intended change in landuse permissibility, as the new scheme may come into effect prior to an amendment to the current local planning scheme reaching a conclusion.***

ATTACHMENTS

- Attachment 1 - Location Map
- Attachment 2 - Existing and Proposed local structure plan
- Attachment 3 - Schedule of Submissions



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FileNo_S158663
A4P_LocationPlan.mxd

Base information supplied by
Western Australian Land Information Authority
SLIP 1096-2018-1

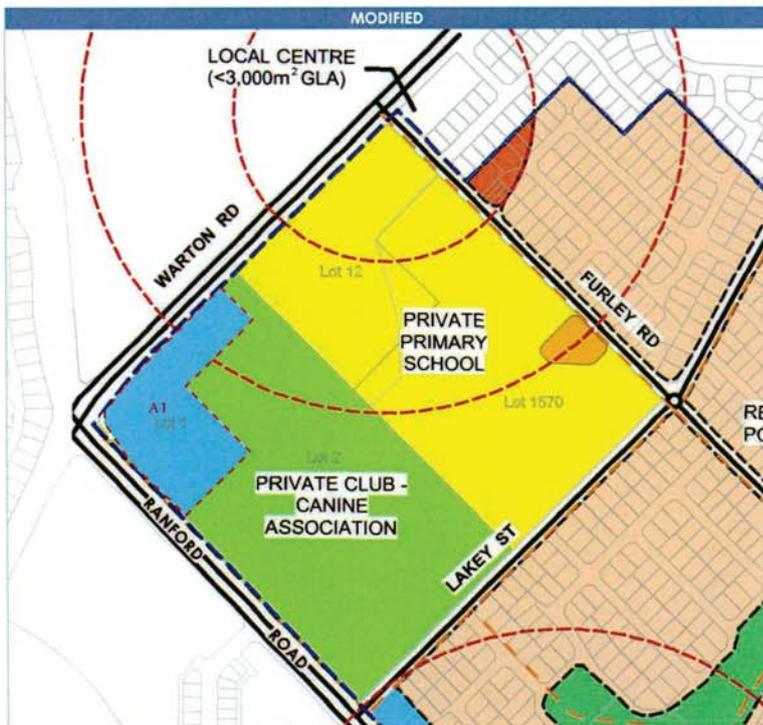
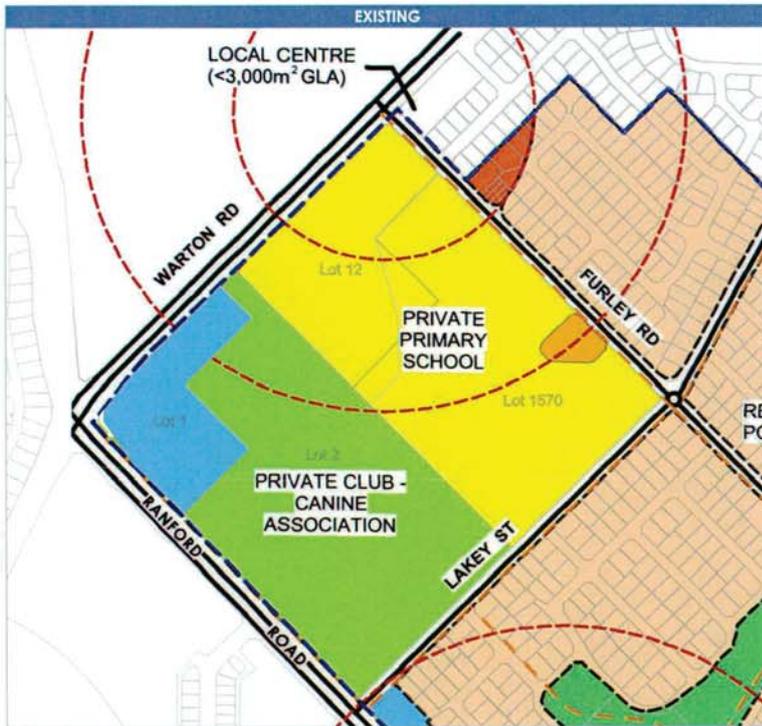
Legend

Local Planning Scheme
Zones and Reserves

- Business development
- District centre
- General rural
- Kennels
- Local centre
- Local open space

- Local road
- Public purposes
- Residential
- Residential development
- Resource
- Rural
- Rural living

- Shopping
- Urban development
- Region Planning Scheme
Reserves Only
- Other regional roads
- Parks and recreation
- Public purposes - high school
- Public purposes - prison



EXISTING & MODIFIED SOUTHERN RIVER PRECINCT 5 OUTLINE DEVELOPMENT PLAN
606 (Lot 1) Warton Road, Southern River

0m 50 100 150m

s: 1:8,000@A4
d: 22/03/2019
p: 02/041/012B

figure **04**

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ATTACHMENT 3

Schedule of Submissions

Southern River Precinct 5 Structure Plan Modification

| Submitter | Summary of Submission | Council Comment | DPLH Comment |
|---|--|--|--|
| <p>City of Armadale Locked Bag 2 ARMADALE</p> | <p>The City has previously advised the City of Gosnells of its non-objection to Draft Local Planning Scheme No. 24 (LPS 24) and, given the consistency between the ODP Amendment and Draft LPS 24, advises that it does not object to the proposed ODP Amendment.</p> <p>Notwithstanding the above, the proposed ODP Amendment report does not include a Concept Plan, Local Development Plan, Activity Centre Plan or the like illustrating a development outcome for the site. The City recommends preparation of a Concept Plan or similar to demonstrate that the site (including integration of the proposed additional land use) can be developed with high quality built form, functional access and circulation, suitable interfaces to adjoining land uses/public realm, and in a manner compliant with state and local planning frameworks.</p> <p>The City advises that no retail floorspace should be supported on the site due to its proximity to the Ranford Road/Wright Road Centre.</p> | <p>Noted.</p> <p>In 2017, the WAPC approved the previous modification which rezoned the subject site to Mixed Business. As part of the amendment documentation, an Indicative Concept Development Plan was provided.</p> <p>Under the Draft LPS 24 a Shop land use will be an 'I' land use in the Service Commercial zone, meaning that the land use is permitted if it is incidental to the predominant use of the land and it complies with any relevant development standards and the</p> | <p>Noted.</p> <p>As discussed in the report to SPC, a structure plan does not have the force and effect of a local planning scheme and does not have the ability to rezone land.</p> <p>Noted.</p> |

| | | | |
|---|---|--|--------|
| | | requirements of the Scheme. As such, any retail development within this zone will be incidental to a predominantly non-retail development and it is therefore expected that there will be little impact on the nearby Shopping Centre. | |
| ATCO Gas 81 Prinsep Road JANDAKOT | No objection. | Noted. | Noted. |
| Department of Water and Environmental Regulation | The Department of Water and Environmental Regulation has assessed the above referral as a proposal of no interest and as such has no comments to provide. | Noted. | Noted. |



| | | | |
|--|--|--------------------|--------------------------------|
| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | SPN/0338M-6 and SPN/0338M-7 |
| Subject | Amendments 4 and 5 to the Anketell North Local Structure Plan - Request for Final Approval | | |
| Purpose | Requires WAPC decision | | |
| Title of Approving Officer | A/ Planning Director – Metro 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 Kwinana | | |
| Landowner/Consultant | <p>Amendment 4</p> <p>Landowners: RPoint Land Pty Ltd, Sanpoint Pty Ltd, Kenneth Bruce Tefler, Peter Wayne Whit, Kuohoa Su, Fan Hyh Su and Chiou Yueh Lin Su</p> <p>Proponent: Acumen Development Solutions (Jarrod Rendell)</p> <p>Consultants: Taylor Burrell Barnet (Rachel Chapman) Taktiks4 (Greg Davis) Strategen Herring Storer Acoustics (Paul Daly) LD Total Bioscience GTA Consultants Tabec</p> <p>Amendment 5</p> <p>Landowners: Anketell Property Investments WA Pty Ltd, Chen Chee Aek Yen Ting, Ashlee Terra Aek-Ling</p> <p>Proponent: Terranovis (Warren Spencer)</p> <p>Consultants: Element (Justin Page) PGV Environmental Herring Storer Acoustics (Paul Daly) Smith Consulting (Ralph Smith) Tim Davies Landscaping Development Engineering Consultants Transcore (Shaju Maharjan)</p> | | |
| Location map | Attachment 1 | | |
| Bushfire Prone Area | YES | | |
| Statutory Planning Committee | | | |
| Region scheme zoning | Urban | | |

| | | | |
|----------------------------------|---|---------------------|-----|
| Local Scheme Zoning | Development | | |
| Council's recommendations | Amendment 4: Approve Amendment 5: Refuse | | |
| Receipt date | 18 July 2019 | Process days | 187 |
| Property Address | Amendment 4: Lots 30-41, 100, part 188 and 189 Treeby Road, Anketell Amendment 5: Lots 4, 7, 89 and 90 Anketell Road, Anketell | | |

SUMMARY

The City of Kwinana has received, advertised and considered two proposed amendments (Amendments 4 and 5) to the Anketell North Structure Plan (**Attachment 1** - Location Plan & **Attachment 2** - Endorsed Structure Plan). In this respect:

- a) Amendment 4 proposes the relocation of public open space containing sporting fields to the north-east corner of the structure plan area to facilitate the straightening of Treeby Road, as this would allow the development of urban land in the centre of the structure plan area (**Attachment 3**); and
- b) Amendment 5 proposes to retain the public open space in the current location, retain the current curved alignment of Treeby Road and introduce residential development within the portion of Lot 7 Anketell Road that was previously excluded from the operative part of the structure plan (**Attachment 4**).

These amendments are in direct conflict with each other and, therefore, it is not possible to recommend support for both amendments. The proposed amendments are being presented to the Statutory Planning Committee for its consideration as:

- a) the proposed amendments are inextricably linked - a determination to approve one amendment will necessitate a refusal to the other; and
- b) there is no delegation, to officers, which allows for a structure plan amendment to be refused.

There are advantages and disadvantages to both amendments, however the fundamental disadvantages are that Amendment 4 transfers a key public open space area to a less accessible area which results in a poor distribution of public open space in the balance of the structure plan area. Amendment 5 does not resolve the alignment of Treeby Road which compromises subdivision and development within the structure plan area and the delivery of the active open space.

To progress the matter, the Department has prepared a modified structure plan map which seeks to address the issues present in both amendments (**Attachment 5**). The modified plan is based on Amendment 5, as it most closely resembles the current endorsed structure plan. On this basis, it is recommended that Amendment 5 be modified in accordance with the Schedule of Modifications (**Attachment 6**), and is readvertised and that Amendment 4 be refused.

DETAILS OF PROPOSAL

Amendment 4

Amendment 4 to the Anketell North Structure Plan (**Attachment 3**), as submitted to the Western Australian Planning Commission (WAPC) for approval, proposes:

- a) to identify approximately 1.2 hectares of additional land abutting Anketell Road in the north-east corner of the structure plan area as suitable for service commercial development accessed by a new four way roundabout;

- b) to relocate public open space containing playing fields from the centre of the structure plan area to the north-east corner of the structure plan area, abutting Anketell Road;
- c) to identify land south-east of the proposed open space area and currently identified as an investigation area as suitable for residential development;
- d) to reclassify the central area previously identified for active open space as suitable for residential development;
- e) to maintain the existing, constructed, alignment of Treeby Road; and.
- f) to introduce density ranges in lieu of fixed residential densities.

The proponent for Amendment 4 has also requested the WAPC extend the approved structure plan's period of approval. In this regard, the current approved structure plan will expire on 17 December 2025. The proponent of Amendment 4 is seeking that the approval period of the structure plan be 10 years from the date the amendment is approved by the WAPC.

Amendment 5

Amendment 5 to the Anketell North Local Structure Plan affects approximately 5.96 hectares of land in total (**Attachment 4**). In this regard:

- a) it proposes minor modifications to the road layout and residential density of approximately 4.73 hectares of land already identified as suitable for urban development (a combination of public open space, residential development and local roads); and
- b) it proposes to identify approximately 1.23 hectares of land currently identified as an excluded area that is subject to investigation by the approved structure plan as suitable for residential development.

BACKGROUND

Structure Planning

The Anketell North Local Structure Plan area was transferred to the Urban Deferred zone in 2007 and then to the Urban zone in 2009. In transferring the precinct to the Urban zone, the WAPC amended the local planning scheme, pursuant to section 126(3) of the *Planning and Development Act 2005*, to include the structure plan area in the development zone. Local planning scheme provisions related to the development zone require the subdivision and development of land be consistent with a local structure plan.

The Anketell North Local Structure Plan was endorsed by WAPC on 17 December 2015. The approved structure plan has been the subject of three recent amendments related to an investigation area for the land directly abutting Anketell Road. The investigation area was established to facilitate a coordinated approach to addressing the impact of traffic noise from Anketell Road.

The approved structure plan facilitates the following:

- 4.17 hectares of service commercial development, abutting Anketell Road, west of Treeby Road;
- 49.25 hectares of residential development (which could facilitate approximately 1329 residential lots);
- 12.4 hectares of public open space (approximately 4.3 hectares of this corresponds with a 330kV transmission line corridor);
- a 4 hectare primary school site;
- a 1.6 hectare community facility site;

- a 6.7 hectare investigation area (in the northeast corner of the structure plan area); and
- a local road network connected to Anketell Road to the north, and Thomas Road to the south.

Development Contribution Arrangements

In October 2017 the City of Kwinana Local Planning Scheme No. 2 was amended to include development contribution arrangements for the locality of Anketell. Under these arrangements, landowner(s) will be reimbursed for the total cost of the following:

- the acquisition of public open space in accordance with the approved structure plan prepared for the northern portion of the development contribution area (between Anketell Road and Bush Forever site 270), including land for community purposes; and
- improving that public open space to an appropriate standard for use.

Lot 30 (No. 36) Treeby Road

Lot 30 Treeby Road has an area of approximately 4.84 hectares and contains a dwelling and associated outbuildings adjacent to Treeby Road. There is a legal agreement between the current owners (GHT (WA) Pty Ltd) and the previous owners which requires a lot of approximately 4000m² to be created to retain the recently constructed dwelling and associated outbuildings. It is understood that this lot will be transferred to the previous landowners who will continue to occupy the dwelling as their primary residence. This agreement is protected by a caveat over Lot 30. It is understood that this agreement has been tested by court action and remains in place.

The alignment of Treeby Road depicted on the current structure plan deviates from the existing Treeby Road road reserve to create the area of active public open space required for playing fields. This deviated alignment passes directly through the dwelling on Lot 30 Treeby Road. However, given the caveat on this lot, the deviated alignment is not expected to be created for an indefinite period of time, preventing development of a significant portion of the structure plan area, including the central public open space.

KEY ISSUES

| | | |
|--|---|--|
| Consistency with WAPC Policies & Planning Framework | <i>State Planning Policy 3.7 - Planning in Bushfire Prone Areas</i> | Broadly consistent, some discretion required |
| | <i>Liveable Neighbourhoods</i> | Broadly consistent, some discretion required |
| | <i>State Planning Policy 5.4 - Road and Rail Noise</i> | Some inconsistency, variation not warranted |
| Government Considerations | West Port | Broadly consistent, some discretion required |
| Consultation | <p>Amendment 4</p> <p>Amendment 4 to the Anketell North Local Structure Plan was initially advertised from 25 February 2019 to 18 March 2019 and during this period the City of Kwinana received 23 submissions (Attachment 7 - Schedule of Submissions - Amendment 4 Initial Advertising). The main issues raised in the submissions were:</p> <ol style="list-style-type: none"> objection to the relocation of the playing fields; the additional amount of service commercial zoned land proposed in the structure plan area; | |

- c) traffic impact assessment; and
- d) proposed southern leg on Anketell Road roundabout.

The Council considered these submissions in December 2018, and determined that the proposed structure plan amendment should be modified and readvertised. Readvertising occurred from 29 May 2019 to 12 June 2019 and during this period the City of Kwinana received a further eight submissions (**Attachment 8** - Schedule of Submissions Amendment 4 Secondary Advertising). The main issues raised in these submissions remained consistent with the initial submissions:

Amendment 5

Amendment 5 to the Anketell North Local Structure Plan was advertised from 17 May 2019 to 7 June 2019 and during this period the City of Kwinana received 18 submissions (**Attachment 9** - Schedule of Submissions Amendment 5). The main issues raised in the submissions were:

- (a) the alignment of Treeby Road;
- (b) the location of local playing fields; and
- (c) the size of the primary school site.

City of Kwinana Consideration and Recommendation

The City considered the submissions received during the readvertising of Amendment 4 and the advertising of Amendment 5 at its ordinary Council meeting held on 10 July 2019 and resolved to recommend that:

- (a) Amendment 4 be modified and submitted (to the WAPC) for its consideration; and
- (b) Amendment 5 be refused.

PLANNING ASSESSMENT

Treeby Road Alignment

The current structure plan proposes a curved north-south alignment of Treeby Road. However, this alignment traverses through a new dwelling located on Lot 30. This dwelling and its associated outbuildings are protected by a caveat and will be retained on a separate lot of approximately 4000m². As a result of this dwelling being retained for the foreseeable future, the curved alignment of Treeby Road as proposed by the current structure plan cannot be delivered. If the curved portion of Treeby Road is not constructed, the development of Lots 30-32 and 36-38 Treeby Road is further compromised and delayed as well as the delivery of the active open space.

Amendment 4 proposes a straight north-south alignment of Treeby Road to follow the existing road reserve. This would allow upgrading of Treeby Road and avoid the dwelling on Lot 30. However, utilising the current road reserve of Treeby Road would reduce the area of the active public open space by approximately 2 hectares from 4.9 hectares to approximately 2.9 hectares. More importantly, there would be insufficient width between Treeby Road and the Western Power easement to provide active open space suitable for a senior-sized oval and therefore be ineffective in respect to its envisaged use and functionality. Therefore, Treeby Road is required to be curved for a portion of its alignment to facilitate an appropriately sized active open space in this central

location. The matter of the location of the playing fields is discussed in further detail later in this report.

Amendment 5 proposes to retain the curved alignment of Treeby Road as per the current endorsed structure plan. As discussed, this new alignment cannot be physically delivered for an indefinite period of time due to the dwelling on Lot 30. Amendment 5 does not address this issue.

The alignment of Treeby Road needs to be resolved as the current alignment on the structure plan is encumbered and this is a significant impediment to the timely delivery of the structure plan. The Department has investigated other options for the proposed alignment of Treeby Road. This includes changing the location and alignment of the curve in Treeby Road to avoid the dwelling on Lot 30. This approach has the potential to bypass the primary obstacle of the delivery of Treeby Road and does not create the need to move the open space from the current central location. Given the alignment of Treeby Road and the location of the active open space are intrinsically linked, the recommended alignment for Treeby Road is further discussed as part of the analysis of public open space.

Public Open Space

Current Structure Plan

The current structure plan proposes the active open space in a location central to the structure plan. The active open space has an approximate area of 4.9 hectares and represents approximately half of the total area of public open space contribution within the structure plan.

This location was identified for the active open space during the preparation of the original structure plan for the following reasons:

- the site was central within the structure plan which provided a greater number of dwellings with a walkable catchment;
- the site was adjacent to the linear pedestrian/cycling corridor created by the Western Power easement which provided good access;
- the Western Power easement presented opportunities to locate parking (subject to Western Power approval); and
- the active open space could not be co-located with the proposed primary school due to the topography.

Amendment 4

Amendment 4 proposes to relocate the active public open space from the central location to Lots 7 and 89 Anketell Road in the north-east corner of the structure plan area as a result of the proposed straightening of Treeby Road.

The modifications to Amendment 4 recommended by the City resulted in the removal of proposed service commercial zoned land fronting Anketell Road (discussed later in this report). In lieu of service commercial land Amendment 4 proposes to locate the active public open space on abutting Anketell Road.

The City supports the relocation of the active public open space to the north-east corner of the site for the following reasons:

- the proposed location provides for the co-location of the active open space and the proposed community facility (dry recreation and youth centre);
- co-location supports the creation of a district recreation 'precinct' which the City believes provides the best opportunity to provide access to facilities across a range of sports and age groups;

- the location on Anketell Road will improve the visibility and access to the site in a locality that has been identified as having an undersupply of district open space; and
- the City is of the view that there are sufficient recreation opportunities for residents within the structure plan area (which spans approximately 900 meters east-west and 1.1 kilometres north-south) via the primary school site, and Bush Forever Site No. 270 to the west and south of the site

The City accepts the information presented by the proponent of Amendment 4 that this location will require less earthworks and lower the costs associated with the development of the playing fields. The City also consider that the active open space will provide an improved visual interface with Anketell Road.

In addition, the City supports the location of the active open space as proposed by Amendment 4 because the relocation of the active open space will resolve the noise attenuation issue and 'complete' the structure plan. It is acknowledged that locating open space in this area as a buffer to sensitive land uses is one method of addressing the potential impact of noise from Anketell Road.

The current structure plan proposes approximately 10.26 hectares of public open space (excluding the Western Power easement). Approximately 2.49 hectares, approximately one quarter of the total public open space in the structure plan area, is provided in a linear form or acts as vegetation buffers to conservation category wetlands and bush forever sites on the southern and western boundaries. These buffers are of dimensions that are unsuitable for active recreation and the extent of access for the public remains uncertain; if access is provided, these spaces will provide for passive recreation opportunities only. The remaining 2.6 hectares (25%) of public open space in the structure plan area is dispersed across six public open space with areas of between 1,400m² and 3,500m².

It is noted that the Western Power easement and junior oval associated with the primary school site may present other opportunities for open space and recreation across the structure plan area to address this disparity. However, the linear nature of the land affected by the easement limits its effective use for active recreation opportunities, and access to the primary school oval is at the discretion of the Department of Education and has not been confirmed. As such, public access should not be relied upon.

Due to the proportion of public open space accommodated within the linear strips and buffers, the large centralised active open space will essentially provide a dual neighbourhood and district function within the structure plan area. Liveable Neighbourhoods recommends parkland should be well distributed throughout a neighbourhood and seeks to ensure most dwellings are within 400 metres of a neighbourhood park or 600 metres to 1 kilometre for a district parks. The location proposed by Amendment 4 results in a concentration of open space in the north-east corner to the detriment of the balance of the structure plan area and the overall accessibility and catchment objectives as per Liveable Neighbourhoods are not achieved.

The active open space location in the north-east of the structure plan area as proposed by Amendment 4 is generally flatter than the site identified on the current endorsed structure plan and appears to require less earthworks to provide a suitable surface for playing fields as it is not necessary to fill the site to deliver the active open space. Therefore, the cost of the development of the active open space in this location is likely to be less due to a decrease in cut and fill required which will reduce the overall burden of development contributions in the structure plan area.

Conversely, the proponent for Amendment 5 contends that significant fill is required to deliver the playing fields in the north-east location. The Amendment 5 report identifies that the north-east corner of the site needs to be filled to accommodate sewer in this portion of the structure plan. It is noted that the Amendment 4 report also notes that any residential development in this portion of

the site needs to be raised/filled to support sewer. However, the proponents of Amendment 4 and the City do not agree that it is necessary to fill the active open space. Therefore, it is likely that additional fill will be required to facilitate any residential development in proximity to the active open space which would lead to an increase in the fill and earthworks costs for individual landowners delivering residential development in this area.

Main Roads WA raised concerns with the location of active open space abutting Anketell Road as it considers that active open space in this location will encourage motorists to park on the verges of Anketell Road creating unsafe vehicle and pedestrian conditions. This position taken by Main Roads WA is informed by a situation on an existing reserve on High Street, Fremantle. However, the High Street reserve contains approximately 27 netball courts and is not representative of the active open space proposed within the structure plan area which will contain a single senior football oval. Given the anticipated use of the proposed active open space will provide for less intensive active use than the example provided and has a high capacity to provide parking, the concerns raised by Main Roads WA can be addressed.

Amendment 5

Amendment 5 does not propose any changes to the location or shape of the active public open space. The proponent of Amendment 5 considers the current location of the active open space, being central to the structure plan area, the most appropriate location.

However, by retaining the active open space in the current location the matters relating to the dwelling on Lot 30 and the alignment and construction of Treeby Road remain unaddressed. Therefore, development in the central portion of the structure plan, including the active open space, cannot be delivered and is likely to remain sterilised for an indefinite period.

It is acknowledged that the current location of the active open space will require significant cut and fill due to the 11 to 13 metre cross fall over the site. The earthworks necessary to deliver the playing surface in this location is expected to be greater than the location proposed by Amendment 4. Whilst the total cost of delivering the active open space in this location is expected to be higher, this is not considered to be excessive, nor a fatal flaw. In isolation, earthworks are not considered to provide sufficient justification for the active open space to be relocated.

Importantly, Development Contribution Plan No. 4 (DCP4) is designed to fund 100 percent of the costs associated with the purchase and improvement of the land identified in the structure plan area as public open space.

Alternative Options for Active Open Space

During the assessment of Amendments 4 and 5 both parties provided analysis of various alternative locations and designs for the active open space. These alternatives had various advantages and disadvantages, associated costs and impact on various land holdings. These alternatives have not been part of public consultation for the structure plan amendments and have not been formally considered by the City of Kwinana Council.

1. *East of the Western Power Easement* - This option allows the alignment of Treeby Road to be straightened and utilise the current road reserve of Treeby Road and avoid the dwelling on Lot 30. However, this option does reduce the number of dwellings within a walkable catchment to the east as this land is zoned Rural under the MRS and expected to remain Rural indefinitely.

This site also provides a weaker connection between the active open space and the proposed community facility. This option also requires the ovals to be orientated north-south to avoid encroaching into the water resource protection zone; this orientation is less desirable.

This site has been described as being constrained due to the slope of the site which would require significant earthworks to achieve a one per cent maximum gradient across the site for the playing surface. The levels of this site are constrained by the set levels of the Western Power easement. However, it is noted that similar constraints and site requirements exist for the current approved location of the active open space and issues related to the distribution of public open space also remain.

2. *Elongated open space in current location* - This option proposes to modify the dimension of the active open space in approximately the same location as the current structure plan by increasing the length and narrowing the width of the active open space. This change allows the alignment of Treeby Road to be modified slightly to curve after the dwelling on Lot 30.

This site has a similar connection to the proposed community facility and similar dwelling yield within the walkable catchment as the current endorsed structure plan. The site also has similar earthwork implications to the current endorsed structure plan.

This option is considered to represent the most deliverable option which allows the dwelling on Lot 30 to be retained on a separate lot and be 'bypassed' by Treeby Road and also allows the active open space to be provided in a central location accessible to a higher number of dwellings within the structure plan. This option results in fewer flow-on changes to the structure plan while addressing the need to realign Treeby Road and realise its construction.

3. *Minor expansion to the open space* - This option proposes to increase the size of the active open space in the same location as the current structure plan. This is achieved by modifying the alignment of Treeby Road to curve prior to the dwelling on Lot 30. The change allows the dwelling on Lot 30 to be retained and this site ultimately become part of the active open space.

This site has a similar connection to the proposed community facility and similar dwelling yield within the walkable catchment as the current endorsed structure plan. The site also has similar earthwork implications to the current endorsed structure plan.

This site proposes a squarer configuration of open space which is considered to be more likely to have sufficient space for future development associated with the use of the site such as clubrooms. However, it is unlikely that the open space could be developed in its entirety while the dwelling on Lot 30 remains occupied.

Active Open Space Alternative

Locating approximately three quarters of the public open space on the periphery of the structure plan is not consistent with the principles of Element 1: Community Design and Element 4: Public Parkland of Liveable Neighbourhoods. The distribution of public open space as proposed by Amendment 4 creates an imbalance in the distribution of useable public open space across the structure plan area. This has the potential to negatively impact the amenity and liveability of the structure plan area which warrants consideration beyond the need to address the alignment of Treeby Road.

The justification previously provided to support the central location of the active open space during the preparation of the original structure plan, as discussed above, remains valid. It is acknowledged that the City is seeking this public open space to perform a district function that services a broader area which extends outside the structure plan area. It is possible for the public open space to fulfil that role while also being located to provide the best outcome locally for future residents within the structure plan area.

As part of the assessment of Amendments 4 and 5 Departmental officers examined other potential options to address the realignment of Treeby Road to avoid the dwelling on Lot 30 and also minimise the impact on the balance of the structure plan. It is recommended that Option 2 of the

alternatives presented, whereby the curve in Treeby Road would commence south of the dwelling on Lot 30 is the viable and preferred option as it will also enable the shape of the active open space to be of sufficient width and area to contain a senior oval and associated facilities

Attachment 5 illustrates the recommended modifications to the alignment of Treeby Road and the active open space. This option maintains the active open space in a central location as per the current endorsed structure plan and modifies the alignment of Treeby Road to avoid the protected dwelling. The modified active open space extends further south into Lot 39 Treeby Road and for this reason, further consultation with affected landowners is recommended. Approximately 3.7 hectares of Lot 39 is zoned Urban and forms part of the structure plan. Approximately 1.08 hectares of the lot area which is currently identified as Residential at a density of R25 is now proposed to become public open space. Although it is noted that the recommended modification to the location of the active open space will affect land (a single lot) that is currently not identified for open space, the overall change to the structure plan is minimised.

Access to Anketell Road and Status

The *South Metropolitan Peel Sub-regional Planning Framework 2018* identifies Anketell Road as a proposed regional road. Anketell Road remains under the care and control of the City of Kwinana, but is in transition and responsibility for its care and maintenance is likely to be transferred to Main Roads WA in the future. Main Roads WA has recommended that both Amendments 4 and 5 to the structure plan be deferred until the future requirements of this road are known. However, given there is an endorsed structure plan already in place, an extended deferral is not considered appropriate in this instance.

Main Roads WA has requested that the traffic impact assessment prepared to support Amendment 4 be modified to clarify inputs and modelling assumptions. However, given the recommendation of this report which promotes minimal change to the land use, nor a substantial increase in the estimated dwelling yield within the structure plan area, further updates to the traffic impact assessment are not warranted.

Main Roads WA planning for Anketell Road includes the roundabout identified by Amendment 4, but does not include the construction of a southern access leg in to the structure plan area. Main Roads WA has raised concerns with the impact of the southern access leg on the functionality of Anketell Road as a primary freight road. These concerns are valid and as such, it is recommended that the access points to Anketell Road from the current endorsed structure plan be retained and any endorsed amendment to the structure plan not include a southern access leg from the proposed round about.

It is noted that the approved road access on the current structure plan includes a left-in/left-out on to Anketell Road which runs between the proposed community purpose site and the location of the proposed active open space proposed by Amendment 4. This road has the potential to weaken pedestrian connectivity between the active open space and the community purpose site. Whilst this is not the Department's recommended location for the active open space, should the WAPC prefer this location, traffic calming measures could be installed to make this environment more pedestrian focused.

Traffic and Transport Noise

State Planning Policy 5.4: Road and Rail Noise (SPP5.4) identifies Anketell Road as a Strategic Freight and/or Major Traffic Route. Considering the regional significance of Anketell Road and its importance as a transport link to a potential outer harbour located in Cockburn Sound, Anketell Road is likely to carry a larger than normal proportion of heavy vehicles which has the potential to result in significant noise impacts for the abutting land. The structure plan is within 300 metres of the edge of the carriage way of Anketell Road and therefore SPP5.4 applies. SPP5.4 requires

structure plans to address the impact of noise via the consideration of land use, design solutions and noise mitigation measures. Amendments 4 and 5 are supported by acoustic assessments that propose alternative approaches to addressing noise considerations.

Amendment 4

Amendment 4 addresses noise by separating, as much as reasonable, sensitive land uses from Anketell Road. The acoustic assessment identifies that, due to the separation created by the active open space, the residential development identified for Lots 7 and 89 achieve the noise limits, but noise levels for some dwellings would exceed the noise target. To address this, the acoustic assessment identifies that some noise amelioration measures would be necessary once the lot layout was finalised.

The Department of Water and Environmental Regulation – Environmental Noise Branch (DWER) reviewed the acoustic assessment provided to support Amendment 4. DWER advised that it supported the inputs and recommendations made to support Amendment 4 and considered that noise considerations could be adequately addressed at subdivision stage.

Amendment 5

Amendment 5 proposes sensitive land uses (residential development) within 35-50 metres of Anketell Road. The WAPC has previously determined (in relation to the original structure plan and each of the three subsequent amendments) that this area be excluded from the structure plan until the requirements of SPP 5.4 have been met in terms of appropriate land uses and the necessary noise mitigation strategy.

The acoustic assessment prepared to support Amendment 5 recommends a 1.8 metre high noise barrier be provided on the southern boundary of the public open space abutting Anketell Road (between the proposed residential dwellings and public open space) as well as quiet house design packages and notification of titles for the proposed residential lots nearest Anketell Road where the noise targets are exceeded by between 3 and 5 decibels.

DWER raised concerns that the 1.8 metre high wall recommend by the acoustic assessment would not achieve the predicted noise reductions. This position was based on Anketell Road becoming a major freight route with a high percentage of heavy vehicles where engines, fans and exhaust systems on heavy vehicles (the source of noise) is located at a higher position which the wall would not block. In addition, DWER noted that the quiet house design 'Package A' recommended by the acoustic assessment may not be sufficient given the level of noise exceedance and 'Package B' may be necessary.

The Road and Rail Noise Guidelines associated with SPP 5.4 includes Table 2: Noise exposure forecast. This table identifies land with a separation of 45 metres from a strategic freight route of 2 to 4 lanes as exposure category 'C'. This indicates that, subject to noise mitigation measures and quiet house packages, noise sensitive land uses can be acceptable.

The proponents of Amendment 5 have been requested to provide an updated acoustic assessment to address the matters raised by DWER. However, this information was not available at during the preparation of this report to SPC. However, based on an exposure category 'C', a 45 metre setback and subject to a review of the required wall height (possibly 2.4 metres) and/or quiet house design packages, residential development in this location can be considered.

Based only on mitigating the potential impacts of noise from Anketell Road, Amendment 4 is considered to deliver a better response by providing a separation between the road reserve and proposed sensitive land uses. However, as discussed above the location of additional public open space in this location would be to the detriment of the wider structure plan and therefore locating the active public open space or additional significant area of open space in this location is not

supported.

It is recommended that, as per Attachment 5, the structure plan be modified to provide a minimum separation of 45 metres between the Anketell Road road reserve and sensitive land uses by utilising a combination of public open space and an access street C local road. In addition, it is recommended that the structure plan report be modified to require any subdivision or development on Lots 7, 89 and 90 be supported by a 2.4 metre high noise wall on the northern boundary of public open space abutting Anketell Road so the open space in this location is not separated from the residential development. It is recognised that a noise wall abutting Anketell Road in this location does not provide a soft interface with Anketell Road. However, given the function of Anketell Road and that this portion of the structure plan is on the eastern extent of urban land in this locality it is considered an appropriate outcome which will ensure the open space buffer is accessible to the residents.

In addition to the noise wall it is recommended that all dwellings require Quiet House Design Package B. These noise mitigation measures are the most extensive that would be required to facilitate residential development in this location. The Structure plan should be modified to require these minimum measures be implemented at subdivision stage, unless otherwise supported by a noise management plan in accordance with *SPP5.4* which demonstrates an appropriate alternative suite of solutions.

These structure plan provisions will provide a single and exact series of noise mitigation measures and quiet house design packages for all lots proposed on Lot 7, 89 and 90 Anketell Road to ensure a uniform and consistent approach which will enable the planning for the excluded portion of the structure plan area to proceed, which is described in more detail below.

Area Excluded from the Operative Part of the Structure Plan

During the assessment of the original structure plan an area of approximately 12.5 hectares was excluded from the operative part of the structure plan. This area was excluded subject to matters relating to land use and the impact of noise from Anketell Road being addressed. Progressively, over a number of structure plan amendments, parts of the excluded area have been incorporated into the structure plan. Approximately 6.7 hectares across 3 lots remain in the excluded area in the north-east corner of the site.

Analysis undertaken as part of the assessment of Amendment 4 has demonstrated that due to a combination of surrounding development and access considerations additional commercial and service commercial development in this part of the site is unviable. In lieu of commercial, service commercial and public open space being appropriate in this location, residential development has been identified for this portion of the site.

Amendment 5 seeks to incorporate 1.23 hectares of the excluded area, being part of Lot 7 into the structure plan. However, it is appropriate and preferred that the balance of the excluded area, being 5.5 hectares, be considered as part of the current structure plan amendment to facilitate a consistent outcome and resolve the planning for that part of the structure plan.

Attachment 5 illustrates the recommended interface with Anketell Road and a potential pattern of residential density to reflect the pattern established by the endorsed structure plan. The pattern of development illustrated by Attachment 5 and the noise mitigation measures discussed above are recommended as a viable option given the land use constraints. It is recommended that the City update the amendment to the structure plan to generally reflect Attachment 5 and undertake public consultation.

Proposed Primary School Site

WAPC's *Development Control Policy 2.4: School Sites (DC 2.4)* requires a 4 hectare primary

school site be provided for every 1500 to 1800 dwellings. In this respect, the structure plan identifies a 4 hectare school site. The Department of Education (DoE) has advised the catchment for this school includes both the Anketell North Structure Plan and the Anketell South Structure Plan areas. The current endorsed structure plans anticipate the creation of approximately 1300 residential lots in Anketell North and 420 lots in Anketell South. The total estimated lot yield of approximately 1720 lots is near the upper threshold for a 4 hectare primary school site.

Amendment 4 estimates an additional 331 lots being created due to an increase in the area identified for medium density as a result of proposed density ranges and a decrease in the average lot size for R20 development under the Residential Design Codes since the original structure plan was approved. This has the potential to increase the estimated dwelling yield within the catchment to 2080. The existing school site could not accommodate this increase unless the site is expanded.

In response to the concerns raised by the DoE, it is recommended that the structure plan be progressed with fixed R-code densities as per the current structure plan rather than the density ranges proposed by Amendment 4. Given the estimated dwelling yields are close to the upper threshold for a 4 hectare school site fixed residential densities provide more control over the ultimate dwelling yield within the school catchment.

The introduction of additional land for residential development in the north-east corner of the structure plan area as recommended in the schedule of modifications is estimated to facilitate an additional 130 dwellings to the structure plan. The addition of these lots results in the total estimated dwelling yield in the primary school catchment to approximately 1850 which is not considered sufficient to warrant the size of the school site being increased in this instance.

Bushfire Considerations

The structure plan area is identified as bushfire prone by the Fire and Emergency Services Commissioner under the *Fire and Emergency Services Act 1998*. An updated bushfire management plan (BMP) was prepared to support Amendment 4. This BMP demonstrates that the site can be developed in accordance with the requirements of the *State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7)* and the associated guidelines. Bushfire Attack Level contour plans will be required to support future subdivision applications along with information addressing the implementation of the BMP on a staged basis.

Amendment 5 is supported by a BMP specific to Lot 7. The Department Fire and Emergency Services (DFES) raised concerns with aspects of the BMP relating to location, siting and design and vehicle access. These concerns are based on the subdivision and development of Lot 7, the focus of Amendment 5, being dependant on clearing, and secondary access being provided via development on adjoining lots outside of the control of the proponent. This situation is not uncommon in development areas with fragmented ownership and these matters can be overcome at the subdivision stage by a combination of staged development, conditions and cooperation between neighbouring landowners.

The concerns raised by DFES regarding the BMP prepared to support Amendment 5 are not fatal flaws to the development of the site. From the previous BMP work undertaken to support the current structure plan it is known that the site has access to reticulated water, multiple access/egress points and that bushfire threats on adjoining land can be suitably addressed. Due to the fragmented land ownership and that subdivision within the structure plan area is likely to be staged all subdivision applications will need to be supported by additional bushfire analysis to demonstrate compliance with the requirement of *SPP3.7* and associated guidelines.

Local Water Management Strategy

A local water management strategy (LWMS) was prepared to support the current endorsed

structure. Given the modifications recommended by Departmental officers for Amendment 5 do not substantially alter the approved pattern of development and open space for the structure plan area a new LWMS is not considered necessary. However, given addition residential development is recommended on Lot 7, 89 and 90 it is recommended that the LWMS be updated to address and reflect this change as an addendum to the current LWMS ahead of WAPC's final consideration of the structure plan.

Duration of Approval of Structure Plan

The approved structure plan will expire on 17 December 2025, and the proponent (of Amendment 4) has requested the structure plan's period of approval be extended for 10 years from the date of final approval being granted to the current amendments.

The WAPC has approved subdivision applications affecting approximately 29.7 hectares (30 per cent) of the structure plan area. Considering the large proportion of the structure plan area for which subdivision approval has not been granted and the significant and extensive nature of works required prior to the land being subdivided, there is merit in extending the approved structure plan's period of approval.

On this basis, it is recommended the period of approval be extended by 10 years from the date of final approval of the current structure plan amendment.

Summary of Recommended Modifications

Amendment 4 has been prepared to facilitate the realignment of Treeby Road to utilise the existing road reserve of Treeby Road to bypass the existing protected dwelling on Lot 30.

This modification is proposed to enable the subdivision and development of lots in the centre of the structure plan area that rely on Treeby Road for access in advance of internal roads being created.

The realignment of Treeby Road results in a number of flow-on changes to the structure plan and the creation of additional issues. Primarily, the relocation of the active public open space to the north-east corner of the site creates an inequitable distribution of open space within the structure plan area.

Amendment 5 seeks to include approximately 20 per cent of the remaining area excluded from the current endorsed structure plan by identifying this portion of the site for residential development.

Amendment 5 however, does not address the existing issue with the current curved alignment of Treeby Road that is hampering the delivery of subdivision and development in the structure area. Amendment 5 also continues the staggered approach to addressing the excluded area by addressing only 1.2 hectares of the remaining 6.7 hectares of the excluded area. It is not considered appropriate to progress an amendment to the structure plan without resolving the alignment of Treeby Road and the balance of the excluded area.

The modifications to the Anketell North Structure Plan recommended by the Department in the planning assessment section of this seek to address key matters raised by both amendments to facilitate a deliverable structure plan. As the structure plan prepared to support Amendment 5 most closely resembles the current structure plan and the alternative prepared by the Department, it is recommended that the structure plan Amendment 5 be modified as per Attachment 5 and the schedule of modifications (**Attachment 6**) as follows:

Amend the structure plan map, generally in accordance with **Attachment 5** by:

- a) realigning Treeby Road to deviate from the existing road reserve after the south boundary

- of Lot 30 Treeby Road;
- b) retaining the active open space in a central location and increase the length of the open space to retain a similar area to the endorsed structure plan;
- c) adding a 30 metre wide linear open space and an access road C abutting Anketell Road on Lot 7, 89 and 90 to provide separation of 45 between Anketell Road and sensitive land uses;
- d) adding an access road C and residential development at a density of R10 on the eastern boundary of the structure plan area; and
- e) identifying the balance of the excluded area as residential with densities of R25 and R30.

In addition to the above, the following modifications to the structure plan report are recommended:

- a) update the public open space schedule to reflect the changes to the structure plan map above and identify the open space on the southern boundary of Lot 41 as part of the conservation category wetland buffer to be revegetated;
- b) include the requirement for subdivision and/or development on Lots 7, 89 and 90 Anketell Road to include a 2.4 metre high noise wall on the northern side of public open space abutting Anketell Road and all dwellings require Quiet House Design Package B unless supported by a noise management plan in accordance with SPP5.4 and associated guidelines to the satisfaction of the WAPC;
- c) provide an updated LWMS (as an addendum) to reflect the changes to the structure plan map; and
- d) updating the approval period of the structure plan to be 10 years from the date final approval is granted by the WAPC.

Efforts have been made by the Department to minimise the extent of changes require to address the outstanding and/or conflicting issues identified during the assessment of Amendments 4 and 5. However, given additional modifications are proposes it is recommended that the City of Kwinana be directed to readvertise the modified Amendment 5 prior to the structure plan amendment being submitted to the Commission for its final consideration.

Conclusion

The Department's recommended modifications are based on the current endorsed structure plan. Of the two structure plan amendments before SPC for consideration, Amendment 5 most closely resembles the current endorsed structure plan and the Department's recommended approach to addressing the conflicting issues. On this basis, it is recommended that Amendment 5 be modified to reflect the schedule of modifications (Attachment 6) and updating the consolidated structure plan report. It is recommended that the City of Kwinana be directed to advertise the modifications to Amendment 5 prior to resubmitting the structure plan amendment to the WAPC for its consideration. Given Amendment 5 is being modified to reflect the recommendations it is not necessary for Amendment 4 to be progressed, and therefore it is recommended that Amendment 4 be refused.

RECOMMENDATION

That the Statutory Planning Committee resolves to:

1. ***pursuant to clause 22(1)(b) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, to:***
 - a) ***require proposed Amendment 5 to the Anketell North Local Structure Plan be modified in accordance with the attached schedule of modifications;***
 - b) ***require the modified structure plan amendment be advertised by the City of Kwinana;***
 - c) ***require the modified structure plan amendment be resubmitted to the Western Australian Planning Commission for its consideration; and***

d) advise the City of Kwinana of its decision;

2. pursuant to clause 22(1)(c) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, to:

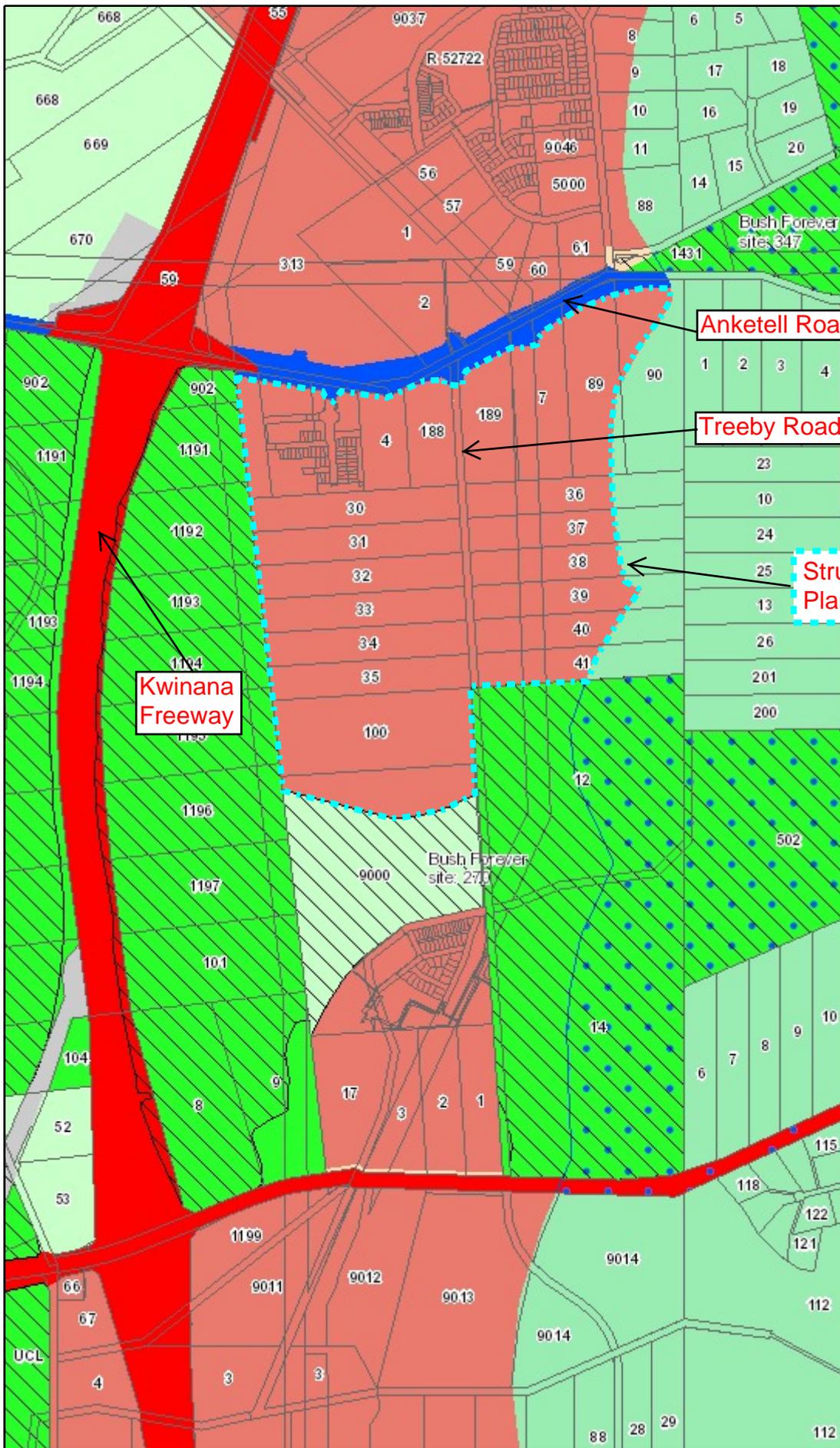
a) refuse to approve Amendment 4 to the Anketell North Local Structure Plan for the following reasons:

- i. the relocation of the central active open space to the north-east corner of the structure plan area is not supported as it results in a distribution of public open space that is inconsistent with the objectives of Liveable Neighbourhoods;**
- ii. the proposed additional access to the structure plan area at the intersection of Anketell Road and Lyon Road is not supported as it has not been sufficiently demonstrated that it will not detrimentally affect the functioning of the regional road in accordance with Development Control Policy 5.1: Regional Roads; and**
- iii. The use of residential density ranges is not supported as the structure plan does not provide sufficient controls to ensure that capacity of the primary school site as per Development Control Policy 2.4: School Sites is not exceeded.**

b) advise the City of Kwinana of its decision

ATTACHMENTS

- Attachment 1 - Location Plan
- Attachment 2 - Existing Structure Plan
- Attachment 3 - Amendment 4 Structure Plan Map
- Attachment 4 - Amendment 5 Structure Plan Map
- Attachment 5 - Modified Structure Plan Map
- Attachment 6 - Schedule of Modifications
- Attachment 7 - Summary of Submissions - Amendment 4 (initial advertising)
- Attachment 8 - Summary of Submissions - Amendment 4 (readvertising)
- Attachment 9 - Summary of Submissions - Amendment 5



Legend

- Cadastre (View 1)
- Region Scheme Boundary
- Bush Forever Areas
- Water Catchments

Region Scheme Zones and Rese

- Other regional roads
- Parks and recreation
- Primary regional roads
- Railways
- Rural
- Rural - water protection
- Urban
- Urban deferred

Anketell Road

Treeby Road

Structure
Plan Area

Kwinana
Freeway

0 0.42 0.8
 Kilometres
 1: 18,056
 at A4

Projection:
WGS 1984 Web Mercator Auxiliary Sphe

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.

InQuery Map
DPLH BUSINESS USE ONLY



LEGEND

- STRUCTURE PLAN BOUNDARY
- LOCAL SCHEME RESERVES**
 - PARKS, RECREATION AND DRAINAGE
- PUBLIC PURPOSES**
 - COMMUNITY FACILITY
 - PS EDUCATIONAL / INSTITUTIONAL (PRIMARY SCHOOL)
- ZONES**
 - RESIDENTIAL - R10
 - RESIDENTIAL - R25
 - RESIDENTIAL - R30
 - RESIDENTIAL - R40
 - RESIDENTIAL - R60
 - SERVICE COMMERCIAL
- OTHER**
 - WESTERN POWER EASEMENT
 - RIGHT OF CARRIAGEWAY (EASEMENT IN GROSS)
 - 1** THE PORTION OF THE LSP AREA WHICH IS MOST LIKELY TO BE AFFECTED BY NOISE IS EXCLUDED FROM THE OPERATIVE LSP UNTIL MATTERS RAISED BY THE WAPC HAVE BEEN ADDRESSED TO THE SATISFACTION OF THE WAPC IN AN LSP AMENDMENT INCLUDING ADDRESSING THE REQUIREMENTS OF THE SPP 5.4 ROADS AND RAIL TRANSPORT NOISE AND FREIGHT CONSIDERATIONS IN LAND USE PLANNING, INCLUSIVE OF THE APPROPRIATE LAND USES AND THE NECESSARY NOISE MITIGATION STRATEGY VIA A NOISE MANAGEMENT PLAN.

PLAN 1 - LOCAL STRUCTURE PLAN MAP

Anketell North

NORTH

Scale: 1:6000 @ A3

0 60 120 180m

PLAN: BYCAN-1-003H REVISION: H
 DATE: 26/09/2019 DRAWN: RW
 PROJECTION: PCG 94 PLANNER: TV
 DATUM: AHD CHECK: TV

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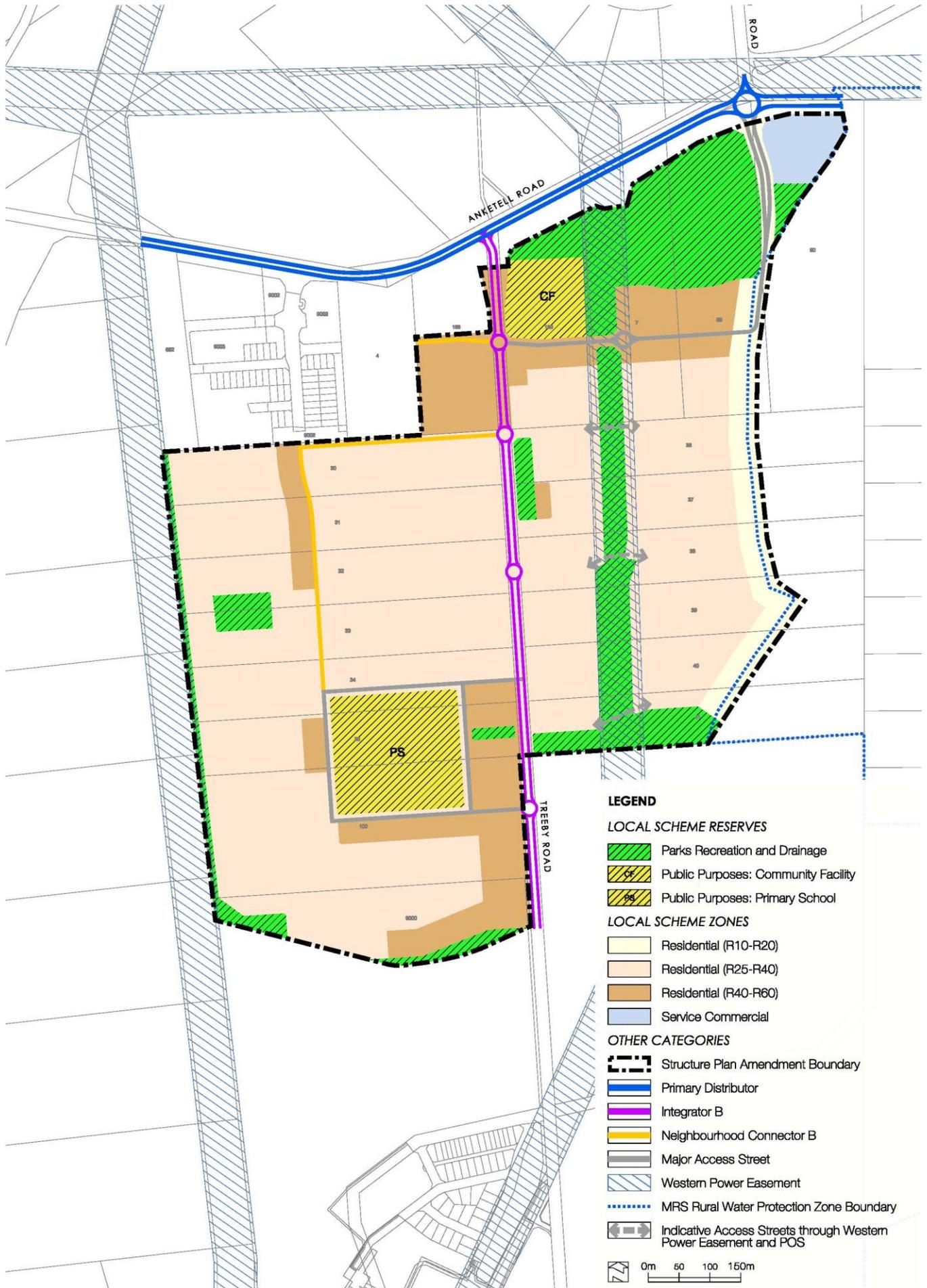


Figure 1 Anketell North Local Structure Plan



Planning area subject to Anketell North Structure Plan Amendments 1 - 3

LEGEND

LOCAL SCHEME

LOCAL SCHEME RESERVES

Park Recreation & Drainage

PUBLIC PURPOSES

CF Community Facility

PS Educational/Institutional
PS Primary School

ZONES

Service Commercial

Residential - R10

Residential - R25

Residential - R30

Residential - R40

Residential - R60

OTHER

Structure Plan Boundary

Right of Carriageway (Easement in Gross)

District Distributor Integrator A

District Distributor Integrator B

Neighbourhood Connector A

Neighbourhood Connector B

Access Street B

Left-in/Left-out intersection

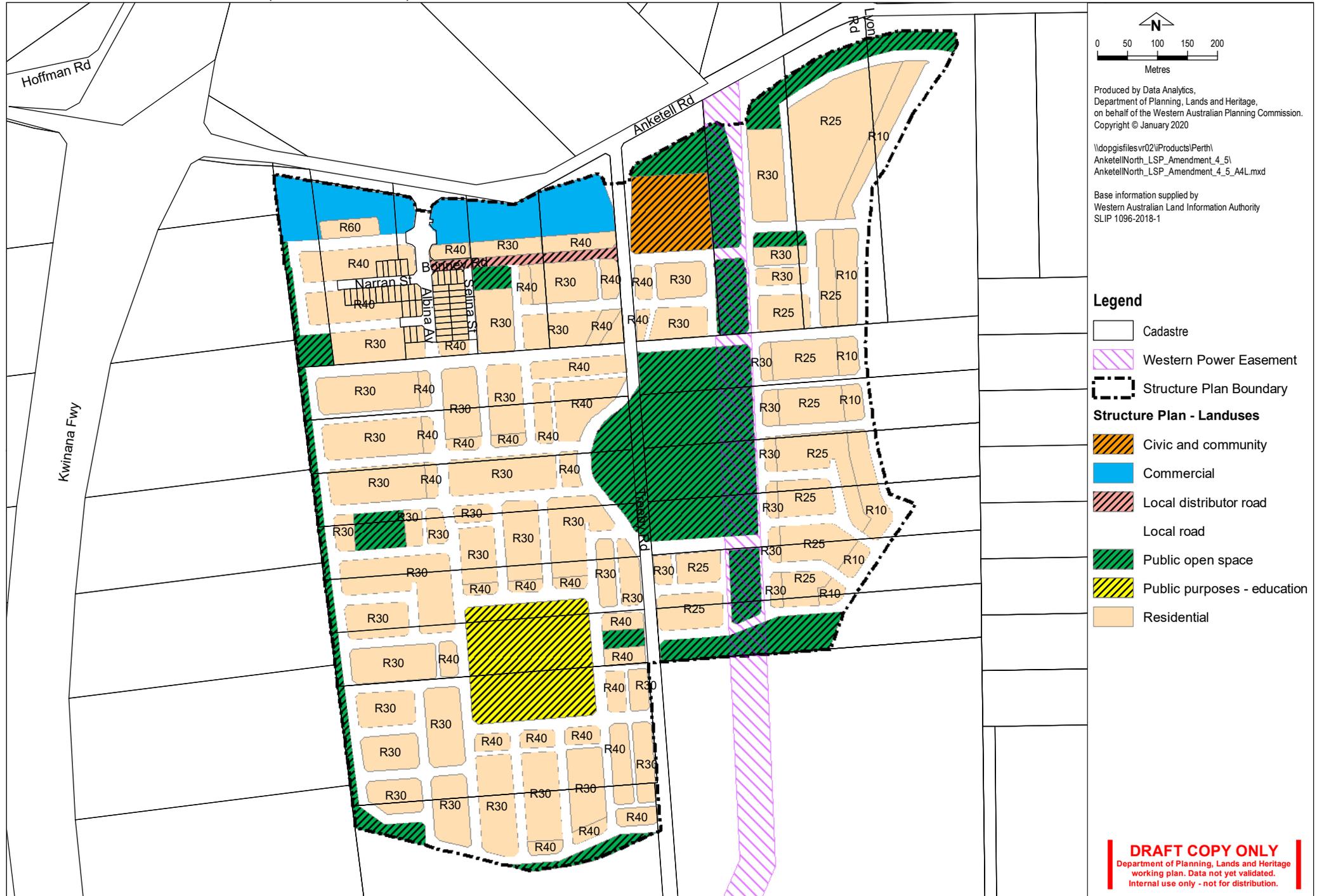
Western Power Easement

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The portion of the LSP area which is most likely to be affected by noise is excluded from the operative LSP until matters raised by the WAPC have been addressed to the satisfaction of the WAPC in an LSP amendment including addressing the requirements of the SPP 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning, inclusive of the appropriate land uses and the necessary noise mitigation strategy via a noise management plan.

Plan No. : 20932-7
Revision : REV.8
Scale : 1:6000@A3





DRAFT COPY ONLY
 Department of Planning, Lands and Heritage
 working plan. Data not yet validated.
 Internal use only - not for distribution.

Schedule of Modifications Anketell North Structure Plan

Structure Plan Map

1. Amend the structure plan map, generally in accordance with **Attachment 5** by:
 - a. realigning Treeby Road to deviate from the existing road reserve after the south boundary of Lot 30 Treeby Road to accommodate the dwelling protected by caveat;
 - b. retaining the active open space in a central location and increase the length (north/south) of the open space to retain a similar area to the endorsed structure plan;
 - c. adding a 30 metre wide linear open space and an access road C abutting Anketell Road on Lot 7, 89 and 90 to provide separation of 45 between Anketell Road and sensitive land uses;
 - d. adding an access road C and residential development at a density of R10 on the eastern boundary of the structure plan area; and
 - e. identifying the balance of the excluded area as residential with densities of R25 and R30.

Structure Plan Report

2. Update the public open space schedule to reflect the changes to the structure plan map above and identify the open space on the southern boundary of Lot 41 as part of the conservation category wetland buffer to be revegetated;
3. Include the requirement for subdivision and/or development on Lots 7, 89 and 90 Anketell Road to include a 2.4 meter high noise wall on the northern side of public open space abutting Anketell Road and all dwellings require Quiet House Design Package B unless supported by a noise management plan in accordance with *State Planning Policy 5.4: Road and Rail Noise* and associated guidelines to the satisfaction of the Western Australian Planning Commission;
4. Provide an updated local water management strategy to reflect the changes to the structure plan map; and
5. Updating the approval period of the structure plan to be 10 years from the date final approval is granted by the Commission.

Schedule of Submissions - Amendment 4A to Anketell North Local Structure Plan

Advertised between 25 February to 18 March 2019

| No. | Submitter | Summarised Submission | City of Kwinana Response and Recommendation | Department of Planning Lands and Heritage Response and Recommendation |
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| 1 | Department of Water and Environmental Regulation | <p>Not Supported.</p> <p>In a broad sense, DWER noted that the proposed Local Structure Plan should be supported by an approved Local Water Management Strategy (LWMS) prior to final approval of the proposed Local Structure Plan and, further, that the LWMS which accompanies the proposed Local Structure Plan is deemed unsatisfactory to the Department. In this regard, the Department cannot support the proposed Local Structure Plan until it is satisfied with the LWMS. Accordingly, the proposed structure plan should not be finalised prior to the endorsement of a satisfactory LWMS by the DWER and the City of Kwinana in accordance with BUWM (WAPC, 2008).</p> <p>DWER has reviewed the LWMS and provided the following more specific advice:</p> <p><i>Groundwater levels</i></p> <ul style="list-style-type: none"> Request maximum groundwater levels (MGL) rather than annual average maximum groundwater levels (AAMGL) when calculating distance from drainage basin inverts to groundwater. MGL gives greater confidence, particularly as there have been instances within the City of Kwinana where groundwater levels have been rising over the last few years due to urbanisation <p><i>Conceptual Management Strategy</i></p> <ul style="list-style-type: none"> The current LWMS must justify why rain gardens have been removed from the revised LWMS, as these were proposed along roads in the approved LWMS (March 2014) Written confirmation required from Western Power that storage of stormwater in their service corridor is supported Section should describe how off-site discharges from Basins B7(2) and B7(4) connect to the Peel Sub-R Drain to the north of the site <p><i>Detention Structure Configuration</i></p> <ul style="list-style-type: none"> Section notes that the drainage basin required volumes are included in Table 14, however they are missing. Please include these volumes in the Table <p><i>Subdivision and UWMP</i></p> | Upheld. City Officers recommend that Part 1 of Amendment 4A be modified to include a provision requiring the Local Water Management Strategy shall be revised to incorporate DWER's requested changes and approved prior to any future approval of the proposed Anketell North Local Structure Plan. | Dismiss. It is understood that the proponents of Amendment 4 have submitted an amended LWMS to DWER seeking approval. However, given the Departments recommendation results in minimal change to the distribution of POS from the endorsed structure plan, there is considered to be insufficient change to warrant a new LWMS be provided. |

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| | | <ul style="list-style-type: none"> Groundwater data used is derived from monitoring during 2006 and 2007 and is quite dated. This section should confirm future UWMP(s) will provide updated data on groundwater levels and quality Given that surface water discharges off-site are proposed, this section should confirm future UWMP(s) will include pre-development surface water quality results <p><i>Surface Water Runoff Post-Development and Basin Locations</i></p> <ul style="list-style-type: none"> This figure indicates that drainage basins in Catchment B public open space (POS) areas do not have rain gardens or bio-filtration basins to treat the minor rainfall events. Need to indicate how the minor rainfall events undergo water quality treatment in Catchment B <p><i>Appendix</i></p> <ul style="list-style-type: none"> Need to include conceptual drainage basin, rain gardens and landscape designs including how stormwater infrastructure is integrated into the POS Figures 17 and 18 should indicate where any discharge off-site is to occur for any relevant rainfall at the Anketell North Urban Cell site and indicate pre- and post-discharge rates Conservation Category Wetlands (CCW) require a 50m buffer from development. Need to include a diagram indicating CCW area and buffer. Need to include any written agreement with the Department of Biodiversity, Conservation and Attractions regarding the setting of the CCW area and buffer | | |
| 2 | Water Corporation | <p>No Objection</p> <ul style="list-style-type: none"> The proposed changes to the Anketell North Local Structure Plan have been noted and are not likely to compromise water and wastewater planning for the area. The proponent's consulting engineer will need to liaise with the Water Corporation to update the detailed reticulation planning to accommodate the changes proposed in the amendment. | Noted. | Noted. |
| 3 | Main Roads | <p>Not Supported. Main Roads WA is unable to support the proposed Amendment at this point in time, based on the information currently provided</p> <p>A revised Transport Impact Assessment (TIA) is required to be provided for assessment, and prepared in accordance with the Transport Impact Assessment Guidelines (August 2016) and electronic SIDRA files (.sip) in version 8;</p> <p>The following comments are made regarding the submitted TIA:</p> | City Officers recommend that the proponent be required to provide a revised Traffic Impact Assessment to the satisfaction of Main Roads WA prior to adoption of the Amendment 4B to the ANLSP. | <p>The proponent has provided a modified Traffic Impact Assessment in support of Structure Plan Amendment 4B which has subsequently been reviewed by MRWA. MRWA response to this Traffic Impact Assessment. However, it is understood that this has not addressed all of the technical matters raised by MRWA.</p> <p>Notwithstanding the matters raised by MRWA, the officers recommendation</p> |

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| | | <ul style="list-style-type: none"> • The SIDRA modelling must be provided for Main Roads review. Main Roads at this point in time is unable to determine the amendments impact upon the State Controlled Road Network and verify the TIA inputs and assumptions. The TIA submitted refers to modelling being undertaken in Section 4.2, however does not provided such modelling for review. • Further explanation is required regarding 6.4.3 Vehicle Trip Distribution and Assignment. More background is required regarding how external trip distribution figures were determined. • Figure 6.4 Excerpt ANLSP Amendment Traffic Demand Model is unreadable. • Information should be referenced referred to in Section 6.3 Future Baseline Traffic. The reference for the ROM 24 data should include as a minimum Job No, land use, supplied by and date. The applicant is to amend TIA and appropriately reference source data. • Further justification of adopted Trip Generation rates is required. From a land use planning perspective the TIA presented has not considered worst case scenario (in terms of traffic generation) when considering the type of uses permitted in the Service Commercial Zone. Only an office land use has been considered. The applicant is required to review all land uses envisaged in the Service Commercial Zone, and provide a revised TIA detailing worst case scenario in terms of land use trip generation rates. The TIA should cross check the land use definitions within Town Planning Scheme No. 2. • The TIA has also selected trip generation rates form both the ITE Guideline and the NSW RMS Guidelines. It is unclear why the applicant has taken this approach to use different rates from two guidelines. Further justification is required clarifying why the selected rates are acceptable in this instance. • The new roundabout as presented on Anketell Road is not supported. Further detail regarding this matter will be forwarded to Council in the near future. • The TIA as presented is deficient in information and cannot be relied upon. | | <p>proposes to retain the existing road hierarchy, intersections with Anketell Road and land uses an updated TIA is not required in this instance.</p> |
| 4 | Department of Education | <p>No Objection:</p> <ul style="list-style-type: none"> • The Department notes the amendment to the configuration of the Structure Plan and the increased R Code development surrounding the primary school site. | <p>City Officers understand that the WAPC refers subdivision applications in the vicinity of primary schools to the Department of Education for comment to ensure that there is no impediments</p> | <p>In response to point d) the DPLH has undertaken further analysis of the modelled dwelling yields to determine if a 4ha school</p> |

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| | | <ul style="list-style-type: none"> As local structure planning occurs around the school site the Department requests that consultation takes place regarding the local roads to ensure that there is no impediments regarding access to the school site and to maximise on-street embayment parking. The stand—alone 4 ha primary school will also be expected to accommodate students who reside in the Anketell South Local Structure Plan area. The estimated lot yield for the North and South Anketell Structure Plans indicates a total yield of 1,600 lots. The Department would welcome any information regarding increases to the anticipated lot yield for the proposed structure plan areas to assist in its future student analysis. | regarding access to the school site and to maximise on-street embayment parking. | <p>site remains consistent with the needs of the locality.</p> <p>As is discussed in the body of the report it is recommended that the fixed residential densities be identified on the structure plan rather than density ranges and the densities on the structure plan facilitate a maximum estimated dwelling yield 1850 dwellings across the school catchment. Which is considered acceptable in this instance</p> |
| 5 | Department of Biodiversity Conservation and Attractions | <p>The Environmental Assessment Report for the Anketell North Local Structure Plan (Amendment) prepared by Strategen (December 2018) states that development of the site would impact 27 trees considered to provide potential breeding habitat for black cockatoos. The trees are within 9.7 hectares of Black Cockatoo foraging habitat. Development of the site would also require clearing of 9.6 hectares of banksia woodlands which may be considered to be part of the recently been listed “Banksia Woodlands of the Swan Coastal Plain” Threatened Ecological Community (TEC). It would also impact 6.7 hectares of potential Banksia Woodland TEC across areas of the site that have not been surveyed.</p> <p>DBCA notes that within the LSP area, only the proposed development of Lot 7 Anketell Road has been referred to the Department of the Environment and Energy (DoEE) for assessment under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) (EPBC 2018/8281). Other developers within the LSP amendment area must also contact DoEE to determine what responsibilities they have under the EPBC Act.</p> <p><u>Conservation Category Wetland</u> The Landscape Master Plan Anketell North presented as Appendix C (LD Total 5/12/18) shows a neighbourhood park (Public Open Space (POS) area 5) within Lot 41 described as “areas of open turf, circulation pathways and drainage treatment basin, public amenity such as picnic facilities”. Given that the majority of Lot 41 comprises the 50 metre buffer to a Conservation category wetland (CCW), identified as UFI 13506 in DBCA’s Geomorphic Wetlands Swan Coastal Plain dataset, the proposed uses and facilities within the POS are not supported. DBCA recommends that any future planning approval to create the POS be subject to a relevant local government condition requiring revegetation of the 50 m wetland buffer to ensure the area acts as an ecological buffer to the CCW.</p> | <p>City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require that the 50 m wetland buffer be revegetated to ensure the area acts as an ecological buffer to the CCW.</p> <p>City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require the Bushfire Management Plan show the position of the Conservation Category Wetland boundary and its 50m buffer and to reflect appropriate vegetation classifications based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | <p>Upheld. Agree with comments raised by DBCA regarding the buffer of the CCW and BMP. In response it is recommended that the structure plan be modified to identify the proposed open space on Lot 41, which is identified a POS area 5, to be rehabilitated as part of the wetland buffer.</p> <p>The modification, as identified by DBCA, will require the BMP to be modified to reflect the increased of vegetation on Lot 41. This will not be a fatal flaw to residential development in this locality. However, it will increase the applicable BAL rating and influence subdivision design in proximity to the wetland buffer.</p> |

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| | | <p>The EPA's position in Guidance Statement No. 33 is to fully protect the wetland and buffer area and to rehabilitate disturbed areas and manage threatening processes.</p> <p><u>Fire Management</u> All necessary fire management requirements should be provided for within the development area, in accordance with the provisions of State Planning Policy 3.7 Planning in Bushfire Prone Areas and any other relevant policies.</p> <p>DBCA reiterates that, in accordance with current government policy and guidance, where a 50 m wetland buffer is required for conservation purposes, the entire buffer should be restored and managed to maintain or enhance the adjoining wetland values and should not be used for bushfire protection requirements.</p> <p>The Bushfire Management Plan presented as Appendix B to support the structure plan (Strategen December 2018) should be reviewed and updated to show the position of the CCW boundary and its 50 m buffer and to reflect appropriate vegetation classifications (i.e. Woodland) based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | | |
| 6 | Department of Fire and Emergency Services | No Objection. DFES advises that the BMP has adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved at subsequent planning stages. | Noted | Noted. The modification described above does not alter the recommendations of the BMP. |
| 7 | Western Power | <p>The structure plan, future subdivision and development processes must protect the transmission line corridor and associated assets from encroachment, mitigating public safety or network reliability risks and ensuring there is no impediment to routine and emergency land access to the network.</p> <p>1. Prior to subdivision, Western Power will need to review, assess and provide prior written consent to any proposals below within the registered easement, in accordance with standard easement conditions:</p> <ul style="list-style-type: none"> • Landscaping plans (including mature heights and location of species); • Ground level changes; • Permanent structures; • Drainage plans; • Conservation controls. | <p>Noted. City Officers recommend that the WAPC be requested to impose a condition on future subdivision applications requiring provision of Section 70A Notifications on all proposed lots adjoining the existing Western Power registered easement prior to subdivision clearance advising prospective purchasers that they are in close proximity to power infrastructure which will be maintained, upgraded and expanded on a regular basis.</p> <p>All development shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict.</p> | Noted. The Western Power Easement is depicted on the amend structure plan. The local roads have been removed from the amended structure plan, in accordance with the structure plan framework, which results in the interface between the easement and residential development. However, there are considered to be sufficient ability for notifications and requirement for Western Power to approve the development within the easement. |

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| | | <p>2. In respect to condition 1, the proponent must submit detailed design plans for the land use and drainage proposed within the electricity infrastructure corridor to allow determination of its suitability in respect to public safety, routine and emergency land access and future network plans.</p> <p>3. Western Power requires the following additional provisions to be included on the Structure Plan for consideration at the subdivision and development stages:</p> <ul style="list-style-type: none"> • Provision of Section 70A Notifications on all proposed lots adjoining the existing Western Power registered easement prior to subdivision clearance advising prospective purchasers that they are in close proximity to power infrastructure which will be maintained, upgraded and expanded on a regular basis. • All development shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict. • No development (including fill, fencing, storage or parking) will be permitted within Western Power registered easements without the prior written approval of Western Power or the relevant power line operator. | No development (including fill, fencing, storage or parking) will be permitted within Western Power registered easements without the prior written approval of Western Power or the relevant power line operator. | |
| 8 | Kenneth Bruce Telfer Lot 36 (35) Treeby Road, Anketell | <p>Support.</p> <ul style="list-style-type: none"> • Owner/occupier of the property – amended plans are suitable for future development and sale; full support given. • The relocation of the park (<i>ova</i>) has now enhanced the opportunity for future development of 35 Treeby Road and other landowners in Treeby Road. | Noted. | Noted |
| 9 | Tina Bazzo Lot 35 (82) Treeby Road, Anketell | Fully support proposed amendments to the Anketell North Local Structure Plan | Noted. | Noted. |
| 10 | Moshee Pty Ltd Lot 57 (31) Kenby Chase, Wandi | Fully support proposed amendments to the Anketell North Local Structure Plan. | Noted. | Noted. |
| 11 | Ltd and Trevalley Investments Pty Ltd Treeby Park subdivision, Lots 100 and | Fully support proposed amendments to the Anketell North Local Structure Plan. | Noted. | Noted. |

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| | 9000 Treeby Road, Anketell South | | | |
| 12 | Mincha Pty Ltd Owner of Lot 90 Anketell Road, Anketell | <p>Objection</p> <p>1. Has relocated a major playing field away from the centre of its catchment, making it remote from most of its residents. New location of playing fields results in its ped shed being substantially reduced as its northern half is not residential – it is now either commercial or ground water zone, effectively reducing by half the number of residents the can walk to the oval. There is a lack of open space in the LSP area generally and as a result, the open space that is there needs to be relatively centrally located.</p> <p>2. The huge amount of commercial land being proposed is not justified by any commercial needs assessment and is likely to make the existing low viability commercial in the area even less viable.</p> <p>3. Development of the land comprising Lot 7 (<i>which contains a portion of the proposed relocated playing fields</i>) is unlikely to proceed given the structure plan as the entry road has no lots fronting it (just park and power lines) and the land remaining for development is so small, making this piece of infrastructure unlikely to be developable. Who will fund this land with no developable land on each side?</p> <p>4. The submitter presented an alternative location plan for the playing fields and Community Facility site, encompassing land</p> | <p>1. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> <p>2. The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> <p>3. Noted.</p> <p>4. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best</p> | <p>1. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> <p>2. Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> <p>3. Noted. Given the recommendations relating to the location of the active open space it is considered that the left-in/out on to Anketell Road will be required as part of the subdivision of Lot 7.</p> <p>4. Dismiss. The alternative design proposed is significantly different to the current structure plan and the structure</p> |

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| | | <p>within and to the immediate east of the current playing fields site as per the approved Anketell North Local Structure Plan.</p> <p>The landowner believes that the alternative location for the playing fields is much better, as it would be located on flat land, the new community centre is still co-located with the park, Lot 7 can be developed viably, which will allow Lots 89 and 90 to be sequenced after it. It should be noted that the Water Corporation sewer planning catchments show Lots 36, 37 and 38 sewerage to the south, with a main needing to be built from the existing Treeby Park Estate pump station through multiple separate ownerships. Accordingly, these three lots are likely to be the last to develop and the location of the playing fields on these lots will make less of an impact on staging of other lots and development of those other lots. The proposed attached plan has a much more centrally located park.</p> | <p>long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>plans proposed by Amendment 4 and 5. The amended structure plan as proposed by the submission would require consultation and modification to the supporting documents including the BMP and acoustic assessments.</p> <p>However, notwithstanding a complete assessment of the alternative proposed by the submission, it is noted that the subject design presents issues relating to the interface with Anketell Road, additional commercial floorspace which is not supported (based on economic analysis provided by the City) and relocates the community facility to a less viable location off Treeby Road.</p> |
| 13 | <p>Massimo Valentini</p> <p>Lot 39 Treeby Road, Anketell</p> | <p>Support. Relocation of oval to a flatter surface makes sense, as well as straight road.</p> | <p>Noted.</p> | <p>Noted.</p> |
| 14 | <p>Anketell Property Investments WA Pty Ltd</p> <p>: Lot 7 Anketell Road, Anketell</p> | <p>1. Has relocated a major playing field away from the centre of its catchment, making it remote from most of its residents. New location of playing fields results in its ped shed being substantially reduced as its northern half is not residential – it is now either commercial or ground water zone, effectively reducing by half the number of residents that can walk to the oval. There is a lack of open space in the LSP area generally and as a result, the open space that is there needs to be relatively centrally located.</p> | <p>1. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current</p> | <p>1. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

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| | | <p>2. The huge amount of commercial land being proposed is not justified by any commercial needs assessment and is likely to make the existing low viability commercial in the area even less viable.</p> <p>3. Development of the land comprising Lot 7 (<i>which contains a portion of the proposed relocated playing fields</i>) is unlikely to proceed given the structure plan as the entry road has no lots fronting it (just park and power lines) and the land remaining for development is so small, making this piece of infrastructure unlikely to be developable. Who will fund this land with no developable land on each side.</p> <p>4. Submitter has presented an alternative location plan for the playing fields and Community Facility site, encompassing land within and to the immediate east of the current playing fields site as per the approved Anketell North Local Structure Plan.</p> <p>Landowner believes that the alternative location for the playing fields is much better, as it would be located on flat land, the new community centre is still co-located with the park, Lot 7 can be developed viably, which will allow Lots 89 and 90 to be sequenced after it. It should be noted that the Water Corporation sewer planning catchments show Lots 36, 37 and 38 sewerage to the south, with a main needing to be built from the existing Treeby Park Estate pump station through multiple separate ownerships. Accordingly, these three lots are likely to be the last to develop and the location of the playing fields on these lots will make less of an impact on staging of other lots and development of those other lots. The proposed attached plan has a much more centrally located park.</p> | <p>Treeby Road reserve to be retained rather than it be closed and relocated.</p> <p>2. The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> <p>3. Noted.</p> <p>4. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>2. Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> <p>3. Noted. Given the recommendations relating to the location of the active open space it is considered that the left-in/out on to Anketell Road will be required as part of the subdivision of Lot 7.</p> <p>4. Dismiss. The alternative design proposed is significantly different to the current structure plan and the structure plans proposed by Amendment 4 and 5. The amended structure plan as proposed by the submission would require consultation and modification to the supporting documents including the BMP and acoustic assessments.</p> <p>However, notwithstanding a complete assessment of the alternative proposed by the submission, it is noted that the subject design presents issues relating to the interface with Anketell Road, additional commercial floorspace with is not supported (based on economic analysis provided by the City) and relocates the community facilities to a less viable location off Treeby Road.</p> |
| 15 | Element Consulting | The primary reason being that the landowner of Lot 7 prefers the existing approved Structure Plan and is progressing its Amendment No. 5 based on the current approved Structure Plan. | Noted. | |

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| <p>Lot 7 (734) Anketell Road, Anketell</p> | <p>1. <u>Need for additional service commercial land use is not substantiated</u> The Proponent has not adequately demonstrated the need for the substantial new areas of Service Commercial land use abutting Anketell Road, particularly in view of the already planned service commercial to the west and future planned to the north of Anketell Road. The Amendment does not provide any justification or demonstrate the viability for the additional 6.88ha service commercial land use, of which will be in a location disjointed from the main service commercial area to the west.</p> <p>2. <u>Staging and Implementation of Development</u> The Proponent has not adequately demonstrated the staging and implementation of the proposed Amendment and any impacts and issues that may arise in staging, including triggers for delivery of key infrastructure.</p> <p>In addition, the proposed Amendment makes development of Lot 7 less viable.</p> <p>Development of Lots 89 & 90 Anketell Road is dependent on development of Lot 7 for extension of roads and servicing (i.e. sewer and water). Without development of Lot 7 the NW portion of the structure plan is unlikely to be viable.</p> <p>3. <u>Anketell Local Playing Fields not centrally located</u> The new location for the Anketell local playing fields is not centrally located within DCA4 (Anketell) of which residents it will primarily service. This is inconsistent with the principles of Liveable Neighbourhoods.</p> <p>The new location will have a significantly less walkable catchment than the current approved location. Liveable Neighbourhoods Element 4 – Public Parkland advocates playing fields being located central within neighbourhoods. The new location is on the NE peripheral of Anketell urban area with a lesser walkable catchment and accessibility for residents.</p> <p>Figure 1 shows the location for the local playing fields (which will serve Anketell North and Anketell South residents as per the City's Community Infrastructure Plan) being in a central location consistent with the current approved Structure Plan.</p> <p>Currently there is limited active usable POS in the southern half of the existing approved structure plan. Most of the parkland in the southern half is constrained (restricted) by powerlines and drainage. The primary school cannot be counted as public open space. Department of Education can</p> | <p>1. The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> <p>2. Noted</p> <p>3. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>1. Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> <p>2. Dismiss. Given the highly fragmented land ownership within the structure plan area there is considered little merit in a staging plan. However, the alignment of Treeby Road as depicted in the current structure plan is an impediment to development within the structure plan area. This notwithstanding the it is anticipated that the structure plan will be subdivided and developed over a long period of time.</p> <p>3. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has befits for the wider community, there is insufficient POS in the balance of the structure plan are to support this outcome.</p> |
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| | | <p>in future erect garrison fencing around the school and restrict public access for security. The current central location of the playing fields overcomes this problem.</p> <p>Locating the Anketell playing fields further north and closer to Anketell Road will result in:</p> <ul style="list-style-type: none"> • Substantially reduced number of residents in Anketell being within a 400m walkable catchment of the local playing fields (see Attachment 2 ped shed analysis); • Local playing fields being further away (less accessible) for Anketell South residents; and • Anketell local playing field should not be situated closer to the Wandí Local Playing Fields and high school playing fields in Wandí as this is inefficient in servicing residential catchments. <p>4. <u>Other Options</u> There are other structure planning options that could (and should) be investigated before considering this Amendment, in order to mitigate any departures from the existing approved Structure Plan which has an adverse impact on other landowners.</p> <p>The existing Structure Plan has been approved since 2015, which has informed landowners' decision making, in particular Lot 7 Anketell Road decision to commence with its own structure planning.</p> <p>Other options include (but not limited to) the following:</p> <p><i>Option 1</i> Amend DCA4 (Anketell) to provide for additional funds to acquire the existing house on Lot 30 and provide for necessary upgrades to the sections of Treeby Road (internal collector road) adjacent to the community facility and local playing fields open space. This ensures that these portions of road can be developed when necessary (or triggered) to deliver DCA infrastructure and staging of urban development. The existing approved Structure Plan can then be implemented.</p> <p><i>Option 2</i> Relocate the Anketell local playing fields within the same landownership (Lots 36 – 38 Treeby Road) as shown in Attachment 1. The benefits include:</p> <ul style="list-style-type: none"> - Retaining a relatively central location within Anketell for resident walkability and accessibility; - Power easement area can be utilised for parking; - Better passive surveillance (esp. after hours) from the surrounding residential use, compared with the proposed northern location, which will have significantly less | <p>4. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>4. A number of alternative designs are discussed in the officer comment section of the report. This options are presented to SPC to illustrate that there are a number of approaches that could be considered. However the options presented by Amendment 4B and 5 require a decision from the WAPC.</p> <p>It is understood that the dwelling on Lot 30 Treeby Road is not for sale and the compulsory purchase of the dwelling is not considered necessary at this time.</p> <p>Consultants working on behalf of the owner of Lot 7 has presented a number of alternative options for the relocation of the playfields. These options are discussed in in the officer comment section of the report.</p> |
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| | | <p>surveillance. This is due to having adjacent service commercial, rural and community facilities uses.</p> <ul style="list-style-type: none"> - Landowners of Lots 7 & 89 can still proceed with their intended structure planning pursuant to the planning under the existing approved Structure Plan; - Anketell North service commercial area is consolidated and made viable in one area (to the west closer to freeway) to support the Wandí District Centre as per approved Structure Plan as amended; - No significant net loss in residential development for landowners as local playing fields is only moved east of power easement; and - Treeby Road alignment can be maintained. | | |
| 16 | <p>Rowe Group</p> <p>Lots 313 and 2 Anketell Road, Wandí (Denkey Pty Ltd and Anketell Holdings Pty Ltd) – future proposed Wandí District Centre (McCubbing)</p> | <p>Neutral, however concern regarding proposed additional 'Service Commercial' zoning at north-east corner of proposed LSP.</p> <p>Primary reasons for concern are:</p> <ul style="list-style-type: none"> • The proposed additional Service Commercial zoning will dilute the primacy of the District Centre by promoting non-residential uses well outside the (proposed) District Centre core; • The proposed additional Service Commercial zoning will promote a form of 'ribbon' development along Anketell Road rather than a focused core of commercial activity; and • There is sufficient identified Service Commercial zoned land already available to service the needs of the locality. <p>Whilst the north eastern corner of the LSP may not represent prime residential land, it is nonetheless capable of development for residential purposes subject to appropriate acoustic control measures being implemented. A residential use in this area will also provide a preferred interface to the adjoining local sporting ground.</p> | <p>The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> <p>Noted</p> | <p>Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> <p>The land in the north east corner of the structure plan area has been excluded from the structure plan until such time as the compliance with the principles of SPP5.4 are demonstrated including appropriate land use and development standards and noise attenuation. ASs discussed in the report each structure plan amendment attempts to addresses these matter using different approaches.</p> |
| 17 | <p>RPS</p> <p>Kwinana Marketplace (on behalf of SCA Property Group)</p> | <p>Objection.</p> <ol style="list-style-type: none"> 1. On behalf of our Client we request that the City of Kwinana and WAPC do not support the inclusion of the Service Commercial land within the ANLSP area: 2. <u>Consistency with Strategic Planning Documentation & Suitability of Location</u> Perth and Peel @ 3.5M and the City of Kwinana Local Commercial and & Activity Centres Strategy (2014) (KLCACS) both identify a clear hierarchy of centres within with City of Kwinana; and without a Local Planning Strategy, therefore provide the highest and best indication of the State and Local Government intentions with respect to the location and scale of future commercial development within the City of Kwinana. The proposed Structure Plan Amendment is not consistent with either of these documents and instead proposes out of | <p>The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> | <p>Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> |

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| | | <p>centre and out of sequence service commercial land uses within the structure plan area.</p> <p>The KLCACS notes that Kwinana Town Centre is to be “proactively” maintained as the “largest and most complex activity centre in the Kwinana hierarchy of centres by ensuring that all higher-level commercial, civic and cultural activities that should there are permitted there (and preferably nowhere else); and by ensuring that the other centres in the hierarchy remain appropriately matched to their designated roles”. The strategy goes on to state that planning for other centres should not “inadvertently impinge on the potential of the city centre”.</p> <p>The proposed uses on the subject site are not consistent with the centres planning within the KLCACS:</p> <ul style="list-style-type: none"> • The KLCACS identifies a planned Wandí District Centre (as does Perth and Peel @ 3.5M) on the opposite side of Anketell Road adjacent to the Kwinana Freeway intersection as the key secondary centre for the City. The Wandí Centre future retail needs modelling is identified as requiring 20,000m² NLA of Shop/Retail by 2031 and 10,000 of Other Retail by 2031 (in 2021 the identified demand is 6000m² and 5000m² respectively). • The structure plan amendment application through identification of the proposed service commercial land uses as “complementary” to the Wandí District Centre infers that the proposed 15,000m² of NLA on the subject site would not be inconsistent with the primacy of the Wandí District Centre or preclude it from developing to its full potential. However Permitted and “AA” uses within the Service Commercial Zone include a large number of retail/commercial uses (with the exception of Shop) that are also subject to a “P” or “AA” level of assessment within the Commercial Zone. Therefore uses such as Showrooms, Civic Buildings, consulting rooms, childcare centres, eating houses, licensed restaurants, medical clinic, offices, professional offices, recreational facilities, and veterinary clinic amongst others are effectively interchangeable between the subject site and future Wandí District Centre. This interchangeability of uses means that the proposed development of the subject site in such close proximity to the Wandí District Centre would be contributing to absorbing the maximum floor space demand for that centre. The proposed 15,000m² on the subject site is far in excess of the expected demand of both Shop/Retail and Other Retail for 2021 (which is a total of 11,000m²) and could potentially absorb all the “Other Retail” demand for this locality out to 2031. | | |
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| | | <ul style="list-style-type: none"> • Multiple smaller neighbourhood and local centres are identified within City of Kwinana. None of these centres are mapped in the location of the proposed Service Commercial uses on the subject site; and while an optional local centre (with a maximum size of 800m2) is located elsewhere within the ANLSP with a possible floorspace of Shop/Retail of 500m2 required by 2031, the proposed Service Commercial land use type is not addressing the possible small local centre need. • The KLCACS identifies a possible opportunity for establishing Mixed Business/ Industrial Centres which are focused on Other Retail/Bulky Goods uses and service commercial and service industry activities including a cluster around the Kwinana Freeway intersections south of the ANLSP area. None of these Mixed Business Centres is mapped on or near the subject site indicating that they are uses not supported or anticipated on the subject site. • In summary, the proposed creation of Service Commercial land uses on the subject site is creating a large area centre type land uses outside of the identified centres hierarchy, and in a location where it is likely to significantly inhibit the successful establishment of the Wandi District Centre. Further this creation of service commercial land uses on the subject site is happening outside of the normal process for the creation of a centre, and without the benefit of any previous strategic planning that assesses the merit of the site for commercial land uses or contemplates its relationship in the hierarchy of centres within the City of Kwinana, and the appropriate floor space and design considerations that attach to a comprehensive centre planning process. <p>3. <u>Lack of Economic Modelling</u> The submitted Structure Plan amendment application contains no economic assessment of the demand for and impact from the proposed Service Commercial land uses. As noted above the proposed inclusion of 3.07ha of Service Commercial land on the subject site is not envisaged or supported by any of the relevant strategic planning documentation for the City of Kwinana or establishment of centres in Perth.</p> <p>The Structure Plan Amendment report notes that the proposed service commercial land uses on the subject site are intended to be “complementary” to the future commercial uses within the Wandi District Commercial Activity Centre. However, no detail is provided as to whether there is sufficient additional</p> | | |
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| | | <p>demand to require 15,000m2 NLA of service commercial land uses on the subject site and what impact this might have on the viability of existing commercial centres in the vicinity and the viability of the Wandu District Centre.</p> <p>Whilst ever the details of the proposed district centre remain unknown it is bad economic planning to be establishing a large area of service commercial land uses nearby without consideration of economic impacts. Any development with this much proposed commercial land should be subject to a comprehensive assessment that contemplates market absorption, economic impact and precinct role and function and whether service commercial land uses on the subject site are acceptable in terms of scale and the prospects of causing blight on nearby centres and undermining the strategy for the establishment of the Wandu District Centre.</p> <p>On this basis the Structure Plan Amendment to include Service Commercial land uses should be refused based on there being no justification of the demand for, or impacts from, this land use on the subject site.</p> | | |
| 18 | <p>Planning Horizons on behalf of Chen Chee Ting (Landowner)</p> <p>Lot 89 (748) Anketell Road, Anketell</p> | <p>Objection:</p> <ol style="list-style-type: none"> 1. <u>Relocation of Playing Field</u> <ul style="list-style-type: none"> • The proposed amendment relocates the major playing field from the centre of the current approved Structure Plan to a remote corner, well away from the majority of its residents. • The new location of the playing field will be nearer to either commercial or ground water zones, making it less accessible to the local residents. • As the location of the playing field is no longer a walkable distance, it will force the local residents to drive to the playing field and therefore increases the need for additional parking spaces, which does not appear to have been taken into consideration in the proposed amendment. • The location of the playing field should be near the school site. Parents and students will be able to use the playing field after school. As a parent with two young children, we always let our kids play with their friends after school. • Playing fields are generally used by kids and families, locating it near the school makes more sense. Drivers constantly reminded to slow down in school zones; drivers are more attentive in school zones and this will make it safer for users of the playing field as well. | <ol style="list-style-type: none"> 1. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields. <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <ol style="list-style-type: none"> 1. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields. <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

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| | | <ul style="list-style-type: none"> • Locating the playing field closer to a busy road and commercial area will give safety concerns for users. I am not sure of what type of shops will be in the area, but I would not want to use the playing field if it was back onto a group of warehouses, or shops have trucks constantly coming and going. • There is already a lack of open space in the area and the maximise its effectiveness the open space should be centrally located to benefit its residents. • It is also noted that the proposed DOS relocation might be justified on the basis of proximity to the Community Facility which would be situated at the northern end of Treeby Road. We contend that tucking the DOS behind this facility on a minor connector road would not serve the neighbourhood or its visitors. As Liveable Neighbourhoods and the ANSLP themselves argue, the DOS is important, warranting a central location on an integrator B category route. Moreover, non-centrally located DOS will also undermine the very design considerations that were used to determine the location of the Community Facility in the first place. • Proposed relocation of DOS is justified by cost of earthworks, not sound urban planning principles. • Proposed location of Service Commercial zone adjacent to proposed DOS contradicts Council's own design out crime policy, LPP8. Alternative land uses should be encouraged. <p>2. <u>Traffic Considerations</u></p> <ul style="list-style-type: none"> • The increased amount of commercial land being proposed was not justified by any commercial needs assessment. I suggest before the amendment is considered any further, an assessment should be done. • Modelling of Trips Generated by Service Commercial Land Uses within TIA. • It is noted that the Transport Impact Assessment Report submitted in support of the ANLSP amendment application appears to have underestimated the vehicle trips which might be generated by the proposed service commercial land uses, and therefore has underestimated the demand | <p>2. The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment.</p> | <p>2. Dismiss. Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development.</p> |
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| | | <p>and impact that the proposed service commercial land uses will have on the local road network.</p> <ul style="list-style-type: none"> • The document notes that the adopted trip generation rates for the Service Commercial are an “office” rate of 12 trips per 100m² of GFA which, using an adjustment to the total site area of 30%, has resulted in a calculation of 3680 Daily Trips. This calculation does not appear to have made an adjustment from the total 3.07ha site area, however even so we submit that they have erred in the identification of the daily trip generation rates. The “office” rate was adopted because it is a “reasonable assumption” and a “moderate trip rate for the various types of service commercial uses”. • However we submit that by using an “office” rate in an area where Showrooms, Civic Buildings, consulting rooms, childcare centres, eating houses, licensed restaurants, and medical clinics can also be established that generate a higher level of trip generation means that the trip calculations for this amendment application are not necessarily reflective of the likely impact once the uses are established. The NSW Government identifies that Bulky Goods Retail stores generate trips at a rate of 17 vehicles per 100m² of GFA on week days (and 19 on weekends), whereas major hardware and buildings supplies stores generate 33 vehicles per 100m² of GFA on weekdays and 35 vehicles per 100m² of GFA on weekends. Other published rates (used in Queensland) for uses such as a medical centre, commercial services and takeaway food have a calculation rate of 40 trips/ 100m² Total Use Area and Service Industry and Showroom are calculated at a rate of 20 trips per 100m² of Total Use Area. • Given the disparity in the range of vehicle trips generated by the prospective uses within a Service Commercial precinct on the subject site the use of the “office” rate could significantly misrepresent the actual impact (e.g. conservatively if the 15,000m² GFA comprises 8,000m² of hardware (2640 trips); 2000m² of medical centre and commercial services (800 trips); and 5000m² of Bulky Goods Retail (850 trips) the total trips generated could total 4290 rather than the 3680 in the TIA). • The Traffic Impact Assessment should be revisited to provide more nuanced details with regard to the proposed impact of the Service Commercial land uses that contemplates the actual likely land uses in this location, whether trip rates are impacted by the out of centre location and associated access to public transport, and whether | | |
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| | | likely increased trip rates would impact on the local road network. | | |
| 19 | Creative Design and Planning Lot 188 and 189 Treeby Road, Anketell (on behalf of the landowners) | <p>Objection:</p> <ol style="list-style-type: none"> The proposed service commercial land has not been supported by a retail analysis. The extent of service commercial in the proposed amendment appears to be excessive. Inclusion of POS along the Anketell frontage would not provide the best amenity outcomes for the public utilising the POS given that it is abutting a Primary Freight Road. Service Commercial along this frontage would provide a better interface. <p>The new location for the playing fields is not centrally located. This is inconsistent with the principles of Liveable Neighbourhoods. The new location will have a significantly less walkable catchment than the current approved location. The new location is on the the NE peripheral of Anketell urban area with a lesser walkable catchment and accessibility for residents.</p> <p>Currently there is limited active usable POS in the southern half of the approved structure plan. Most of the parkland in the southern half is contained (restricted) by powerlines and drainage.</p> <p>Locating the Anketell playing fields further north and closer to Anketell Road will result in:</p> <ul style="list-style-type: none"> - substantially reduced number of residents being with a 400m walking catchment of the local playing fields; - local playing fields being further away for Anketell South residents; - Anketell local playing fields should not be situated closer to the Wandi Playing fields and high school playing fields in Wandi as this is inefficient in servicing residential catchments. <ol style="list-style-type: none"> <u>Redesign Option</u> Amend DCA4 (Anketell) to provide for additional funds to acquire the existing house on Lot 30 and provide for necessary upgrades to the section of Treby Road adjacent to the community facility and local playing fields. This will ensure that these portions of road can be developed when necessary to | <ol style="list-style-type: none"> The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields. <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> <ol style="list-style-type: none"> It is not considered appropriate to amend Development Contribution Plan 4 (DCP 4) under the City's Local Planning Scheme to include these two additional items. These are planning matters which are able to be resolved via local structure planning and subdivision design processes and/or | <ol style="list-style-type: none"> Upheld. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields. <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> <ol style="list-style-type: none"> It is understood that the dwelling on Lot 30 Treeby Road is not for sale and the compulsory purchase of the dwelling is not considered necessary at this time. |

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| | | <p>deliver DCA infrastructure and staging of development. The existing approved structure plan can then be implemented.</p> <p>Relocate the local playing fields within the same landownership. The benefits include:</p> <ul style="list-style-type: none"> • Retain a relatively central location within Anketell; • Power easement can be used for parking • Better passive surveillance from the surrounding residential use, compared with the proposed northern location; • Landowners of Lots 7 and 189 can still proceed with the intended adopted structure planning; • The service commercial area is consolidated in one area. | <p>resolved over time as part of a staged process of development for Anketell North.</p> <p>As discussed above, City Officers are recommending the relocation of the playing fields in accordance with proposed Amendment 4B.</p> | |
| 20 | <p>GHT (WA) Pty Ltd ATF The Guccione Trust</p> <p>Lot 30 (36) Treeby Road, Anketell</p> | <p>Support:</p> <ul style="list-style-type: none"> - Fully support the proposed Amendment - The location of the sporting grounds at the top of the hill (<i>in reference to the current Anketell North LSP</i>) would require an extensive bulk earthworks strategy to create level playing fields over multiple lots, due to the steepness of the land. - The proposed location of the playing fields is far superior, will cost the DCP less to deliver and should be co-located next to the future Community Facility site - Retaining the existing alignment of Treeby Road avoids expensive service relocation and retains the existing dwelling on Lot 30. | Noted. | Noted. |
| 21 | <p>Antonio Giuseppe Grillo Landowner Lot 189 Anketell Road, Anketell</p> | <ul style="list-style-type: none"> - Object to the proposed layout plan because we are of the opinion that the proposed community centre should be relocated to the southern side of the large POS. - We also object to the proposed POS, this area is more suitable for a commercial precinct rather than POS because of its location. | <p>The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> <p>Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be</p> |

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| | | | | viable. Based on this advice the proponent prepared Amendment 4B which does not propose any additional land for service commercial development. |
| 22 | Michael and Linda Cole 14 Black Boy Grove, Wandl | <p>Objection:</p> <ul style="list-style-type: none"> • Appears the difference between current and proposed LSPs is the continuation of Honeywood Avenue or making Lyon Road into a busier road. • Very happy with the development across the road (other side of Lyon Road) thus far, but if Lyon Road became busier, would lose what they moved into the area for 30 years ago. • Lyon Road is currently very dangerous, as people speed around the two bends between De Haer Road and Wandilla roundabout, notwithstanding that the speed limit has been reduced to 70kph (recommend another 70kph sign post for those exiting Wandl Drive – also, people parking on Lyon Road at the bend near the new park is dangerous). | Noted. | Upheld in part. It is noted the MRWA do not support the southern leg of the proposed round about at the Anketell Road/Lyon Road intersection. On this basis it is recommended that the southern leg of the roundabout be removed from the structure plan. |
| 23 | Turnstone Nominees Pty Ltd and Sanctum Holdings Pty Ltd Ex-Lots 2 and 3 Anketell Road (Albero Estate) | <p>Objection:</p> <ol style="list-style-type: none"> 1. <u>Relocation of Playing Fields</u> <ul style="list-style-type: none"> - Has relocated a major playing field away from the centre of its catchment, making it remote from most of its residents - New location of playing fields results in its ped shed being substantially reduced as its northern half is not residential – it is now either commercial or ground water zone, effectively reducing by half the number of residents the can walk to the oval - There is a lack of open space in the LSP area generally and as a result, the open space that is there needs to be relatively centrally located. 2. <u>Service Commercial Sites</u> The huge amount of commercial land being proposed is not justified by any commercial needs assessment and is likely to make the existing low viability commercial in the area even less viable. | <ol style="list-style-type: none"> 1. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields. The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated. 2. The area of Service Commercial proposed in version A of Amendment 4 has been reduced in version B of Amendment 4. A reduction in Service Commercial is supported by the City Officers based on an independent commercial assessment. | <ol style="list-style-type: none"> 1. Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents. Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome. 2. Economic advice was received by the City which advised additional service commercial development as proposed by Amendment 4A was not necessary and unlikely to be viable. Based on this advice the proponent prepared |

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| | | <p>3. <u>Lot 7</u> Development of the land comprising Lot 7 (<i>which contains a portion of the proposed relocated playing fields</i>) is unlikely to proceed given the structure plan as the entry road has no lots fronting it (just park and power lines) and the land remaining for development is so small, making this piece of infrastructure unlikely to be developable. Who will fund this land with no developable land on each side?</p> <p>4. <u>Alternative Playing Field Location</u> The submitter has presented an alternative location plan for the playing fields and Community Facility site, encompassing land within and to the immediate east of the current playing fields site as per the approved Anketell North Local Structure Plan.</p> <p>Landowner believes that the alternative location for the playing fields is much better, as it would be located on flat land, the new community centre is still co-located with the park, Lot 7 can be developed viably, which will allow Lots 89 and 90 to be sequenced after it. It should be noted that the Water Corporation sewer planning catchments show Lots 36, 37 and 38 sewerage to the south, with a main needing to be built from the existing Treeby Park Estate pump station through multiple separate ownerships. Accordingly, these three lots are likely to be the last to develop and the location of the playing fields on these lots will make less of an impact on staging of other lots and development of those other lots. The proposed attached plan has a much more centrally located park.</p> | <p>3. Noted.</p> <p>4. The location of the Local Sporting Ground in proposed Amendment 4, whilst different from the adopted ANLSP, is considered the best long-term location for this use. In part, this is because the location of the playing fields allows for an integration with the proposed Dry Recreation Centre identified as part of the City's Community Infrastructure Plan for this location. The integrated recreation facilities will front Anketell Road creating a strong presence and visual impact in the urban landscape. Further, the landform at the site reduces the need for significant earth working to create the appropriate grades for the playing fields.</p> <p>The relocation of the playing fields away from its previous location affords marginally more flexibility to the design and land use for the balance of the local structure plan area. For example, it allows the current Treeby Road reserve to be retained rather than it be closed and relocated.</p> | <p>Amendment 4B which does not propose any additional land for service commercial development.</p> <p>3. Noted. Given the recommendations relating to the location of the active open space it is considered that the left-in/out on to Anketell Road will be required as part of the subdivision of Lot 7.</p> <p>4. Dismiss. The alternative design proposed is significantly different to the current structure plan and the structure plans proposed by Amendment 4 and 5. The amended structure plan as proposed by the submission would require consultation and modification to the supporting documents including the BMP and acoustic assessments.</p> <p>However, notwithstanding a complete assessment of the alternative proposed by the submission, it is noted that the subject design presents issues relating to the interface with Anketell Road, additional commercial floorspace which is not supported (based on economic analysis provided by the City) and relocates the community facilities to a less viable location off Treeby Road.</p> |
| 24 | PW and KL White Lot 37 (49) Treeby Road, Anketell | Fully support the proposed Amendment to the Anketell North Local Structure Plan. | Noted. | Noted. |

Schedule of Submissions - Amendment 4B to Anketell North Local Structure Plan

Attachment 8

Advertised between 29 May to 12 June 2019

| No. | Submitter | Summarised Submission | City of Kwinana Response and Recommendation | Department of Planning Lands and Heritage Response and Recommendation |
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| 1 | Department of Biodiversity Conservation and Attractions | <p><u>Matters of National Environmental Significance</u> The Environmental Assessment Report for the Anketell North Local Structure Plan (Amendment) prepared by Strategen (December 2018) states that development of the site would impact 27 trees considered to provide potential breeding habitat for black cockatoos. The trees are within 9.7 hectares of Black Cockatoo foraging habitat. Development of the site would also require clearing of 9.6 hectares of banksia woodlands which may be considered to be part of the recently been listed “Banksia Woodlands of the Swan Coastal Plain” Threatened Ecological Community (TEC). It would also impact 6.7 hectares of potential Banksia Woodland TEC across areas of the site that have not been surveyed.</p> <p>DBCA notes that within the LSP area, only the proposed development of Lot 7 Anketell Road has been referred to the Department of the Environment and Energy (DoEE) for assessment under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) (EPBC 2018/8281). Other developers within the LSP amendment area must also contact DoEE to determine what responsibilities they have under the EPBC Act.</p> <p><u>Conservation Category Wetland</u> The Landscape Master Plan Anketell North presented as Appendix C (LD Total 5/12/18) shows a neighbourhood park (Public Open Space (POS) area 5) within Lot 41 described as “areas of open turf, circulation pathways and drainage treatment basin, public amenity such as picnic facilities”. Given that the majority of Lot 41 comprises the 50 metre buffer to a Conservation category wetland (CCW), identified as UFI 13506 in DBCA’s Geomorphic Wetlands Swan Coastal Plain dataset, the proposed uses and facilities within the POS are not supported. DBCA recommends that any future planning approval to create the POS be subject to a relevant local government condition requiring revegetation of the 50 m wetland buffer to ensure the area acts as an ecological buffer to the CCW.</p> <p>The EPA’s position in Guidance Statement No. 33 is to fully protect the wetland and buffer area and to rehabilitate disturbed areas and manage threatening processes.</p> <p><u>Fire Management</u> All necessary fire management requirements should be provided for within the development area, in accordance with the provisions of State Planning Policy 3.7 Planning in Bushfire Prone Areas and any other relevant policies.</p> | <p>City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require that the 50 m wetland buffer be revegetated to ensure the area acts as an ecological buffer to the CCW. Noted</p> <p>City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require the Bushfire Management Plan show the position of the Conservation Category Wetland boundary and its 50 m buffer and to reflect appropriate vegetation classifications based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | <p>Upheld. Agree with comments raised by DBCA regarding the buffer of the CCW and BMP. In response it is recommended that the structure plan be modified to identify the proposed open space on Lot 41, which is identified a POS area 5, to be rehabilitated as part of the wetland buffer.</p> <p>The modification, as identified by DBCA, will require the BMP to be modified to reflect the increased of vegetation on Lot 41. This will not be a fatal flaw to residential development in this locality. However, it will increase the applicable BAL rating and influence subdivision design in proximity to the wetland buffer.</p> |

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| | | <p>DBCA reiterates that, in accordance with current government policy and guidance, where a 50 m wetland buffer is required for conservation purposes, the entire buffer should be restored and managed to maintain or enhance the adjoining wetland values and should not be used for bushfire protection requirements.</p> <p>The Bushfire Management Plan presented as Appendix B to support the structure plan (Strategen December 2018) should be reviewed and updated to show the position of the CCW boundary and its 50 m buffer and to reflect appropriate vegetation classifications (i.e. Woodland) based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | | |
| 2 | Department of Fire and Emergency Services | No Objection. DFES advises that the BMP has adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved at subsequent planning stages. | Noted. | Noted. The modification described above does not alter the recommendations of the BMP. |
| 3 | Western Power | <p>The structure plan, future subdivision and development processes must protect the transmission line corridor and associated assets from encroachment, mitigating public safety or network reliability risks and ensuring there is no impediment to routine and emergency land access to the network.</p> <ol style="list-style-type: none"> 1. Prior to subdivision, Western Power will need to review, assess and provide prior written consent to any proposals below within the registered easement, in accordance with standard easement conditions: <ul style="list-style-type: none"> • Landscaping plans (including mature heights and location of species); • Ground level changes; • Permanent structures; • Drainage plans; • Conservation controls. 2. In respect to condition 1, the proponent must submit detailed design plans for the land use and drainage proposed within the electricity infrastructure corridor to allow determination of its suitability in respect to public safety, routine and emergency land access and future network plans. Regarding public safety assessment, the requirements of the detailed study are summarised below and a required to form part of the servicing strategy: <ul style="list-style-type: none"> • Soil Resistivity Report outlining on-site measurement of the soil resistivity, using the Wenner method. | <p>Noted</p> <p>City Officers recommend that the WAPC be requested to impose a condition on future subdivision applications requiring</p> <p>Provision of Section 70A Notifications on all proposed lots adjoining the existing Western Power registered easement prior to subdivision clearance advising prospective purchasers that they are in close proximity to power infrastructure which will be maintained, upgraded and expanded on a regular basis.</p> <p>All development shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict.</p> <p>No development (including fill, fencing, storage or parking) will be permitted within Western Power registered easements without the prior written approval of Western Power or the relevant power line operator.</p> | <p>Noted. The Western Power Easement is depicted on the amend structure plan. The local roads have been removed from the amended structure plan, in accordance with the structure plan framework, which results in the interface between the easement and residential development. However, there are considered to be sufficient ability for notifications and requirement for Western Power to approve the development within the easement.</p> |

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| | | <ul style="list-style-type: none"> • An Earth Potential Rise study to determine touch, step and transfer potentials, including documentation of all calculations. • A Low Frequency Induction study to investigate the effects of induced voltages from the power line for step, touch and transfer potentials, during both construction and operation of the site. • An Electrostatic Induction study to investigate the potential of hazardous charging of metallic objects in the vicinity of the line, such as fences, gates and other services. • An Electromagnetic Field Study to determine the impacts of Electric and Magnetic Fields as per ARPANSA guidelines. <p>The studies should identify any mitigation required and be submitted to Western Power for review, record-keeping and to confirm the appropriateness of the proposed land use prior to subdivision. Please be advised that Western Power can provide data to assist in the preparation of the report, which will attract a fee. Costs will be estimated and funds must be received prior to assessment commencing. Generally assessments will take between three to five weeks, from receipt of funds.</p> <p>3. Western Power requires the following additional provisions to be included on the Structure Plan for consideration at the subdivision and development stages:</p> <ul style="list-style-type: none"> • Provision of Section 70A Notifications on all proposed lots adjoining the existing Western Power registered easement prior to subdivision clearance advising prospective purchasers that they are in close proximity to power infrastructure which will be maintained, upgraded and expanded on a regular basis. • All development shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict. • No development (including fill, fencing, storage or parking) will be permitted within Western Power registered easements without the prior written approval of Western Power or the relevant power line operator. <p>Note: The above advice should not be construed as Western Power's support or otherwise of the land use or development proposed in the existing electricity corridors and associated registered easements. Further detailed studies will be required to determine the suitability of subdivision and development within the easement corridors.</p> | | |
| 4 | Kenneth Bruce Telfer Lot 36 (35) Treeby Road, Anketell | Support. The amendments are giving all plans an overall better layout. | Noted. | Noted. |

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| 5 | Tina Bazzo Lot 35 (82) Treeby Road, Anketell | Support. Fully support proposed amendment to the Anketell North Local Structure Plan. | Noted. | Noted. |
| 6 | Sam Galati Owner of Lot 90 Anketell Road, Anketell | <p>Objection. While I support the possibility of a 4 way intersection at Lyon Road the location of the proposed sporting ground in Amendment 4 would mean the road would not be feasible to build for a long time until population in the area justified it.</p> <p>The original location of the sporting ground would be a lot better for the future advancement of the area and for the community.</p> | This is a matter that will be resolved as part of the subdivision approvals processes. Conditions may be imposed of the subdivision approval requiring construction and upgrading of the intersection. | <p>Main Roads WA do not support the southern leg of the proposed roundabout. It is recommended that the intersections on to Anketell Road from the current endorsed structure plan be retained.</p> <p>Upheld. It is noted that the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 7 | Massimo Valentini Lot 39-63 Treeby Road, Anketell | Support. We support Amendment 4 as it a logical and equitable approach to the development. | Noted. | <p>Noted. It is acknowledged that the current alignment of Treeby Road cannot be development due to the protected dwelling on Lot 30. However, the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is</p> |

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| | | | | insufficient POS in the balance of the structure plan area to support this outcome. |
| 8 | GHT (WA) Pty Ltd Lot 30-36 Treeby Road, Anketell | <p>We fully support the proposed modifications proposed under Amendment No 4 to the ANLSP.</p> <p>The amendment provides the most efficient and logical planning layout for the precinct, taking into account the topography of the land, vegetation retention, retaining the existing alignment of Treeby Road, avoiding service relocation costs (in Treeby Road), and allows for the home of B & D Volpi to be retained.</p> <p>The modification also co-locates the playing fields next to the future Community Purpose site and places the playing fields next to Anketell Road, thereby providing a logical buffer from transport noise to the residential development areas.</p> | Noted. | <p>Noted. It is acknowledged that the current alignment of Treeby Road cannot be development due to the protected dwelling on Lot 30. However, the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 9 | Well Holdings Pty Ltd & Trevalley Investments Pty Ltd | <p>We fully support Amendment No 4 to the ANLSP, consistent with our previous submission.</p> <p>The amendment provides the most efficient and logical planning layout for the precinct, taking into account the topography of the land, retaining the existing alignment of Treeby Road & avoiding the un-necessary service relocation costs to move the new sewer pressure main in Treeby Road.</p> <p>The modification also co-locates the playing fields next to the future Community Purpose site and places the playing fields next to Anketell Road, thereby providing a logical buffer from transport noise to the residential areas. It also minimises extensive & expensive earthwork costs to the DCP.</p> | Noted. | <p>Noted. It is acknowledged that the current alignment of Treeby Road cannot be development due to the protected dwelling on Lot 30. However, the location of the playing fields proposed in structure plan amendment 4A and 4B will result in less residential development with the walkable catchment of the playfields.</p> <p>Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

Schedule of Submissions - Amendment 5 to Anketell North Local Structure Plan

Attachment 9

Advertised between 17 May to 7 June 2019

| No. | Submitter | Summarised Submission | City of Kwinana Response and Recommendation | Department of Planning Lands and Heritage Response and Recommendation |
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| 1 | Department of Biodiversity Conservation and Attractions | <p>1. <u>Matters of National Environmental Significance</u> The Environmental Assessment Report for the Anketell North Local Structure Plan (Amendment) prepared by Strategen (December 2018) states that development of the site would impact 27 trees considered to provide potential breeding habitat for black cockatoos. The trees are within 9.7 hectares of Black Cockatoo foraging habitat. Development of the site would also require clearing of 9.6 hectares of banksia woodlands which may be considered to be part of the recently been listed “Banksia Woodlands of the Swan Coastal Plain” Threatened Ecological Community (TEC). It would also impact 6.7 hectares of potential Banksia Woodland TEC across areas of the site that have not been surveyed.</p> <p>DBCA notes that within the LSP area, only the proposed development of Lot 7 Anketell Road has been referred to the Department of the Environment and Energy (DoEE) for assessment under <i>the Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) (EPBC 2018/8281). Other developers within the LSP amendment area must also contact DoEE to determine what responsibilities they have under the EPBC Act.</p> <p>2. <u>Conservation Category Wetland</u> The Landscape Master Plan Anketell North presented as Appendix C (LD Total 5/12/18) shows a neighbourhood park (Public Open Space (POS) area 5) within Lot 41 described as “areas of open turf, circulation pathways and drainage treatment basin, public amenity such as picnic facilities”. Given that the majority of Lot 41 comprises the 50 metre buffer to a Conservation category wetland (CCW), identified as UFI 13506 in DBCA’s Geomorphic Wetlands Swan Coastal Plain dataset, the proposed uses and facilities within the POS are not supported. DBCA recommends that any future planning approval to create the POS be subject to a relevant local government condition requiring revegetation of the 50 m wetland buffer to ensure the area acts as an ecological buffer to the CCW.</p> <p>The EPA’s position in Guidance Statement No. 33 is to fully protect the wetland and buffer area and to rehabilitate disturbed areas and manage threatening processes.</p> | <p>1. Noted</p> <p>2. Noted. City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require that the 50 m wetland buffer be revegetated to ensure the area acts as an ecological buffer to the CCW.</p> | <p>Upheld. Agree with comments raised by DBCA regarding the buffer of the CCW and BMP. In response it is recommended that the structure plan be modified to identify the proposed open space on Lot 41, which is identified a POS area 5, to be rehabilitated as part of the wetland buffer.</p> <p>The modification, as identified by DBCA, will require the BMP to be modified to reflect the increased of vegetation on Lot 41. This will not be a fatal flaw to residential development in this locality. However, it will increase the applicable BAL rating and influence subdivision design in proximity to the wetland buffer.</p> |

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| | | <p>3. <u>Fire Management</u> All necessary fire management requirements should be provided for within the development area, in accordance with the provisions of State Planning Policy 3.7 Planning in Bushfire Prone Areas and any other relevant policies.</p> <p>DBCA reiterates that, in accordance with current government policy and guidance, where a 50 m wetland buffer is required for conservation purposes, the entire buffer should be restored and managed to maintain or enhance the adjoining wetland values and should not be used for bushfire protection requirements.</p> <p>The Bushfire Management Plan presented as Appendix B to support the structure plan (Strategen December 2018) should be reviewed and updated to show the position of the CCW boundary and its 50 m buffer and to reflect appropriate vegetation classifications (i.e. Woodland) based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | <p>3. Noted. City Officers recommend that the description for POS Area 5 in the Anketell North Landscape Master Plan be modified to require the Bushfire Management Plan show the position of the Conservation Category Wetland boundary and its 50 m buffer and to reflect appropriate vegetation classifications based on a fully revegetated wetland buffer in Lot 41. No bushfire management mitigation activities are to impact on or affect remnant vegetation or proposed rehabilitation species within the adjoining CCW or its buffers. Proposed Asset Protection Zones to residential dwellings are to be accommodated within the development area without the need for fuel reduction measures within the CCW or its agreed buffer.</p> | |
| 2 | Department of Education | <p>The Department of Education notes the proposed amendment to a portion of the Anketell North LSP which includes, in part, lifting the area known as 'Investigation Area 1' to provide for additional residential land use and modification to the residential density.</p> <p>Currently, there is a four hectare public primary school site within the Anketell North LSP which is expected to accommodate students in both the Anketell North LSP and Anketell South LSP. The Western Australia Planning Commission's Development Control Policy 2.4- School Sites (DC Policy 2.4) stipulates the requirement for a four hectare stand-alone public primary school site for every residential catchment of 1,500-1,800 dwellings.</p> <p>The current approved Anketell North LSP contemplates an estimated dwelling yield of 1, 180. However, in accordance with the Anketell North LSP Amendment Report, the proposed Amendment would result in an ultimate dwelling yield of 1,483 which equates to an increase of 303 dwellings. Coupled with the anticipated dwelling yield of 420 in the Anketell South LSP, this results in an overall dwelling yield of approximately 1,903 to be serviced by the primary school site in lieu of the maximum 1,800 dwellings permitted. In addition, the Department is aware that the revised density seems to be increasing at subdivisional stage. The Department has significant concern that the allocated size of the public primary</p> | <p>Noted. It is recommended that City Officers liaise with the Department of Education and the Department of Planning Lands and Heritage concerning the provision of an adequate primary school site in the Anketell urban area.</p> | <p>In response to point d) the DPLH has undertaken further analysis of the modelled dwelling yields to determine if a 4ha school site remains consistent with the needs of the locality.</p> <p>As is discussed in the body of the report it is recommended that the fixed residential densities be identified on the structure plan rather than density ranges and the densities on the structure plan facilitate a maximum estimated dwelling yield 1850 dwellings across the school catchment. Which is considered acceptable in this instance</p> |

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| | | <p>school site will be inadequate to support the increased dwelling yield anticipated within the school catchment area.</p> <p>In view of the above, the Department's support for the draft Amendment will be subject to the review of the approved Anketell North LSP in its entirety to secure a public primary school site larger than the standard four hectare site required by the DC Policy 2.4.</p> <p>If additional surrounding land is released that results in more residential development it is likely the Department will require a further primary school site.</p> | | |
| 3 | Department of Water and Environmental Regulation | <p>The DWER has previously reviewed the supporting document Lot 7 Anketell Road Anketell - Local Water Management Strategy (Terranovis Pty Ltd, March 2019) in a separate referral and amendments are required. Please find attached DWER correspondence regarding the review of the LWMS.</p> <p>The DWER cannot support the local structure plan until the Department is satisfied with the LWMS. Accordingly, the proposed structure plan should not be finalised prior to the endorsement of a satisfactory LWMS by the DWER and the City of Kwinana in accordance with BUWM (WAPC, 2008).</p> | City Officers recommend that Part 1 of Amendment 5 be modified to include a provision requiring the Local Water Management Strategy shall be revised to incorporate DWER's requested changes and approved prior to any future approval of the proposed Anketell North Local Structure Plan. | Upheld. A LWMS, supported by DWER, should be provided prior to the approval of any amendment to the structure plan. This information is required to be provided following to modifications and consultation for the modified amendment 5 to the structure plan. |
| 4 | Tina Bazzo Lot 35 (82) Treeby Road, Anketell | <p>Object to Amendment 5 as it is inconsistent with the proposed Amendment 4 to the ANLSP.</p> <p>Amendment 4 is preferred and more desirable as it avoids the realignment of Treeby Road and relocates the playing fields from the top of the hill to more favourable flatter ground on Anketell Road.</p> | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

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| 5 | Comley 83 Treeby Road, Anketell | Objection. The proposed sporting ground is located on a steep hill and under power lines which requires Treeby Road to be shifted to make it fit. A sewer pump out point line has just been installed for Treeby Park. We oppose this amendment as it contradicts Amendment 4 which places the oval in the area of Lot 7 & 89 Anketell Road. The relocated oval would cost very little compared to the current structure plan. | Noted | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 6 | Dean Fiore Sanpoint Pty Ltd 56 Treeby Road, Anketell | <p>Strongly object for the following reasons:</p> <ol style="list-style-type: none"> 1. Amendment 5 is seeking a piecemeal change to the current Anketell North LSP, and has no consideration for the broader issues that actually require resolution in the current LSP. These key issues include: <ol style="list-style-type: none"> i. unnecessary and complicated process of realigning Treeby Road from its current alignment in an area of fragmented land ownership that will impact existing homes and make access difficult for current and future residents. ii. the proposed playing fields being located in a position that is physically unsuitable for the scale of the planned open space facility given the significant crossfall of the land and it being located on one of the highest points in immediate area. iii. Environmental and Tree retention considerations. | Noted. | <ol style="list-style-type: none"> 1. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report. |

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| | | <p>These first two issues alone add significant costs to the development of the area to both private landowners and developers in extra road and servicing costs, as well as to the DCP for the considerable earthworks and associated costs of creating the playing fields as a level surface.</p> <p>2. The ad-hoc and opportunistic nature of Amendment 5 is highlighted by the fact that it only considers one landowners benefit to obtain some zoning and it has no consideration for the balance of the Urban zoned land that is excluded from the current LSP area in the north eastern portion of the Anketell North precinct – it just continues to ignore this land and doesn't resolve any of the land use studies that are necessary for proper consideration for a holistic planning framework in the area. This just reiterate the self-serving and reactive nature of the proposal, rather than a more comprehensive overall LSP Amendment.</p> <p>3. Amendment 5 also proposes significant areas of residential land be located in proximity to the future freight route along Anketell Road, which will unnecessarily subject a number of home to major noise impacts requiring expensive building conditions to manage noise inside these homes, which is counter-intuitive to housing affordability and residents enjoyment of private outside spaces in their homes.</p> <p>4. Given the land topography across the LSP area, achieving a balance across a number of good planning outcomes including efficient development layouts, retention of significant trees, etc it is a reality that areas such as large public open space areas for playing fields need to be located on the flattest parts of the precinct. This logically therefore positions the required playing fields across the land in the north eastern area of the Anketell North LSP precinct, and if Amendment No 5 is adopted, then the ability for this outcome to be achieved is highly compromised, along with other benefits such as co-location of the playing fields with the Community Facility site.</p> | | <p>2. Noted. It is recommended that amendment 5 to the structure plan be modified to address the balance of the excluded area.</p> <p>3. Noted. It is recommended that a minimum separation of 45 metres is provided between Anketell Road and sensitive land uses. DWER has raised concerns with aspects of the recommendations made by the acoustic assessment prepared to support Amendment 5. It is recommended that a modified acoustics assessment be provided to response to these comments.</p> <p>4. Noted. Various position regarding the topography of the proposed location of the playfield current and proposed location. Further various information has been provided regarding the potential impact on of the earth work required for residential development in proximity to the location of the playing fields proposed by Amendment 4B. It is understood that the City's Engineers have reviewed this information and are of the view that the location of the playfields for Amendment 4B requires less earthworks and will facilitate the retention of additional mature trees.</p> <p>However, The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan</p> |
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| | | <p>5. In summary, we believe a more comprehensive and considered Amendment that addresses and solves all of the major issues arising for the development under the current LSP, and takes a more holistic view of the overall precinct is a far better and more equitable outcomes for all landowners in the area. This will provide the best chance for the delivery of an integrated community development, and we believe that the previously advertised Amendment 4 went a long way to providing those more holistic solutions for the area.</p> | | <p>would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> <p>5. Noted.</p> |
| 7 | GHT Pty Ltd Lot 30 (36) Treeby Road, Anketell | <p>Object to Amendment 5 on the grounds that:</p> <ul style="list-style-type: none"> -it is contrary to Amendment 4 to the ANLSP – Amendment 4 is the better planning and community outcome and it fixes the problems associated with realigning Treeby Road into an existing residence and the excessive cost of building playing fields on the hilltop. -This land is better suited to local sporting grounds, co-located next to the future community purpose site, due to topographic and traffic noise issues. | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

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| 8 | <p>HPH Solutions On behalf of Bruna and Daniele Volpi</p> <p>Property affected by proposed amendment: Lot 30 Treeby Road</p> | <p>Objection. Mr & Mrs Volpi sold Lot 30 Treeby Road under a sale agreement that detailed that they were to retain a lot of 4,000m², which would include their residence. This property runs along Treeby Road. The purchaser was to subdivide this land to Mr & Mrs Volpi upon subdivision.</p> <p>Our understanding is that the purchaser of this land assisted in the preparation of the Original Local structure Plan (LSP) that had a road going through the middle of Mr & Mrs Volpi's home, which was in conflict with original agreement.</p> <p>After proposing legal action against the purchaser, we now have a legal agreement that confirms the original intent of the offer, with the block size now being 4,306m². We have also been advised this subdivision has been lodged and awaiting approval.</p> <p>We were aware of Amendment 4 to the above LSP that retains Treeby Road in present form and are comfortable is supporting this amendment as it allows Mr & Mrs Volpi to retain their residence.</p> <p>We have just been made aware of Amendment 5 that proposes to relocate road through Mr & Mrs Volpi's family home and would like our objection noted to this amendment.</p> <p>The reasons for our objection include:</p> <ol style="list-style-type: none"> 1. Mr & Mrs Volpi's family home would have to be demolished to build the new road, removing them from their residence of over 20 years. 2. Our advice is that having public open space (POS) in this area would create significant engineering costs, increasing costs in developing POS. 3. The area of LSP has minimal homes located in the area and therefore should be able to be created without having to demolish a family home. | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 9 | <p>Kenneth Bruce Telfer Lot 36 (35) Treeby Road, Anketell</p> | <p>Objection. The current park location is impeding the development of the property. The new LSP proposal with park and community hall is a better location.</p> <p>The new LSP is an attractive subdivision for Treeby Road, Families will have easy access to functional facilities. The layout of Treeby Road is functional for motorists.</p> | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area</p> |

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| | | | | <p>is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 10 | Kua Hao Su Lot 38 (55) Treeby Road, Anketell | <p>Objection.</p> <ol style="list-style-type: none"> 1. The process of realigning Treeby Road from its current alignment in an area of fragmented land ownership is both unnecessary and complicated. It would make access difficult for existing residents as well as any future residents. 2. The location of the proposed playing field is also not ideal in terms of it being physically unsuitable for the scale of the planned open space facility given the significant crossfall of the land and it being located on one of the highest points in immediate area. <p>These issues not only highlight the impact of significant development costs to private landowners like us, and also developers in terms of extra road and servicing costs but it also impacts the DCP in terms of the considerable earthworks and associated costs required in order to create the playing fields as a level surface.</p> <p>Amendment 5 demonstrates a scheme that is purely self-serving and opportunistic as it fails to consider the balance of the Urban zoned land that is excluded from the current LSP area in the north eastern portion of the Anketell North precinct. Rather than considering a more comprehensive overall LSP Amendment, this proposal chooses to ignore issues associated and does not employ land use studies required for proper consideration for a holistic planning framework in the area.</p> <p>In addition, Amendment 5 proposal may also subject a vast number of homes to major noise impacts with its plan to relocate a significant proportion of residential land in proximity to the future freight route along Anketell Road. This would compromise not only resident's enjoyment of private outside spaces in their home and expensive building conditions will be required to manage noise inside these homes, and thus impacting greatly on housing affordability.</p> | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |

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| | | <p>To achieve a positive planning outcome across several areas, in terms of efficient development layouts, preservation of trees and so forth, the land typography across the LSP area should be carefully considered. With these considerations in mind it is more sensible and environmentally conscious for large public open space areas such as the playing fields to be located on the flattest parts of the precinct. Thus, the playing fields would be more ideally positioned in the fields across the land in the north eastern area of the Anketell North LSP precinct. This would also allow other benefits such as the playing fields to be co-located with the Community Facility Site and would demonstrate a planning which shows consideration for both residents and the environment.</p> <p>In summary, we are inclined to support an amendment that would be able to address and solve the major issues arising for the development under the current LSP. This would mean a more holistic rather than opportunistic approach as proposed by Amendment 5. Thus, in comparison we believe the previously advertised Amendment 4 have in fact provided a more holistic solution, with the view of providing a better and fairer outcome for all landowners in addition to a more integrated community development. We hereby object to the proposed Anketell North LSP Amendment 5.</p> | | |
| 11 | Planning Horizons | <p>Support. On behalf of our clients, we reiterate that we support the proposed amendment. The proposal is very similar to the original version of the ANLSP, which our client prefers vastly to proposed Amendment 4.</p> <p>We also believe that Anketell will be far better served by Public Open Space located in the centre of the suburb.</p> | Noted. | Noted. |
| 12 | Rpoint 48 Treeby Road, Anketell | <p>Objection. We are deeply passionate about the respective area and its potential for appropriate residential growth and activity and accordingly we must write in a clear objection to the currently Advertised LSP Amendment 5.</p> <p>We feel strongly that the 'reactive' & 'single lot' planning approach to an older LSP is not an appropriate nor holistic planning approach.</p> <p>We note the Amendment is a very isolated amendment to an LSP that is currently fraught with problems (problems that have proven time and time again to stunt the growth in this fantastic area which holds so much potential). An isolated style amendment to this LSP further embeds these issues (commercial, legal, planning, engineering, road alignment, land cross-falls) and limits the options for planning in the future. It clearly will only serve to further enhance the current issues by limiting the options available to unlock the potential of the area. Most specifically it limits playing field and community space options by forcing those items to remain in</p> | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of</p> |

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| | | <p>undesirable and/or unworkable locations. It also, from a planning perspective, indirectly reinforces the integrity of the current LSP which has a major flaw in the Treeby Rd alignment (and legal and commercial issues which flow from that). These issues with LSP Amendment 5 should be taken seriously by the City within the context of the State-wide Strategic Planning Framework, housing affordability requirements, and the dwelling & density directions outlined in Directions 2031 and the Perth and Peel @ 3.5 Million framework.</p> <p>Further, in our view it is truly against the principles of good and proper planning to support any such self serving, piecemeal amendment to the LSP which</p> <ul style="list-style-type: none"> • benefits only one landowner; • replaces what is currently unzoned/undevelopable land under the current LSP with residential dwellings next to a main truck route; • does not appear to have undertaken required depth in planning, environmental, community and noise assessment and considerations that should form the basis of a true LSP Amendment consideration; and • ignores some significant barriers to development progression in the LSP which are holding back a number of willing and able landowners. <p>In summary, the LSP Amendment 5 fails on many overarching fronts in my view and does not allow the progression of Amendment 4 to the LSP which we strongly support. Amendment 5, in not dealing with the current LSP issues (and in contrasting Amendment 4) is very short sighted accordingly is completely unsupportable in its current form.</p> <p>We strongly object to the currently advertised LSP Amendment Number 5 and respectfully request that the City and Councillors decline the requested Amendment.</p> | | <p>the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> |
| 13 | <p>TBB On behalf of Acumen Lots 31, 32, 33, 34, 36, 37 and 38 Treeby Road, Anketell</p> | <p>We prepared a comprehensive amendment to ANLSP which extends beyond just our client's land holdings in the structure plan area and which would ultimately replace the entire existing approved ANLSP. The primary purpose of our amendment is to provide for the District Open Space to be located further north to a more suitable location towards Anketell Road to enable the future local sporting ground and building to be constructed with minimal earthworks and co-located with the future district dry recreation centre, whilst also removing the need for Treeby Road to be realigned.</p> <p>Our comprehensive Amendment addresses a fatal flaw in the preparation and approval of the ANLSP, being the ability to deliver</p> | Noted. | <p>Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report.</p> <p>The relocation of the playing fields to the north east corner of the structure plan area</p> |

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| | <p>local sporting fields in the location depicted in the ANLSP and realign Treeby Road, due to significant site constraints. These site constraints relate to the topography (slope) of the land, the extent of earthworks (cut and fill) required to deliver level playing fields (max 1% gradient across the playing surface) and the location of a dwelling which is required to be retained on Lot 30 Treeby Road by virtue of a legal agreement. Other landowners and developers in the ANLSP area have been undertaking subdivision of their own land and seeking to progress amendments to the ANLSP over their landholdings to further their own interests and, in doing so, have failed to address these fatal flaws. Amendment 5, and prior to that, Amendments 1, 2 & 3, are examples of recent proposed (and in some cases approved) amendments to ANLSP which have been progressed over landholdings under single ownership which have not attempted to address the fatal flaw to the delivery of local sporting facilities for the benefit of residents in this LSP area and a wider catchment to the north of Anketell Road.</p> <p>We recommend that the City of Kwinana and the WAPC not support Amendment 5 as it represents an ad hoc proposal which is not consistent with orderly and proper planning for the urban development of this area. Approval of Amendment 5, and any further piece-meal amendments to ANLSP over single landholdings, would jeopardise the delivery of essential community facilities to support residential development, in particular the playing fields, and would also likely result in the approved ANLSP being unable to be implemented any further than the current subdivision approvals allow or beyond the lots fronting Anketell Road. This is by virtue of subdivision being able to take place over Lots 189 & 7 if the 'Investigation Area 1' boundary is lifted and a residential land use designation is applied, as proposed under Amendment 5, removing the only suitable option for the location of the local sporting ground.</p> <p>Amendment 5 and proposes Residential R30 for the majority of that lot outside of the Western Power easement along with an unnecessary and costly road connection to Anketell Road in close proximity to the existing and future upgraded intersection of Treeby Road and Anketell Road.</p> <p>In addition to the information we have provided in our Amendment and this submission on the suitability of Lot 7 and adjacent land for the construction of a local sporting ground to support the broader residential catchment in DCA 9 and at considerably reduced cost to all developers in the DCP area, we raise concerns with a residential land use designation on the northern portion of Lot 7 and the provision of a road (Access Street B) and intersection to Anketell Road as proposed in Amendment 5. Our concerns relate to the suitability of noise sensitive land uses so close to Anketell Road which is a major freight distributor road with significant volumes of</p> | | <p>is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents.</p> <p>Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome.</p> <p>It is noted that the current location of the active open space will require more earth works that the location proposed by Amendment 4. It has not been demonstrated that these engineering issues cannot be overcome. However, the structure plan cannot address the imbalance of open space across the structure plan area that would result if the active open space was relocated to the periphery of the structure plan area.</p> <p>It is noted that there are elements of the structure plan that require modifications that are not addressed by Amendment 5 including the alignment of Treeby Road and the balance of the excluded area. As discussed in the body of the report it is recommended that Amendment 5 be modified to address these matters.</p> |
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| | | <p>traffic generating noise which we are not confident has been adequately addressed in the amendment documents.</p> <p>There is no evidence of a noise management plan being prepared and the Acoustic Assessment undertaken by Herring Storer Acoustics (included in the amendment documents as Appendix 2) actually recommends that a "...mutually beneficial noise management plan be developed and implemented" in the executive summary.</p> <p>Furthermore, the recommendations for a 1.8m high noise wall between the first row of residences and the POS is hardly a suitable response and no other options, including increasing separation distances to sensitive land uses and alternative land uses appear to have been considered. The provision of approximately 3000m² of POS adjacent to Anketell Road, between the road and the noise wall is also of little utility and no benefit to the community. It can also not be ascertained from the amendment documents what assumptions have been made about the adjoining land uses on Lots 89 & 198 and their role in mitigating or otherwise noise from Anketell Road, nor the extent of any future noise wall along Anketell Road and timeframes for construction of this, nor the assumptions made in regard to the construction of the road surface for the realigned Anketell Road.</p> | | |
| 14 | Teranovis Lot 2 and 3 Anketell Road, Anketell | <p>We support the local structure plan as advertised.</p> <p>We have previously objected to Amendment 4, and request that our objection to Amendment 4 be considered in the light of this submission in support of Amendment 5.</p> <p>The simplest way to solve the issues in this corridor would be an amendment to the DCA to allow Treeby Street to become an DCA item where it is adjacent to the playing fields and to allow the City to use its resumptive powers to purchase the houses and land in the way of the re aligned road and build the road on the alignment shown in the existing approved structure plan. This would be an equitable outcome for all concerned.</p> <p>Alternatively the open space should be moved to be on the eastern side of the power line reserve, on the same lots as to where it is currently located prior to Amendment 4. This would be much more central to the cell then moving it to the north of the cell on lot 7.</p> <p>The structure plan advertised for lot 7 is broadly in line with the existing approved LSP (prior to Amendment 4) and provides for a stable, considered evolution of the approved design. Amendment 4 is a radical departure and results in planning uncertainty for all parties.</p> | <p>City Officers recommend that the WAPC be requested to impose a condition on future subdivision applications requiring</p> <p>Provision of Section 70A Notifications on all proposed lots adjoining the existing Western Power registered easement prior to subdivision clearance advising prospective purchasers that they are in close proximity to power infrastructure which will be maintained, upgraded and expanded on a regular basis.</p> <p>All development shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict.</p> <p>No development (including fill, fencing, storage or parking) will be permitted within Western Power registered easements without the prior written approval of Western Power or the relevant power line operator.</p> | <p>Noted. The amendment of the Development Contribution Plan and the compulsory acquisition has is not proposed by either Amendment 4 or Amendment 5 to the structure plan. These measure are not considered necessary to progress subdivision within the structure plan area.</p> |

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| | | Structure plans are employed to provide certainty to guide development. Radical changes of structure plans erode confidence in the planning outcomes and act as a disincentive to investment. | | |
| 15 | Massimo Valentino Lot 39-63 Treeby Road, Anketell | I reject Amendment 5 to the Anketell North Local Structure Plan. I prefer the location of the oval as proposed in Amendment 4. | Noted. | Noted. |
| 16 | Well Holdings Pty Ltd & Trevalley Investments Pty Ltd Lot 9000 & Lot 1000 Treeby Road, Anketell | Object to Amendment 5 as it is inconsistent with and contrary to proposed Amendment 4. Amendment 4 is preferred and supported as it avoids the unnecessary cost of realigning Treeby Road and building playing fields at the top of the Anketell Hill. The land the subject of Amendment 5 should be used as the local sporting ground due to better topography and co-location benefits with the future community purpose site. | Noted. | Upheld in part. Amendment 5 does not address the alignment of Treeby Road and the matters relating to the dwelling on Lot 30 which is an impediment to subdivision and development with the structure plan being progressed. It is recommended that Amendment 5 to the structure plan be modified to address the Alignment of Treeby Road as discussed in the body of the report. The relocation of the playing fields to the north east corner of the structure plan area is not supported. Approximately 75% per cent of the identified POS in the structure plan would be located on the periphery of the structure plan area. This results in an imbalance of open space in the balance of the structure plan area to the detriment of the future residents. Although it is noted that the co-locating the playing fields with the community facility has benefits for the wider community, there is insufficient POS in the balance of the structure plan area to support this outcome. |
| 17 | P&K White Lot 37 (49) Treby Road, Anketell | We feel the new plan is more for the community and City of Kwinana as a whole. | Noted. | Noted. |



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| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | 156035 |
| Subject | Shire of Denmark - Lot 14 Glenrowan Road Scotsdale - Reconsideration of Subdivision Refusal | | |
| Purpose | Requires WAPC decision | | |
| Title of Approving Officer | Director - Regional South West | | |
| 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 | Great Southern | | |
| Local government/s | Shire of Denmark | | |
| Landowner/Consultant | Stuart Douglass | | |
| Location map | Attachment 1 | | |
| Bushfire Prone Area | YES | | |
| Statutory Planning Committee - SMART/Structure Plans only | | | |
| Region scheme zoning | N/A | | |
| Local Scheme Zoning | Rural | | |
| Council's recommendations | REFUSE | | |
| Receipt date | 11 June 2018 | Process days | |
| Property Address | Lot 14 Glenrowan Road, Scotsdale | | |
| SUMMARY | | | |
| <p>An application to create an 8.6ha conservation lot and 22ha balance lot was refused under delegated authority in May 2018. The applicant lodged a reconsideration application and requested that the WAPC's decision timeframe be extended to allow for more information as provided for under S253(1)(c) of the <i>Planning and Development Act 2005</i>, which was agreed to.</p> <p>The applicant has now provided further information in support of the request for reconsideration and is agreeable to a determination being made. Additional information includes a Statutory Declaration to undertake revegetation beyond the timeframe of a subdivision approval, a Letter of Response and a Vegetation Report Refusal of the proposal is again recommended due to inconsistency with the relevant WAPC policy framework.</p> <p>The application proposes a minimal conservation lot size in which revegetation is proposed to meet the policy objectives and subdivision criteria of State Planning Policy 2.5 'Rural Planning and Development Control Policy 3.4 'Subdivision of Rural Land'. The minimal lot size also introduces concerns in regard to the inability of the lot to achieve lawful development in accordance with SPP 3.7 'Planning in Bushfire Prone Area', Development Control Policy 1.1 and the Shire of Denmark Local Planning Scheme.</p> | | | |

The application is presented to SPC for determination in order to review the proposals conservation merits against policy objectives and measures of both the State and local government planning framework.

DETAILS OF PROPOSAL

Lot 14 is located on Glenrowan Road, approximately 6.5km west of Denmark town centre. The land slopes to the north and west. It is currently utilised for agricultural purposes being apple orchards, associated cider production, and pasture. Remnant vegetation exists in the lower-mid portion of the lot (riparian) and the far north western corner (karri forest).

The broader locality is characterised by undulating landscapes with ridges, steep slopes and vegetated natural drainage lines; a mix of cleared and vegetated land including State forest and Crown reserves; and heavily vegetated road reserves. Agricultural land uses include grazing/pasture, vineyards, fruit trees, and some tourism (wineries and accommodation). Glenrowan Road is a rural road constructed to a gravel standard, connecting to other gravel roads to the east, west, north and south.

Lot 14 is zoned 'Rural' under the Shire's Local Planning Scheme No. 3 (LPS3) and designated for priority agriculture purposes in the endorsed 2011 Local Planning Strategy.

Key elements of the proposed subdivision (**Attachment 2**) are:

- an 8.6ha conservation lot (Lot 1) comprising 1.6ha cleared area (inclusive of an agricultural dam of approx. 1,800m²), 5.7ha of existing remnant vegetation and 1.3ha of land proposed to be revegetated and included into the covenanted area of Lot 1;
- a balance lot of 22ha (Lot 2) that would contain the existing dwelling, apple orchard, cidery and associated infrastructure; and 2ha of remnant karri forest in the north western corner proposed to be covenanted; and
- a battleaxe configuration with the conservation lot having direct frontage to Glenrowan Road.

The existing constructed driveway would be removed, rehabilitated to form part of the conservation covenant area on Lot 1, and relocated to the eastern boundary of the site to provide access to Lot 2. Construction of the battleaxe leg to proposed Lot 2 would entail removal of existing remnant vegetation identified for covenanting on Lot 1.

BACKGROUND

The application was refused on 14 May 2018 for seven reasons including inconsistency with the WAPC's rural and bushfire planning policies, the local government planning framework, and precedent (**Attachment 3**).

Further supporting information has been submitted by the land owner including:

- a statutory declaration to undertake compliance with a revegetation condition (**Attachment 4a**),
- a response letter to refusal reasons (**Attachment 4b**),
- an environmental evaluation (**Attachment 4c**)

Response to refusal reasons includes:

- emphasis on the self-evaluated value of vegetation currently under regeneration;
- contending that this value overrides elements of DC3.4 that the proposal does not comply with;
- provides comment as to how the proposal meets overarching LPS3 objectives (as opposed to the 'Rural' zone objectives which formed part of the refusal reasons); and
- offers to provide a response to bushfire issues in the event that subdivision subject to vegetation regeneration (i.e. as condition of subdivision approval) is supported in principle.

| KEY ISSUES | | |
|--|---|---|
| Consistency with WAPC Policies & Planning Framework | SPP 2.5 Rural Planning | Broadly inconsistent |
| | DC 3.4 Subdivision of Rural Land | Broadly inconsistent |
| | SPP 3.7 Planning in Bushfire Prone Areas | Broadly inconsistent |
| | DC 1.1 Subdivision of Land - General Principles | Broadly inconsistent |
| | Shire of Denmark Local Planning Strategy (2012) | Broadly inconsistent |
| | Shire of Denmark Town Planning Scheme No. 3 | Broadly inconsistent |
| Government Considerations | Other Government Sewerage Policy | Some inconsistency, variation warranted |
| Consultation | <p>The application with additional information was re-referred to the local government (LG) and Department of Biodiversity, Conservation and Attractions (DBCA)</p> <ul style="list-style-type: none"> The LG initial referral (prior to WAPC refusal) advised they did not support the proposal. An informal email response has been provided in response to the re-referral request. It advises they remain unsupportive however if the WAPC approves the application they will vary a setback requirement to Glenrowan Road to enable a building envelope to be located within Lot 1 (Attachment 5: LG Initial Referral and Attachment 6: Local Government Email Response to re-referral request). DBCA has not formally responded to a referral request however they advised in a telephone conversation recorded in a file note on the 31 October 2019, that their initial response advising that the property is considered to be in a suitable condition for a conservation covenant remains unchanged (Attachment 7: DBCA Initial Referral and Attachment 8: DBCA File Note Telephone response to re-referral request). | |
| PLANNING ASSESSMENT | | |
| SPP2.5 and DC3.4 - Policy Intent and Objectives | | |
| <u>Revegetation as a Condition of Approval</u> | | |
| <p>DBCA have confirmed that proposed Lot 1 will only have a sufficient area of vegetation suitable for their covenant program once revegetation has occurred. At the moment the area proposed to be revegetated is cleared and contains the existing gravel driveway. As outlined in the additional information submitted, the land owner has recently de-stocked the land, slashing/firebreak practices have ceased in this area and natural re-establishment of native species has begun. At a meeting on site the land owner indicated it may take between five and eight years before native species have re-established to the point of suitability for a conservation covenant.</p> <p>DC3.4 provides for covenanting of <i>endemic or regenerated</i> vegetation (s6.5(b)), however provides no scope for conservation lot subdivision whereby cleared land is revegetated as a condition of subdivision approval. The policy also requires at least 85% of the conservation lot to include high environmental values or is covered by endemic or regenerated vegetation. The proposed conservation lot contains only 66% good to very good vegetation. Inclusion of the proposed revegetation area would increase this percentage to 81%.</p> <p>The applicant has requested the Commission accept revegetation as a condition of approval given the DBCA support covenanting of both the existing remnant vegetation and the proposed</p> | | |

revegetated area. DBCA identifies that while they can impose the condition requiring revegetation, as the covenant program is only restrictive in action, they cannot oversee revegetation. They note there is no certainty that natural revegetation, as proposed, will occur within a three year timeframe of a subdivision approval. The LG advised within their initial referral that they are unsupportive of a condition being applied which places the onus for management and monitoring of revegetation on the LG.

The proposal is recommended to not be supported as:

- conservation lots are an exception to a general presumption against fragmentation of rural land based on the value of existing vegetation, rather than the potential future value of vegetation that does not yet exist. DC3.4 conservation lot provisions are interpreted to have a 'covenant remnant vegetation in suitable circumstances' purpose, not 'revegetate cleared agricultural land' purpose.
- The current area of vegetation with high environmental value is below the 85% minimum required by DC3.4,
- SPP2.5 and DC3.4 do not enable subdivision of 'Rural' zoned land where revegetation is proposed as a condition of subdivision; and
- timeframes for revegetation are unknown and would likely vary from site to site depending on work required and circumstances. There is no certainty that completion will occur within the three year timeframe of any approval, or that revegetation will meet the necessary standards (which would be set by DBCA rather than the WAPC). No agency is prepared to oversee revegetation. Any approval conditional on revegetation is therefore at high risk of containing ambulatory conditions.

Overall, the proposal is contrary to DC 3.4 and SPP 2.5 policy objectives and measures. Application of a revegetation condition opens the Commission to application of both an ambulatory condition as well as setting an undesirable precedent for future conservation lot proposals.

Parent Lot Size and Area Subject to Covenant

Past interpretation of conservation lot policy in the Great Southern has had a primary focus on advice from prospective covenanting bodies (s6.5(a)) whereby covenanting agency support is the overriding factor in a proposal gaining WAPC approval. Remaining elements of conservation lot provisions in DC3.4 have been seen as secondary concerns with significant scope for discretion to be applied where conservation lot size, covenant area, balance lot size and suitability for continued agriculture, and other elements of a proposal diverge from the guidance in policy.

Application of policy as outlined above is generally accepted for broadacre areas of the region where remnant vegetation is in severe decline and land holding patterns are large scale. This is however not the case for the Shire of Denmark in either respect:

- the local government area contains significant areas of remnant vegetation on both Crown and freehold land, with most freehold agricultural lots containing patches of intact remnant vegetation in various sizes; and
- the rural lot pattern is highly fragmented with many small existing lots. For example in the Scotsdale locality where the subject land is situated, lots are generally in the order of 40ha, which is akin to a 'rural smallholdings' size as defined by SPP2.5.

As the underlying objectives and intentions of WAPC rural planning policy involve minimising land fragmentation and dispersed settlement patterns, concerns arise in areas such as the Shire of Denmark where these characteristics are already present. Exceptions to the general presumption against subdivision (DC3.4 S5(a)) such as conservation lots run greater risk of being counter to these policy fundamentals if careful consideration is not given to the local context within which the application has been made. It is considered that any conservation lot proposal, regardless of covenanting agency support, must nevertheless demonstrate that it accords with the primary objectives of WAPC rural planning policy.

In areas of the Shire and the broader Great Southern where existing lot sizes are relatively small and vegetation patches are also small but numerous, failure to require compliance with the full suite of policy measures in s6.5 of DC3.4 can result in the primary objectives of rural planning policy not being met. Refusal reasons One, Two, and Five of the original decision reflect this interpretation and application of policy, and remain valid.

The concerns outlined above are shared by the Shire of Denmark, which has consistently advised WAPC over the past nine years that small conservation lot proposals are considered to be contributing to unplanned dispersed rural settlement and creation of rural living sized lots, with any environmental benefits not providing a sufficient offset against this. The Shire notes also that this issue is exacerbated by the highly bushfire-prone nature of Denmark's rural hinterland. The Shire has indicated its intentions to refine conservation lot policy application at the local government level through its review of the local planning strategy which is currently being undertaken, with a view to providing closer guidance on subdivision in the manner currently proposed.

The majority of proposals seen in the Shire of Denmark, including the current application, work against the protection of agricultural land and promotion of sustainable settlement in and adjacent to existing urban areas (objectives (a) and (f) of SPP2.5/DC3.4) by virtue of their existing small size in an already fragmented rural landscape. Due to the volume, spatial size, and geographic distribution of most conservation lot proposals in the Shire; this is leading to uncoordinated proliferation of rural living lots, generally outweighing any environmental or landscape benefits gained (objective (g) of SPP2.5/DC3.4).

Planning Scheme and DC1.1 Subdivision of Land - General Principles

Refusal reason Four of the original decision responds to concerns that the proposed conservation lot cannot be developed with a single house, which is a 'permitted' use under LPS3 and along with vegetation protection, is the primary purpose of creating the lot. The reasons for this are:

1. the local government advises that minimum front and side boundary setbacks under LPS3 cannot be met due to the size of the lot and presence of vegetation to be covenanted;
2. there is an existing dam (approx. 1,800m²) in the proposed building envelope/house site, further reducing available area for a house and raising potential land capability issues;
3. LPS3 setbacks and constraints from the existing dam may lead to development associated with establishment of a single house impacting on the vegetation proposed for covenanting; and
4. Asset protection/hazard separation zones required by SPP3.7 and the local fire management notice may not be able to be contained within the proposed building envelope and/or lot boundaries.

The local government advise within their re-referral advice that they do not support the proposal, however if the WAPC was to approve the reconsideration, , the Shire of Denmark would consider a request to amend setback requirements to Glenrowan Road to enable a building envelope within Lot 1.

Refusal reason Four of the original decision remains valid. For clarity it is recommended that it be revised to also refer to WAPC policy DC 1.1, which under Ss3.5 'Lawful Development' states that "lots which cannot be developed in accordance with relevant statutory requirements will not be approved."

DC 1.1 broad policy objectives include the requirement to facilitate development which achieves appropriate community standards of health, safety and amenity. If the Commission was to consider an alternative recommendation to approve, further evidence is still required to ensure a building envelope within proposed Lot 1 was capable of being serviced in accordance with the Government Sewerage Policy, water, electricity and that its location complied with SPP3.7 Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Areas.

SPP3.7 Planning in Bushfire Prone Areas

The original application was accompanied by a Bushfire Attack Level (BAL) contour plan however otherwise failed to comply with SPP3.7, as there was no bushfire management plan (BMP) or statement addressing the four Elements set out in the Guidelines (location, siting and design, vehicular access and water supply). The applicant has indicated willingness to provide this additional information in the event that the other issues with the proposal fall away at reconsideration. As outlined above, other policy issues remain present. On this basis, it would be unnecessarily onerous on the applicant (time and cost) to provide further information to address SPP3.7 when it is known that other factors will still result in refusal being recommended.

Notwithstanding, advice from the local government indicates compliance with SPP3.7 is likely to be problematic:

1. battleaxe legs are not supported in principle by SPP3.7. This would be the means of supplying access to the cider production/cellar door facilities on Lot 2, which are a vulnerable land use under SPP3.7 and thus need to comply more stringently with the policy. The battleaxe leg would also need to abut a fire prone vegetation within the proposed covenanted area on Lot 1;
2. vulnerable land uses associated with subdivision require prior sign off of a BMP by the local government and DFES. Due to the issues identified it is unlikely that this support would be forthcoming;
3. provision of access to Lot 2 requires clearing of vegetation identified for covenanting, therefore s6.5(e) of DC3.4 cannot be achieved; and
4. the broader locality is considered to be at extreme risk of bushfire due to topography, vegetation type and coverage, and the nature of the rural road network.

On this basis refusal reason Six of the original decision remains valid and should be retained.

Conclusion

The proposal raises significant concerns particularly in relation to the WAPC's rural planning policy framework (SPP2.5 and DC3.4), and its application within the Great Southern region. There are other fundamental issues with the proposal related to SPP3.7, DC1.1, Government Sewerage Policy and the local planning scheme. Further information provided by the applicant has not overcome the original reasons for refusal and these should be retained, subject to some minor adjustments for clarity purposes. Refusal of the application is again recommended for the reasons that follow.

RECOMMENDATION

That the Statutory Planning Committee resolves to refuse the application for reconsideration for the following reasons:

1. ***The proposed subdivision is contrary to the objectives of State Planning Policy 2.5 - Rural Planning in that:***
 - ***The proposal would result in ad-hoc fragmentation of rural land;***
 - ***The proposal would result in a potential increase in land use conflict, by way of the introduction of a lot used predominantly for residential land uses into a locality used predominantly for rural uses; and***
 - ***The proposal is not capable of approval under the exceptional circumstances of DC 3.4.***
2. ***The proposed subdivision does not satisfy the criteria under section 6.5 of Development Control Policy 3.4 - Subdivision of Rural Land (DC3.4) in relation to the conservation of biodiversity and natural heritage as:***
 - ***The proposed conservation lot does not meet the minimum of 85 percent coverage with vegetation of high environmental value;***

- **Revegetation of degraded land is not provided for within policy provisions; and**
- **Bushfire risk cannot be managed in accordance with WAPC guidelines without resulting in loss of conservation values.**

3. The proposal is inconsistent with the Shire of Denmark Local Planning Scheme No 3 (LPS 3) and Development Control Policy 1.1 Subdivision of Land - General Principles (DC1.1) in that:

- **It has not been demonstrated that there is sufficient area to accommodate a building envelope within proposed Lot 1 given:**
 - the required minimum front and side boundary setbacks in LPS 3,**
 - the presence of an existing dam, and**
 - the required setbacks for bushfire planning asset protection zone/bushfire hazard separation zone; and**
- **Approval of the subdivision would create an undesirable precedent for the subdivision of similar 'Rural' zoned lots that contain limited existing native vegetation**

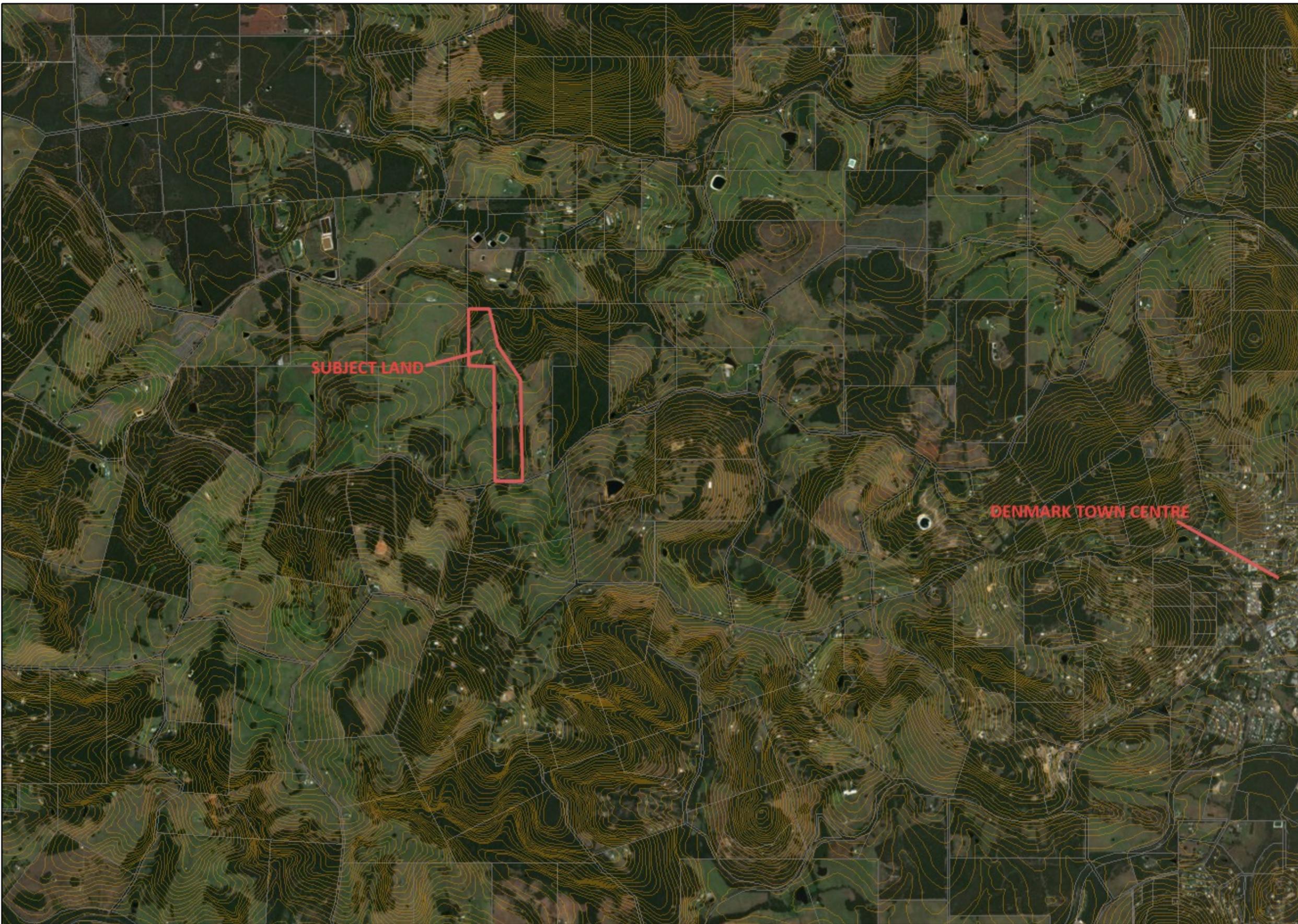
4. The proposed subdivision is contrary to State Planning Policy 3.7 - Planning in Bushfire Prone Areas in that:

- **the battleaxe access route within proposed Lot 2 will require clearing of vegetation thereby adversely affecting the conservation values of the existing vegetation, and**
- **The proposal would intensify residential development in an area of high bushfire risk.**

ATTACHMENTS

1. Location Map
2. Plan of Subdivision
3. Original Refusal Reasons
- 4a. Statutory Declaration
- 4b. Response to Refusal
- 4c. Environmental evaluation
5. Local Government Initial Referral Response Letter
6. Local Government Email Response to re-referral request
7. DBCA Initial Referral Response Letter
8. DBCA File Note Telephone response to re-referral request

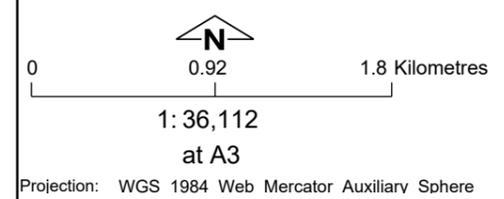
- Legend
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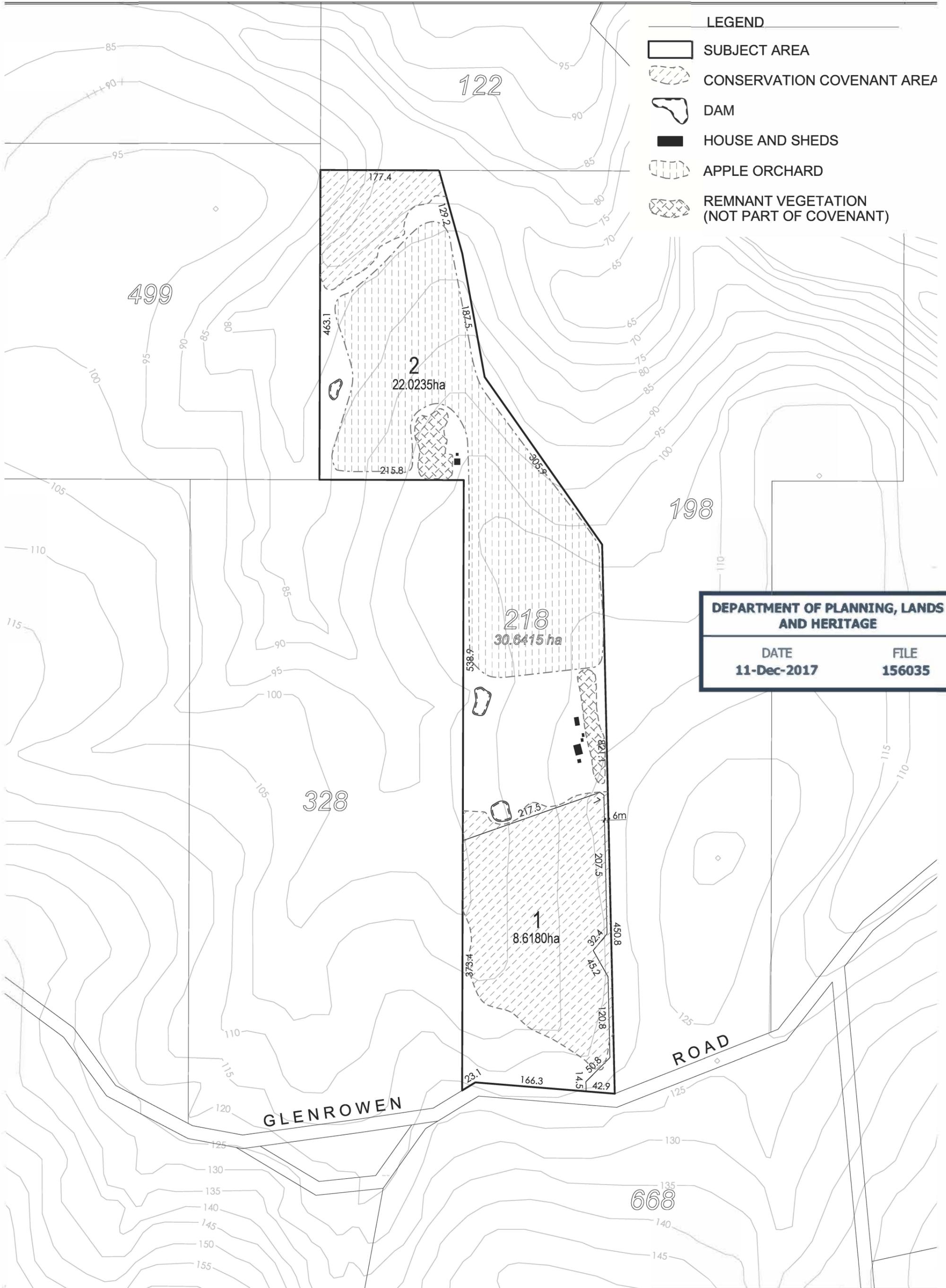


Notes:
The data that appears on the map may be out of date, not intended to be used at the scale displayed, or subject to license agreements. The map should only be used in matters related to Department of Planning, Lands and Heritage business.

Attachment 1 - Locality Plan

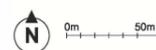
DPLH BUSINESS USE ONLY





PROPOSED CONSERVATION COVENANT SUBDIVISION
218 GLENROWEN ROAD, DENMARK WA

SAM WILLIAMS | TOWN PLANNING & PROJECT MANAGEMENT
ph: 0418 116216 | email: samwilliams@westnet.com.au



date - 7 Nov 2017 | ref - 17-006-001A



Your Ref : Glenrowan

South Pride Pty Ltd
PO Box 69
DENMARK WA 6333

**Refusal
Freehold (Green Title) Subdivision**

Application No : 156035

Planning and Development Act 2005

| | | |
|---------------------|---|---|
| Applicant | : | South Pride Pty Ltd Po Box 69 DENMARK WA 6333 |
| Owner | : | Mr Stuart Douglass 218 Glenrowan Road SCOTSDALE WA 6333 |
| Application Receipt | : | 11 December 2017 |

| | | |
|------------------|---|----------------------------------|
| Lot Number | : | 14 |
| Diagram / Plan | : | P040243 |
| Location | : | - |
| C/T Volume/Folio | : | 2227/628 |
| Street Address | : | Lot 14 Glenrowan Road, Scotsdale |
| Local Government | : | Shire of Denmark |

The Western Australian Planning Commission has considered the application referred to in accordance with the plan date-stamped **11 December 2017** and has resolved that the application be refused for the reason(s) set out.

Reconsideration - 28 days

Under section 144(1) of the *Planning and Development Act 2005*, the applicant/owner may, within 28 days from the date of this decision, make a written request to the WAPC to reconsider its decision. One of the matters to which the WAPC will have regard in reconsideration of its decision is whether there is compelling evidence by way of additional information or justification from the applicant/owner to warrant a reconsideration of the decision. A request for reconsideration is to be submitted to the WAPC on a Form 3A with appropriate fees. An application for reconsideration may be submitted to the WAPC prior to

Great Southern Office, PO Box 1108, Albany, Western Australia 6330
Tel: (08) 9892 7333; Fax: (08) 9841 8304; TTY: (08) 9264 7535; Infoline: 1800 626 477
e-mail: info@dplh.wa.gov.au; web address: <http://www.dplh.wa.gov.au>
ABN 35 482 341 493



submission of an application for review. Form 3A and a schedule of fees are available on the WAPC website: <http://www.planning.wa.gov.au>

Right to apply for a review - 28 days

Should the applicant/owner be aggrieved by this decision, there is a right to apply for a review under Part 14 section 251 of the *Planning and Development Act 2005*. The application for review must be submitted in accordance with part 2 of the *State Administrative Tribunal Rules 2004* and should be lodged within 28 days of the date of this decision to: the State Administrative Tribunal, Level 6, State Administrative Tribunal Building, 565 Hay Street, PERTH, WA 6000. It is recommended that you contact the tribunal for further details: telephone 9219 3111 or go to its website: <http://www.sat.justice.wa.gov.au>

REASON(S)

The WAPC's reason(s) for refusal are:

1. The proposed subdivision is contrary to the objectives of State Planning Policy 2.5 - Rural Planning in that:

- The proposal would result in ad-hoc fragmentation of rural land;
- The proposal would result in a potential increase in land use conflict, by way of the introduction of a lot used predominantly for residential land uses into a locality used predominantly for rural uses; and
- The proposal is not in accordance with policy measure 5.1(e) which only provides for the creation of new rural lots by exception and in accordance with Development Control Policy 3.4 - Subdivision of Rural Land, or where planned in a strategy or scheme.

2. The proposed subdivision does not meet all the criteria under clause 6.5 of Development Control Policy 3.4 - Subdivision of Rural Land in relation to the conservation of biodiversity and natural heritage including :

- Neither DBCA nor the Shire of Denmark are willing to clear a condition for the revegetation required;
- DBCA have advised that they are unable to administer compliance of the covenant conditions in perpetuity;
- The proponent has not demonstrated that the vegetation will retain its conservation values in perpetuity given the lot is less than a quarter of the lot size considered by the policy to achieve this objective (less than 40ha);
- The proposed conservation lot of 8.6ha represents a significant departure from the provisions of cl 6.5(a)(i) of DC 3.4; and
- The proposed Lot 1 does not meet the requirement for a minimum 85 percent coverage of the lot of vegetation of high environmental value.

3. The proposal does not comply with the WAPC endorsed Shire of Denmark Local Planning Strategy as the proposed subdivision is contrary to the 'Priority Agriculture' land use designation.

4. The proposal is inconsistent with the Shire of Denmark Town Planning Scheme No 3 (TPS 3) in that:

- The proposed subdivision is inconsistent with the purpose and intent of 'Rural' zoning in TPS 3, which is to provide for the range of normal rural activities and to protect such land from inappropriate land use. Subdivision in the manner proposed would create the potential for additional building development and the introduction of increased non-rural activity including residential development which is in conflict with the rural zoning objectives; and
- It has not been demonstrated that there is sufficient area to accommodate a building envelope within proposed Lot 1 given the required minimum 50m front setback in TPS 3 and Bushfire Planning separation requirements.

5. The proposal has not demonstrated that the existing remnant vegetation warrants subdivision as proposed given that the Department of Biodiversity, Conservation and Attractions' support for the proposal is subject to revegetation of an existing cleared area.

6. The proposed subdivision is contrary to State Planning Policy 3.7 - Planning in Bushfire Prone Areas in that:

- The four bushfire protection criteria (location, siting and design of development, vehicular access and water supply) have not been addressed in a Bushfire Management Plan as part of the application. Therefore the application is not deemed to comply with SPP 3.7 as there is insufficient information to assess the application;
- The application does not address the safety of the proposed access to Lot 2, being a battle-axe leg, for the existing cidery cellar door, which is a vulnerable land use, which will traverse through existing bushland along the eastern boundary of Lot 2. A Bushfire Management Plan approved by both the local government and Department of Fire and Emergency Services has not been submitted as required by Policy Measure 6.6.1 of SPP 3.7; and
- The proponent has not demonstrated that use of the proposed access route on Lot 2 will not require the clearing of existing vegetation adjacent to the proposed access route, thereby not adversely affecting the conservation values of the existing vegetation.

7. Approval of the subdivision would create an undesirable precedent for the further subdivision of other similar Rural- zoned lots with limited existing native vegetation, causing unplanned and ad-hoc breakdown of rural land.



Ms Sam Fagan
Secretary
Western Australian Planning Commission
14 May 2018

Enquiries : Matthew Bunce (Ph 9892 7306)

Western Australia

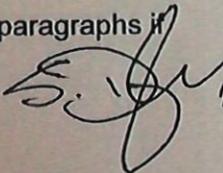
Oaths, Affidavits and Statutory Declarations Act 2005**Statutory Declaration**

I, Stuart Douglass {name of person making declaration}
of 218 Glenrowan Road, Scotsdale, WA. 6333 {address of person making declaration}
occupation Orchardist & Producer {occupation of person making declaration}

sincerely declare as follows:

- 1) I am the owner and hold title to Lot 14, Diagram / Plan P040243, Glenrowan Road, Scotsdale, Shire of Denmark, Western Australia.
- 2) Lot 14 is the family home to myself, my wife, and our dependent daughter. It is also the site of intensive horticulture operations with 10 Ha of cider apple varietal orchards. A licenced cellar door is currently situated on the property.
- 3) Western Australia Planning Commission Application Number 156035 relates to a proposed subdivision of Lot 218 Glenrowan Road, Scotsdale, WA, 6333. Application was lodged on 11 December 2017.
- 4) The application was managed and submitted by Sam Williams, of South Pride Pty, acting as my agent in the matter.
- 5) A refusal letter was issued by WAPC on 14 May 2018.
- 6) Subsequent to the refusal, I have been dealing directly with WAPC, Shire of Denmark, and Any other stakeholders as required.
- 7) An appeal for review of the decision was lodged with WAPC within the 28 day required period.
- 8) By mutual consent between WAPC and myself, the time period for review has been extended as required.
- 9) The proposed subdivision is by exception, as the Western Australian Department of Biodiversity, Conservation and Attractions (DBCA) have identified that they are prepared to covenant the wetland area.
- 10) One item identified as being of particular concern to WAPC is that as part of the covenant some of the covenanted area requires revegetation with native species. The time taken to achieve this may exceed the period during which the approval for subdivision exists.
- 11) This, and any subsequent policing of compliance, is seen by WAPC as one significant blockage to issue of conditional approval.
- 12) By way of this Statutory Declaration I undertake to ensure complete compliance with the conditions of covenant, and to ensure that the area described in the covenant will be restored to Very Good Condition (Keighery Condition Scale)
- 13) By reference to this Statutory Declaration WAPC would not have to consider a revegetation as a condition of approval.

{insert above the content of the statutory declaration; use numbered paragraphs if content is long}


25/11/2019

Response to Refusal Letter.
WAPC Reference 156035

Introduction and Background:

218 Glenrowan Road is the site of a unique intensive horticulture venture and retail outlet. The venture is known as The Denmark Heritage Cider Company, and is acknowledged as the only producer of premium cider in Western Australia. The DHCC is a Western Australian resource, and will be providing genetic material and expertise to the WA apple industry, with the aim of establishing additional orchards of specific apple varieties.

There are 10 Ha of intensive plantations of unique varieties of Cider apple trees on Primary Rural agricultural land. In addition there is a small cider retail outlet. There are also sheep paddocks and areas of native vegetation.

The areas of native vegetation have been managed as wilderness since 2008.

In August 2017 a meeting at 218 Glenrowan Road identified the possibility of a subdivision on the basis of a conservation covenant, with the aim of preserving the wetland found at the property.

Following detailed surveys, mapping, and inspections by government scientists, agreement was reached to covenant the wetlands by The Department of Biodiversity. Subsequently an Application for subdivision 156035 was acknowledged by WAPC on 11 December 2017.

The WAPC raised a number of concerns, which it was believed were in process of being addressed when a refusal notice was received by the proponent on Wednesday May 16. (This had been received by the agent on 14 May, but was not immediately passed on to the proponent for action.)

It was the proponent and their agents understanding (both written and verbal with WAPC) that any decision was deferred pending submissions of further evidence for consideration.

These considerations and evidence were in preparation at the time of refusal, and included (at minimum):

- 1) Meeting with Shire of Denmark Planning Officer and Shire of Denmark Chief Executive. (To determine and confirm how the subdivision merits exception to their policies.)
- 2) Following the successful outcome of (1) above, submission of all required evidence to satisfy those other grounds for refusal that have been cited. (Note specifically that a detailed bush fire management plan was specifically **NOT** requested by the WAPC planning officer at the time of refusal, while failure to submit is conversely cited as a reason for refusal.)

The conclusion that must be drawn from the receipt of the refusal is that for some reason there has been an error in issuing a premature refusal.

It is sincerely hoped that constructive dialogue to address WAPC concerns can be opened to enable a rapid and effective resolution of this matter.



Response to Refusal Notice

All Reasons for refusal will be addressed and further evidence and detail supplied. However in order to present a cohesive and logical argument for reconsideration, the argument will not follow the numerical sequence as detailed in the refusal letter.

Refusal Reason 6.

6. The proposed subdivision is contrary to State Planning Policy 3.7 - Planning in Bushfire Prone Areas in that:

- The four bushfire protection criteria (location, siting and design of development, vehicular access and water supply) have not been addressed in a Bushfire Management Plan as part of the application. Therefore the application is not deemed to comply with SPP 3.7 as there is insufficient information to assess the application;
- The application does not address the safety of the proposed access to Lot 2, being a battle-axe leg, for the existing cidery cellar door, which is a vulnerable land use, which will traverse through existing bushland along the eastern boundary of Lot 2. A Bushfire Management Plan approved by both the local government and Department of Fire and Emergency Services has not been submitted as required by Policy Measure 6.6.1 of SPP 3.7; and
- The proponent has not demonstrated that use of the proposed access route on Lot 2 will not require the clearing of existing vegetation adjacent to the proposed access route, thereby not adversely affecting the conservation values of the existing vegetation.

No specific response can be given to Refusal Reason 6.

This is because correspondence and discussion with WAPC indicated that no bush fire management plan was required until other areas of concern (items 1- 5 in the refusal notice) had been addressed.

WAPC were aware of the intent of the applicant to produce a bush fire management plan when these other concerns had been properly addressed. A consultant had already been identified and a detailed SoW, quotation agreed on the basis of a preliminary survey.

As WAPC issued a refusal notice without further consultation, no bush fire management plan was submitted.

It remains the intention of the proponent to produce the required bush fire management plan when other additional concerns (below) have been properly addressed.

Refusal Reasons 2 and 5.

2. The proposed subdivision does not meet all the criteria under clause 6.5 of Development Control Policy 3.4 - Subdivision of Rural Land in relation to the conservation of biodiversity and natural heritage including :

- Neither DBCA nor the Shire of Denmark are willing to clear a condition for the revegetation required;
- DBCA have advised that they are unable to administer compliance of the covenant conditions in perpetuity;
- The proponent has not demonstrated that the vegetation will retain its conservation values in perpetuity given the lot is less than a quarter of the lot size considered by the policy to achieve this objective (less than 40ha);
- The proposed conservation lot of 8.6ha represents a significant departure from the provisions of cl 6.5(a)(i) of DC 3.4; and
- The proposed Lot 1 does not meet the requirement for a minimum 85 percent coverage of the lot of vegetation of high environmental value.

5. The proposal has not demonstrated that the existing remnant vegetation warrants subdivision as proposed given that the Department of Biodiversity, Conservation and Attractions' support for the proposal is subject to revegetation of an existing cleared area.

It would appear that the initial application relied to a large extent on the "intent" of the Department of Biodiversity without providing adequate or detailed scientific explanation as to their reasons for interest in the area. It is understood that WAPC require additional information and evidence. This is submitted below, and as additional (survey) attachments.

(2 bullet point iii) Size of Proposed Lot & (5) Remnant vegetation significance

Specifically there was a failure in the application to draw attention to the rare and unusual nature of a specific area of land within the proposed subdivision. This rare and endangered environment is unlikely to occur over large areas, as it depends on a combination of specific rarely occurring localised natural features.

Attention is drawn to the abstract below of the Journal of the Royal Society of Western Australia, 88, 81-89, 2005. (M. Pemberton)

Abstract

Peatlands cover a very restricted area of the earth's surface. Their total reliance on water to maintain natural processes make them highly significant terrestrial ecosystems. They are typically biologically hostile environments due to waterlogging, low pH and anaerobic conditions. The most extensive peatlands occur in the maritime and Tundra areas of the Northern Hemisphere, although tropical peats contain large volumes of peat. Peatlands in Australia are restricted and are rare due to the prevailing environmental conditions in this country. Nevertheless there are highly significant and unique peatlands with few similarities to those in other parts of the world. The natural diversity (geodiversity and biodiversity) of Australian peatlands needs to be investigated and recognised in order to understand, manage and protect these vulnerable environments. They are under increasing pressure from human development and climate change. A better understanding of their distribution, conservation status and hydrological characteristics would contribute to their protection and conservation.

Keywords: Australian peatlands, distribution, origin, threats, classification, geodiversity.

Response to Refusal Letter.
WAPC Reference 156035

This paper, plus multiple other references detail the rare and endangered status of Australian peat landscapes.

Three Scientists from the Department of Biodiversity visited the site and confirmed the presence of a rare unspoiled peat bog. This peat bog carries all of the associated flora, and it is assumed fauna. This visit stimulated the Department of Biodiversity to confirm their interest in the area.

(It should also be noted that the tea-tree wetland area, adjacent to the peat wetland is also home to the mushroom *Aseroe Rubra*, one of only two habitats in Western Australia.)

The image below is of *Schoenus (spp)* at 218 Glenrowan Road, which is the critical indicator species of peat bogs in the South West. This plant dominates the understorey over much of the North Western portion of the proposed sub-division. (Note that the practice of allowing cattle to forage through the area will inhibit growth due to grazing and excess nutrients. Also note that the plant requires a specific combination of moisture and low soil pH.)



There also appears to be a misunderstanding regarding the size (40 ha) and the long term viability of any eco-system to retain its conservation values. While this guideline may be an appropriate rule of thumb for planning, it cannot be applied to all cases. There are numerous examples and precedents of environmental experts determining that much smaller packets of land are acceptable due to specific environmental and geographic circumstances.

The scientists at the Department of Biodiversity have determined that the peat-bog at 218 Glenrowan Road is one such smaller land packet, and have stated this by agreement to covenant the land.

(2 bullet point iv) Provision of 6.5 (a) (i)

This appears to be a repeat of (2 bullet point iii) above and is addressed in the body of text above

If any further clarifications are required please detail these concerns so that they can be fully understood and addressed.

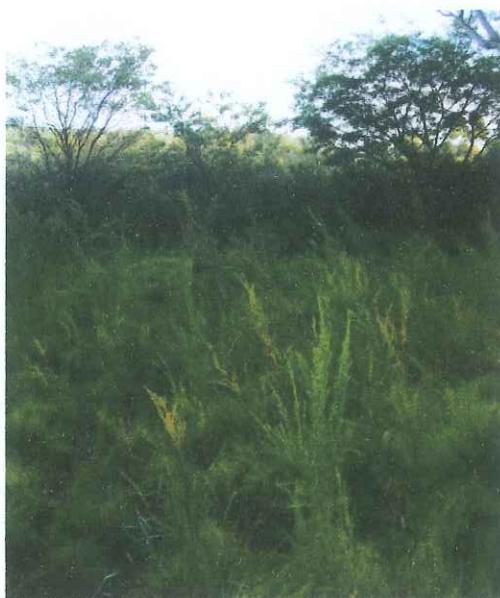
(2 bullet point i) Revegetation Plan

Please accept apologies that the details of the revegetation plan were not shared earlier.

The re-vegetation plan is *in process* and is as follows:

- 1) **Peat-bog margins** (as detailed above) will successfully self-revegetate when annual slashing ceases. (This has already begun, with Denmark Shire ranger inspecting the area on a routine fire regulation compliance visit.) The vegetation is recovering well and has already dominated any invasive species.

The image below illustrates how the peat-bog assemblage, when *not slashed* during a single summer (2017/18), rapidly regenerates and excludes all non-native species. The photograph shows how the *Schoenus (spp)* is dominating the ground cover, with various species of tea-tree plus Albany Bottle Brush growing rapidly.



The more general view below shows the extent of this natural revegetation phenomenon, which already extends to more that 60% of the area requiring revegetation.



- 2) **Re-planting of the Karri / She-oak / Marri Margins:** Very limited re-planting on the ironstone margins is required, as this area is limited to a few metres beyond the current access road. (The local landform of the site clearly shows the transition from ironstone slopes to the flat fine sand infill... and the road is built along the flat margin of that transition.) The re-vegetation is limited to planting when the current road is removed. Based on vegetation density the required revegetation will be no more than 50 / 50 / 30 Marri / Karri / Sheoak. Other minor understorey varieties will self-seed. All seed stocks are available on site and the required seed was collected 2018.

This limited area is clearly seen in the image below, extending only a few metres from the current access road. It should also be noted that the required varieties of trees are already self-seeding in this area.



- 3) The cleared wetland area that is non peat-bog, and that requires re-vegetation supports only species of tea-tree. The margins of the cleared area support swamp willow which requires more water. (It is probable that the area was originally cleared of tea tree up the swamp willow line as the swamp willow generally indicates that any machinery would become bogged.) Re-vegetation with tea tree is a rapid and simple process. The seeds are abundant on site and the plant grows quickly and rapidly dominates any invasive species and eliminates any understorey. (Providing the environment for a wide variety of fungi.) All tea tree seed stocks are available on site and the required seed was collected 2018.

(2 bullet point v) 85% of high environmental value

When revegetation is completed, the area of high value vegetation will exceed 85%. The revegetation program is simple, and should present no challenges. The cleared peat bog area (and part of the cleared tea-tree area) have already begun comprehensive self-regeneration. All equipment and seeds are at hand to begin a comprehensive revegetation program.

WAPC is welcome to visit and inspect this and observe the already comprehensive regeneration in real time.

(2 bullet point ii)

The department of biodiversity has been contacted, and they advise that this statement is incorrect. They will be making separate contact with WAPC to discuss any and misunderstanding.

Refusal Reason 7

7. Approval of the subdivision would create an undesirable precedent for the further subdivision of other similar Rural- zoned lots with limited existing native vegetation, causing unplanned and ad-hoc breakdown of rural land.

Refusal reason 7 would be valid, if the high environmental value and significance of the remnant vegetation at 218 Glenrowan Road were not taken into consideration.

No precedent would be set, as any further subdivision would be subject to the same due diligence in ecological value determination.

This value determination, and the ability of the eco-system to exist in perpetuity is carried out by qualified government scientists. It would be expected that the judgement of these scientists would be respected by other government agencies.

Refusal Reason 4

4. The proposal is inconsistent with the Shire of Denmark Town Planning Scheme No 3 (TPS 3) in that:

- The proposed subdivision is inconsistent with the purpose and intent of 'Rural' zoning in TPS 3, which is to provide for the range of normal rural activities and to protect such land from inappropriate land use. Subdivision in the manner proposed would create the potential for additional building development and the introduction of increased non-rural activity including residential development which is in conflict with the rural zoning objectives; and
- It has not been demonstrated that there is sufficient area to accommodate a building envelope within proposed Lot 1 given the required minimum 50m front setback in TPS 3 and Bushfire Planning separation requirements.

(4 bullet point i) Interpretation of "Intent" of TPS 3.

To address Refusal Reason 4, the "general objectives" of TPS3 are detailed in full below. (Extract from Shire of Denmark, Local Planning Scheme No 3, March 1994)

The general objectives of the Scheme are:

- (a) to reserve land used or likely to be used for public or community purpose;*
- (b) to protect the alignment of proposed roads and road widening from appropriate developments;*
- (c) to zone land for various purposes in order to promote orderly and proper development of the shire;*
- (d) to provide for the protection of the natural environment and landscape from inappropriate development;*

(e) to recognise and protect buildings and places of importance to the townscape and cultural heritage;

(f) to provide for such development as is required to accommodate the lifestyles appropriate to the area;

(g) to set aside as reserves for public use land required for active or passive recreational purposes;

(h) to provide a framework to facilitate the broadening of the economic base of the scheme area;

(i) to protect the natural resources of the region, particularly the rural land from inappropriate use and development; and

(j) to provide for the subdivision and development of land in a manner suited to the economic activity of the region.

With respect to the proposed subdivision, attention is drawn to the following information:

(d) "Protection of natural environment" The practice of grazing cattle through the proposed subdivision was stopped in 2007 by the proponent. This action was specifically to protect the environment, allow understorey development and regrowth, and limit excess nitrate through the ecosystem. The wetland and Karri / Marri / Sheoak areas have been managed as wilderness and "protected" since 2007. This is in marked contrast to adjacent lots and WAPC are welcome to visit and observe the degradation caused by grazing and clearing. By application of covenant and subdivision, this voluntary action by the proponent is regularised and conforms with the aims of TP3. The subdivision is therefore aligned with this objective.

(f) "development to accommodate the lifestyles appropriate to the area" Because of the abundance of water draining from Mt McLeod, the proposed subdivision offers a unique opportunity for development of intensive horticulture to support a rural lifestyle. The investment and the time required to undertake such a venture is outside any possibility for the proponent. The subdivision is therefore aligned with this objective.

(h) "framework to facilitate the broadening of the economic base of the scheme area" 218 Glenrowan Road is the site of a prime example of a local venture attempting to broaden the economic base of the area. The area of horticulture represents the largest orchard of cider apple varieties in Australia. The venture is a genetic resource, and has become a point of reference for industry and individuals. For the ongoing survival of this venture focus must be on horticulture, and not in managing associated land that has little or no agricultural use. The subdivision is therefore aligned with the objective.

(i) to protect the natural resources of the region, particularly the rural land from inappropriate use and development; The subdivision has little agricultural value and inappropriate use would be to run livestock through a known wetland of scientific interest. The land would not receive approval to be cleared and drained, and any currently existing cleared land is too waterlogged in winter, and too nutrient deficient to be of limited value for any livestock. By subdivision, both the wetlands and the valuable horticultural land to the North of the property is preserved. The subdivision is therefore aligned with the objective.

(j) subdivision suited to the economic activity of the region; Horticulture was a major endeavour in Denmark before dairy, and subsequently beef became dominant. Many soils around Denmark are suited to Horticulture, and are "wasted" growing fodder for Beef cattle. Horticulture ventures do not

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generally cover large acreages as they are soil dependent. Therefore economically justified subdivision where horticulture activities predominate on the remainder of the farm are in keeping with the economic activity of the region. The subdivision is therefore aligned with the objective.

In discussion with the executive of the Shire of Denmark it was clear that the Intensive Horticulture operation at 218 Glenrowan Road is perfectly aligned with multiple development aspirations.

- 1) The optimisation of Primary Agricultural Land. It is difficult to imagine a more intensive and optimised use of the land than the orchards at 218 Glenrowan Road. The Shire of Denmark is keen to promote Horticulture to optimise the use of a combination of high rainfall, good localised soils, and blocks generally too small for cattle or sheep.
- 2) The subdivision at 218 Glenrowan road has shallow acid soils that are unsuited to most agricultural practices. However the plentiful supply of water that is not contaminated with saponins lends itself to hydroponic activity or aquaculture. The availability of abundant high quality water is rare and adds considerable potential for diversified rural activity.
- 3) The Shire of Denmark has suffered criticism for tourism being prioritised over agriculture on Primary Rural Land. The Denmark Heritage Cider Company is an excellent example of how intensive rural land use (suited to smaller blocks), can build a business, and combine effectively with tourism. It would send a very negative signal to any future development of this type if the Denmark Heritage Company were to fail due to misinterpretations and poor communication surrounding planning restrictions.

(4 bullet point ii) Building Envelope.

During the meeting with the shire of Denmark the proponent was advised that the 50 m setback requirement is often negotiated and that due to the tree lined reserve along Glenrowan Road at the site, that 35 m might be adequate. A suitable building envelope could most likely be accommodated.

The bushfire management plan, when produced, will address other concerns.



Abstract:

A preliminary environmental evaluation illustrates that the 9 Hectares of land under study contains two discrete areas of potentially environmental interest.

One area of 4 Hectares is characterised as a wetland, containing a peat bog.

The other area of 1 Hectare is a good example of a diverse and original Southern Forest.

Opportunity to easily revegetate an additional 3 hectares is identified.

Preliminary Environmental Evaluation

Lot 14, 218 Glenrowan Road,
Scotsdale, WA. 6333.

Date: August / September 2017

Author: Stuart Douglass B.Sc.

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| DEPARTMENT OF PLANNING, LANDS AND HERITAGE ALBANY OFFICE |
| 11 JUN 2018 |
| FILE: 156035 |

1.0 Introduction

This document has been prepared to provide information to support a Conservation Covenant subdivision relating to Lot 14 at 218 Glenrowan Road, Scotsdale, WA. The document was prepared in August and September 2017, by the block owner, and references 11 years of experience and observations managing the area. The block owner has a tertiary qualification in Environmental Studies from the University of Wales, and is ideally placed to provide the required information.

2.0 Terms of Reference

The terms of reference used in this evaluation report are provided to describe a framework for a qualitative environmental evaluation of the site.

- By reference to land survey describe the area of study.
- By reference to land survey describe the area bounded by the area of study: general location, local setting, local landforms, and local land use.
- By reference to land survey and historical records describe the anthropogenic impact on the area bounded by the study, and the effect anthropogenic impact immediately outside the area of study (up to 200 m).
- Using field mapping techniques determine the regolith profile and determine how this relates to the site hydrology. (To include seasonal variations and reference to geological features).
- By reference to site survey and observations define any specific eco-systems that exist within the area of study and identify associated key flora and fauna.

3.0 Conclusion

The area of study contains two native ecosystems that are recovering from minimal modern human impact. The area of study has for the most part been managed as wilderness for the last 10 years, allowing easy visible comparison with adjacent land. Both areas are classified as Good / Very Good on Keighery Condition Scale. One area contains a peat bog.

The biodiverse native systems described are the product of discrete local sedimentation and landform. The combination of the sloping site, variable regoliths, and a regional geological feature contribute to providing an unusual water catchment profile. This provides a valuable reserve of water and the basis for the development of specific ecosystems.

An area of 2 Ha of cleared land would benefit from replanting. A further area of 2 Ha could be allowed to regenerate naturally.

Watsonia and Blackberry should be controlled with appropriate sprays. There is little evidence of phytophthora dieback. The ongoing process of Fox, Cat and Rabbit control should continue.

The area of study should not be considered a benign or static environment and continual monitoring and management is required to ensure that external influences, such as drainage modifications, invasive species and pest animals do not cause significant disruption.

The area would benefit from further more detailed research, specifically mycological and faunal identification / study.

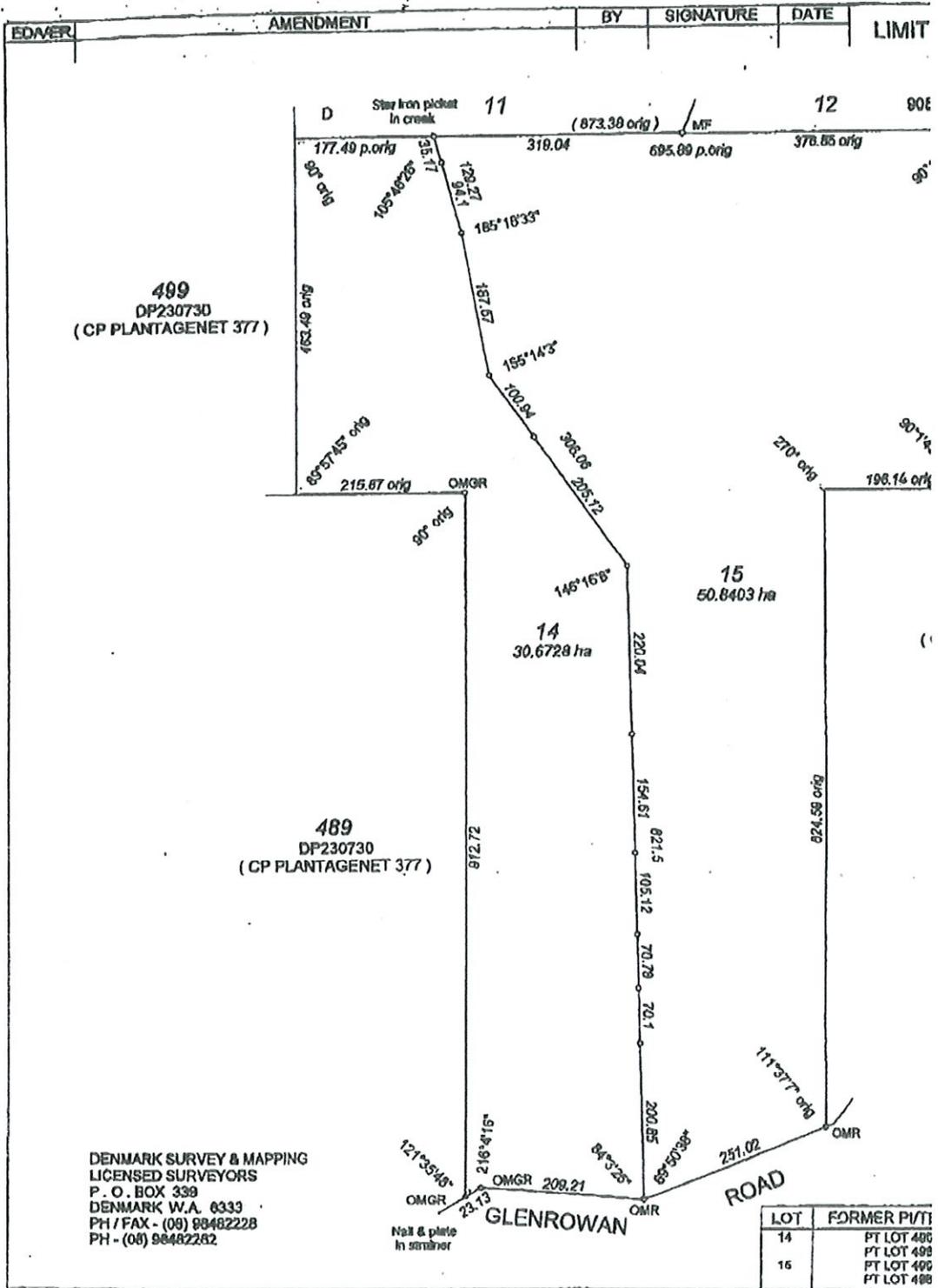
4.0 Area of Study

Lot 14, 218 Glenrowan Road, Scotsdale, WA 6333 is known as Long Orchard Farm, and comprises 30.6728 hectares.

The area of study comprises approximately 9 ha of this lot, and has been predominantly managed as "wilderness" by the current landowner. The area is a naturally distinct part of Lot 14 and is of minimal agricultural value.

The area of study shall be referred to as "The Site" for future reference in this document. The Farm refers to Lot 14 in its entirety.





5.0 Area of Study General Location

The Site is in the Shadforth district of the Shire of Denmark. The Site is located at an average elevation of +/- 120 m.

The Site is bounded on all sides by zoned rural land. The land to the West and East of The Site is typical gently sloping beef pasture. The southern boundary is Glenrowan Road; across Glenrowan road to the South is also beef pasture, with steeper slopes of Mount MacLeod rising to Mount Shadforth Road.

Immediately To the North of The Site is the useful agricultural land of Lot 14, with 2.5 Ha of sheep paddocks and the remaining agricultural land predominantly planted as Cider Apple Orchards. This Northern part of the farm also has the farm owners dwelling, temporary workers accommodation, the "Heritage Cider Company" Cider retail outlet, farm offices and a variety of workshops and storage sheds.

The climate of the district is described as "True Mediterranean". Rainfall at The Site is typically heavier than recorded in the surrounding district, often in excess of 1150 mm per year. Winds predominate Westerly during winter and summer months, with South Easterly winds during Autumn and Spring.

The bedrock of the area is igneous / metamorphic, mapped as part of the Western Nornalup Group, associated with the Albany / Fraser Orogeny. These basement rocks are draped with an unusually variable quantity and quality of regolith materials that give rise to highly variable soil distributions. This variable regolith heavily influences hydrology and the distribution of flora and associated fauna.

6.0 Anthropogenic Impact

6.1 The Site History

Forest clearance associated with commercial logging activities partly cleared the original Lot 14. Areas that did not have commercial timber, or were too challenging to access, were left uncleared.

Following the timber extraction, Blocks 13 and 14 were purchased by the Wood family. The Wood family focussed most of their activities on Lot 13 Leaving Lot 14 relatively untouched.

On Lot 14, no logged tree stumps were removed, and no fertilisers were added. No crops were planted. A small herd of beef cattle grazed opportunistically on predominantly native grasses. The cattle accessed all of Lot 14, including The Site until 2007.

An intermittent and haphazard schedule of burning was applied to The Site.

In 2006, Lot 14 was purchased by the current owner, with the intention of establishing orchards for growing specific varieties of Cider Apples. From 2007 the current owner commenced management of The Site as "wilderness". After an initial "tidy up" all burning ceased in 2007.

The impact of the new management strategy can clearly be seen where the biodiverse rainforest on the area of study contrasts with the adjacent grazed rainforest to the East on neighbouring Lot 13.



Eastern Boundary of The Site - contrast of understorey between ungrazed and grazed karri-sheoak forest.

To the West of the area of study, similar contrast can be seen where the swamp vegetation has been cleared on the adjacent farm. The biodiverse swamp in the area of study immediately transits to a waterlogged monoculture with deeply cut and eroded channels.



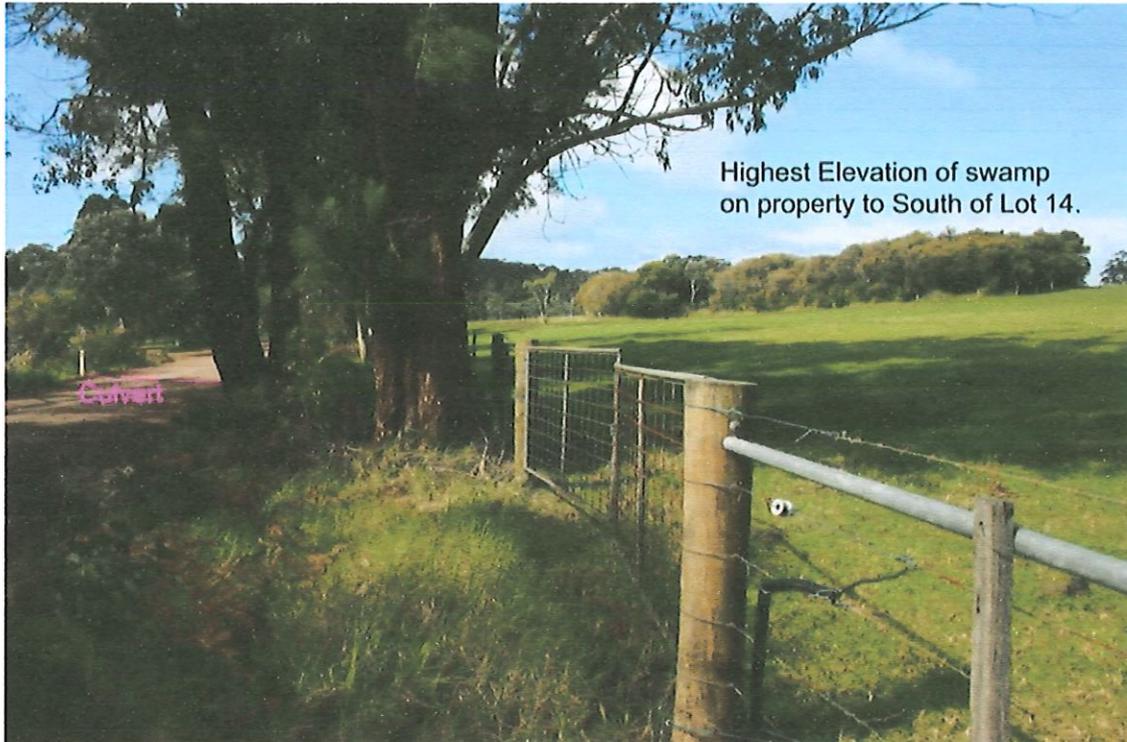
Western Boundary of The Site - contrast between cleared and uncleared wetlands. Note slumped and eroded channel where vegetation has been removed.

The previous owner declared that no chemicals has been applied over The Site. The current owner has used spot sprays of glyphosate to control invasive species such as *Watsonia*. No fertilisers have been added to The Site, but are likely to have been washed in from the farmland to the South.

Further spot applications of **glyphosate** are planned for eradication of **Watsonia** and **blackberry**. Machinery use over the site has been limited to that required to slash grasses as required to conform to local fire regulations.

There are no known cases of hydrocarbon spills on The Site, and no known toxins have been stored, used, or disposed of on The Site.

At the Southern boundary of The Site, the original water transit was disrupted by the construction of Glenrowan Road. This road cuts through the swamp area in an E/W direction. The Shire of Denmark constructed a ditch on the Southern side of the road to avoid waterlogging of Glenrowan Road, and constructed a culvert under Glenrowan Road to direct the water into Lot 14 where it could return (more or less) to its original course.



Swamp on property to South of The Site. Culvert under Glenrowan Road.

The existing farm and retail outlet access road runs through The Site. Plans have been made for alternative access to the farm via new access roads along either the eastern or western boundaries.

7.0 The Site Survey

7.1 Regolith Survey

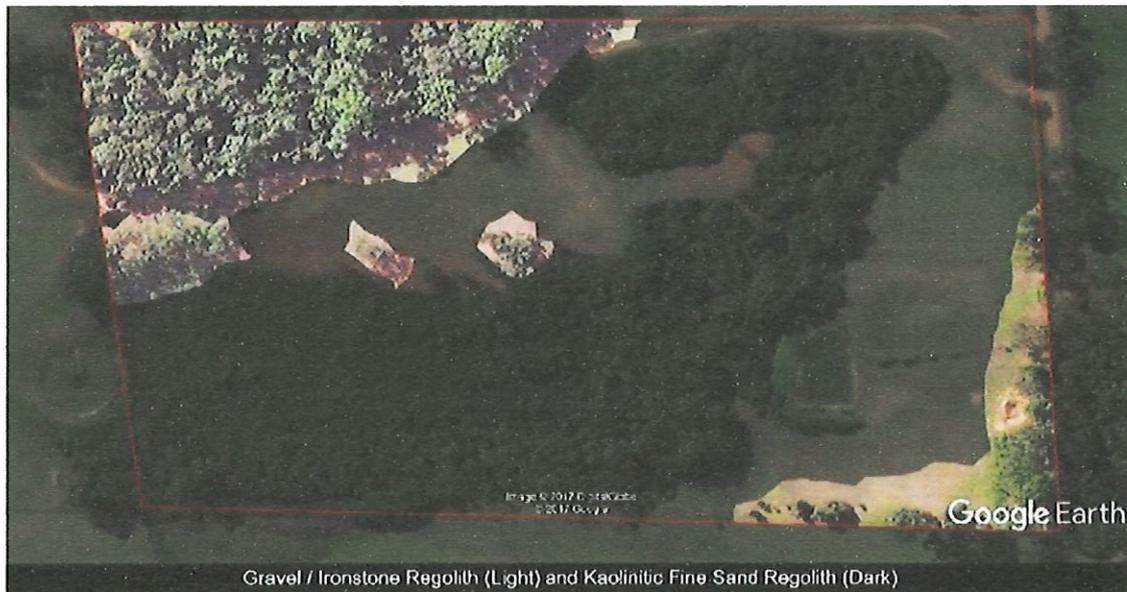
The *ironstone "gravel" terrace regolith* is a continuation of the commercially extracted gravel deposits of Mount Shadforth. This regolith is variably cemented, with significant joint development. This regolith is draped predominantly across the higher elevations of The Site.

The surface of the ironstone regolith (where cleared of native vegetation) is characterised by a poorly developed, acidic biotic zone.

The *finely sorted sand regolith* comprises a deep (minimum 2 m) of fine to very fine compacted weathered felsic sand with associated kaolinite clay. The surface of the sand is characterised by a moderately developed, acidic biotic zone.

Within the sand unit there are a number of submerged ironstone gravel outliers trending North / South that provide free draining "island" ecotones.

The local red-brown clay that occurs over much of the surrounding area is absent at The Site.



7.2 Hydrology Survey

Seasonal rainwater drains freely through the gravel regolith of Mount Macleod above The Site. This water can be seen exiting this seasonal reservoir through jointing at the South Western boundary of The Site. The gravel reservoir typically ceases flow by late Spring and is not recharged to spill point again until the following seasonal rains.

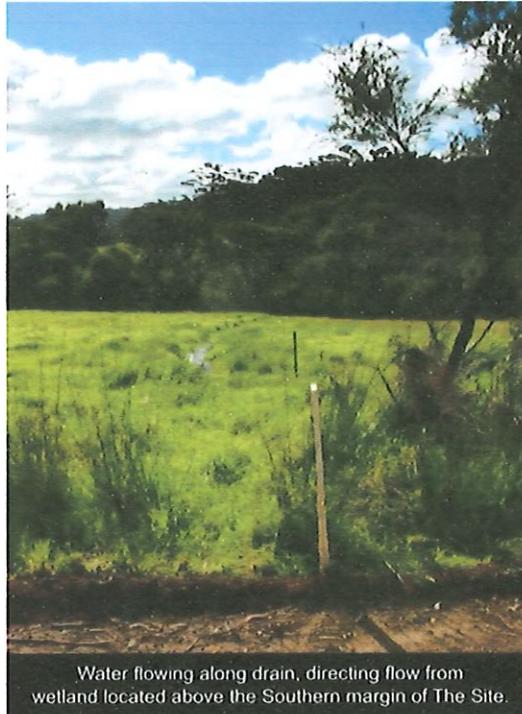
The draining of the gravel into the permeable sands is the primary source of water that feeds the Western upper reaches of this part of the Denmark water catchment system.



Seasonal rainwater from the slopes of Mount Macleod also drains into and over the sands where subsurface water flow is diverted onto The Site by an impermeable dolerite dyke. This dyke is regionally mapped to occur running roughly SE/NW at the base of Mount Shadforth / Mount MacLeod, and turns North at the Eastern boundary of The Site. This forms a natural sub-surface barrier that diverts water away from an Eastern catchment.

The spring associated with the swamp is marked by a small area of fenced swamp on the adjacent (Southern) property. (See photo page 9 above). The associated sand regolith continues down the slope, under Glenrowan Road, and enters The Site at the South Eastern corner. This area of the sand body was cleared by the previous owner, but remains waterlogged for much of the year.

In order to maintain the water within the current swamp vegetation line, the current owner constructed a rock filled ditch to direct the water draining under Glenrowan Road back into the swamp attempting to recreate a state as close as possible to the natural water flow.



Water flowing along drain, directing flow from welland located above the Southern margin of The Site.

The felsic sand body and associated vegetation act as a significant reservoir, storing the seasonal winter rains. The water stored in this reservoir is discharging throughout the year, providing year round water for numerous environments downstream. The volume of spill water in this reservoir is calculated to be a minimum of 24000 m3.

Two creeks exit the swamp onto adjacent cleared land. The Southernmost is fed from water that enters the wetlands as described above.

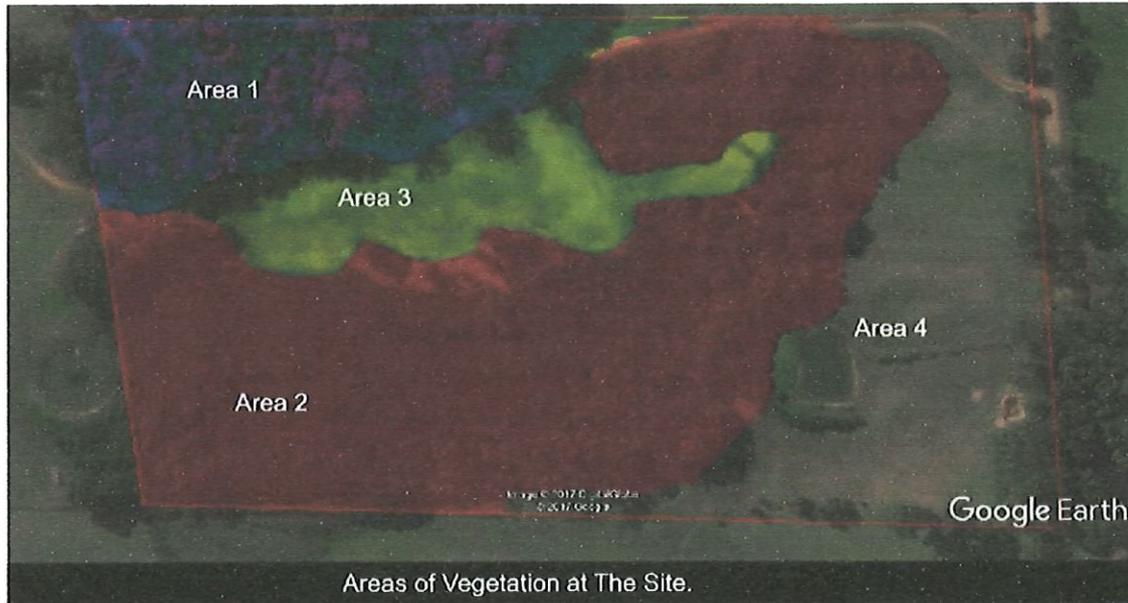
To the northern margin of the wetlands area, the water supply is driven predominantly by groundwater that is forced to the surface as the dolerite sill diverts groundwater flow across the western flank of a local saddle. This significant submerged feature distributes water much further to the north of The Site than would be expected and is responsible for the northernmost creek that exits the wetland onto the adjacent cleared land. While this mechanism cannot be observed on the Site, it is clearly seen in several places on Lot 14 to the North.



7.3 Flora Survey

The floral survey is attached as appendix A

The floral assemblage for each unit is dependent on the regolith, hydrology, and anthropogenic history. Four distinct assemblages were identified.



Two of the assemblages (Areas 3 [2.0 ha] and Area 4 [2.0 ha]) occur on cleared land, and are predominantly alien species. These areas were cleared by the previous owner, and used to provide limited feed for the grazing of cattle.

The recommendations in section 8 below detail proposals for remediation / use of these areas.

The 1.0 Ha of forest that occurs on the ironstone gravel (Area 1) at The Site is a classic Karri / Marri / Sheoak / Bullich forest, with sizeable fully mature trees. The understorey is well developed and diverse, and there is minimal presence of weeds.

The wetland area (Area 2) is 4.0 ha of a biodiverse wetland that has been identified to contain areas of peat formation. Larger trees of Blackbutt, Yarri and Bullich occur sparsely through a dense understorey of Teatree, Karri Wattle and Swamp Peppermint. Blackberry and tree-ferns occur as invasive species along the Southern creekline.

The Starfish Stinkhorn fungus was notably recorded in Area 2.

7.4 Fauna Survey

The fauna survey consists of three parts.

Part 1 refers to the owners experience and sightings of *significant* larger fauna on The Site.

Part 2 is opportunistic survey conducted during the Flora Survey and is included in Appendix A.

Part 3 are 5 km and 10 km radius faunal database searches, included as Appendices B and C.

7.4.1 Faunal Sightings / Observations 2006 - 2017.

Over the 11 years of occupation by the current owner, The Site has **slowly** returned to a **more natural state**.

A healthy and viable Kangaroo population is maintained by culling, with a mob of 5-7 regular inhabitants of The Site. This level of grazing by the Kangaroos seems to maintain a good balance without too much damage.

Bandicoots are common at The Site, but not as prolific as around the Orchards, where they feed on the rich assemblage of invertebrates present throughout the orchards.

Notable bird visitors to the site include **white tailed** and **red tailed cockatoos**. Up to 2013 - 14 the **white tailed cockatoos** were **seasonal visitors**, present from **January** through to **May**. Since 2014 they are present in greater numbers **year round**. A number of favoured roosts occur in larger trees in Area 1 and in larger Bullich trees at the margins of Area 2. The use of these roosts is becoming more frequent.

The largest numbers of white tailed cockatoos was noted in January 2012 when a flock of around 100 birds assembled over a period of days to feed in the young orchards. This flock caused considerable damage to the orchards. In 2013 gas guns were trialled to protect the orchards, and since that time flocks of similar size have not assembled. Maximum current flock size at the site is around 15 birds, most commonly groups of 4 to 6. These birds are all encouraged to roost at The Site as this allows monitoring of their movement and gives warning of any threat if they move to the orchards.

Red Tailed cockatoos are infrequent visitors, with groups of 3 to 6 preferring the more open roosts above the grazed understorey of Lot 15 (Adjacent to Area 1)

Wedge tailed eagles can be seen regularly over The Site, and roost regularly at the North Western edge of The Site. (These and other birds of prey have learned to visit the area daily to feed on ring-necked parrot carcasses during fruiting season.)

The Site is home to large numbers of amphibia. These provide a good food source for the many snakes that have been observed around the wetland area.

Foxes are Cats are controlled by trapping, shooting and baits. Between 10 and 15 foxes and 1 - 2 cats are culled every year at Lot 14. (It appears that as one fox is removed, another moves in from adjacent land). Rabbits are controlled by shooting and baits. (Rabbit carcasses must be removed every morning to prevent consumption by the patrolling birds of prey). The rabbit warren is located off Site, with no on-site breeding. The eradication of this breeding area is dependent on the adjacent landowner.

7.4.2 Opportunistic Survey

An opportunistic survey conducted during the Flora Survey and is included in Appendix A

7.4.3 Radial faunal database searches

5 km and 10 km radius faunal database searches have been included as Appendices B and C.

8.0 Recommendations

8.1 Pest Control.

The current strategies of Fox, Cat and Rabbit control seem effective and should be continued in the future.

The removal of blackberry is recommended, but will require specific equipment to cut an access track into the swamp in area 2. Removal will require sacrifice of some native vegetation to allow access for spray.

Watsonia is effectively controlled by spot-spraying, which should continue.

8.2 Revegetation Area 3.

Area 3 will revegetate naturally. Young native seedling shrubs can be seen emerging alongside the introduced species. The natural revegetation is prevented by the local fire regulation requirement to slash land that is not grazed. It is recommended that the Shire be approached to determine if they would waive this requirement.

8.3 Revegetation Area 4.

Area 4 revegetation is recommended, but should be limited to around 1 Ha on the Eastern side of the area. The Western side of the area, around 1 Ha should be retained as the building and living envelope.

8.4 Fencing.

Fencing repairs are required at the Southern Boundary.

8.5 Drainage.

Construction of a robust silt trap at the under-road culvert (on Shire land) would prevent significant undesirable seepage of water into Area 4. This would divert more flow into the swamp area, and greatly assist revegetation of Area 4. While there is minimal cost involved in this construction, the greater challenge is that the Shire do not use the silt trap as a "dump" for graded earth when grading the road. Representation to the shire is required to determine how to manage this issue.

8.6 Faunal Identification.

It is challenging to identify the amphibia, reptiles and invertebrates at the site. It is recommended that expert opinion be obtained as to the likelihood of endangered species being present.

8.7 Fungi / Natural Yeasts.

The presence of the Starfish Stinkhorn fungus indicates an unusual environment for fungal growth. Experience with natural fermentations as part of the business at Long Orchard Farm confirms an unusually rich local assemblage of natural yeasts. The Site provides an opportunity to understand how these fungi exist above and below ground in a wetland environment.

Appendix A

Flora Report

Flora and vegetation information was identified and compiled by Melissa Howe BSc (Environmental Management) from an on-site inspection to the study area, 218 Glenrowan Road, Scotsdale WA on 31/08/2017.

AREA 1

REMNANT VEGETATION

Vegetation condition: VERY GOOD CONDITION (see Keighery Condition Scale)

Vegetation Type: TALL OPEN FOREST AND MEDIUM FOREST (MOSAIC)

- Dominant canopy species are *Eucalyptus diversicolor* (Karri), *Corymbia calophylla* (Marri) and *Eucalyptus megacarpa* (Bullich) with occasional occurrence of *Eucalyptus marginata* (Jarrah) and *Eucalyptus patens* (Common Blackbutt/Yarri)
- Small groves of *Allocasuarina decussata* (Karri Sheoak) are interspersed in the forest
- Species rich open understorey of shrubs, sedges, grasses and herbs. Dominant understorey species include *Acacia pentadenia* (Karri Wattle), *Taxandria parviceps* (Fine Teatree) and *Hibbertia furfuracea*.
- Introduced weed species are few and minimal within the bushland, predominantly confined to the edges

| AREA 1: FLORA SPECIES | | | | |
|-----------------------|--|------------------------|---------------------------|-----------------------------|
| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
| NATIVE FLORA | | | | |
| 1. | <i>Acacia pentadenia</i> | Karri Wattle | Not threatened | Not threatened |
| 2. | <i>Acacia urophylla</i> | Net-veined Wattle | Not threatened | Not threatened |
| 3. | <i>Allocasuarina decussata</i> | Karri Sheoak | Not threatened | Not threatened |
| 4. | <i>Banksia grandis</i> | Bull Banksia | Not threatened | Not threatened |
| 5. | <i>Billardiera variifolia</i> | | Not threatened | Not threatened |
| 6. | <i>Boronia gracilipes</i> | Karri Boronia | Not threatened | Not threatened |
| 7. | <i>Chorizema diversifolium</i> | Flame Pea | Not threatened | Not threatened |
| 8. | <i>Chorizema illicifolium/retorsum</i> | Holly Flame Pea | Not threatened | Not threatened |
| 9. | <i>Conostylis species</i> | Cottonheads | Not threatened | Not threatened |
| 10. | <i>Corymbia calophylla</i> | Marri | Not threatened | Not threatened |
| 11. | <i>Dampiera hederacea</i> | Karri Dampiera | Not threatened | Not threatened |
| 12. | <i>Desmodium fasciculatum</i> | | Not threatened | Not threatened |
| 13. | <i>Drosera species</i> | A Sundew | Not threatened | Not threatened |
| 14. | <i>Eucalyptus diversifolia</i> | Karri | Not threatened | Not threatened |
| 15. | <i>Eucalyptus marginata</i> | Jarrah | Not threatened | Not threatened |
| 16. | <i>Eucalyptus megacarpa</i> | Bullitch | Not threatened | Not threatened |
| 17. | <i>Eucalyptus patens</i> | Common Blackbutt/Yarri | Not threatened | Not threatened |
| 18. | <i>Haemodorum spicatum</i> | Bloodroot/Mean/Born | Not threatened | Not threatened |
| 19. | <i>Hakea amplexicaulis</i> | Prickly Hakea | Not threatened | Not threatened |
| 20. | <i>Hibbertia amplexicaulis</i> | | Not threatened | Not threatened |
| 21. | <i>Hibbertia cuneiformis</i> | Cutleaf Hibbertia | Not threatened | Not threatened |
| 22. | <i>Hibbertia furfuracea</i> | | Not threatened | Not threatened |
| 23. | <i>Homalospermum firmum</i> | | Not threatened | Not threatened |

| AREA 1: FLORA SPECIES | | | | |
|------------------------------|------------------------------------|----------------------------|---------------------------|-----------------------------|
| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
| NATIVE FLORA | | | | |
| 24. | <i>Hovea elliptica</i> | Tree Hovea | Not threatened | Not threatened |
| 25. | <i>Lasiopetalum floribundum</i> | | Not threatened | Not threatened |
| 26. | <i>Lepidosperma ?pubisquameum</i> | | Not threatened | Not threatened |
| 27. | <i>Lepidosperma gracile</i> | | Not threatened | Not threatened |
| 28. | <i>Leucopogon capitellatus</i> | Beard-heath | Not threatened | Not threatened |
| 29. | <i>Leucopogon verticillatus</i> | Tassel Flower | Not threatened | Not threatened |
| 30. | <i>Lomandra pauciflora</i> | | Not threatened | Not threatened |
| 31. | <i>Microlaena stipoides</i> | Weeping Ricegrass | Not threatened | Not threatened |
| 32. | <i>Opercularia hispidula</i> | Hispid Stinkweed (native) | Not threatened | Not threatened |
| 33. | <i>Opercularia volubilis</i> | Twining Stinkweed (native) | Not threatened | Not threatened |
| 34. | <i>Patersonia occidentalis</i> | Purple Flag Iris | Not threatened | Not threatened |
| 35. | <i>Persoonia longifolia</i> (dead) | Snotty Gobble | Not threatened | Not threatened |
| 36. | <i>Pteridium esculentum</i> | Bracken Fern | Not threatened | Not threatened |
| 37. | <i>Taxandria parviceps</i> | Fine Tea Tree | Not threatened | Not threatened |
| 38. | <i>Tetrarhena laevis</i> | Forest Ricegrass | Not threatened | Not threatened |
| 39. | <i>Tremandra stelligera</i> | | Not threatened | Not threatened |
| 40. | <i>Trymalium odoratissimum</i> | Karri Hazel/Soap Bush | Not threatened | Not threatened |
| 41. | <i>Xanthorrhoea gracilis</i> | Graceful Grass Tree | Not threatened | Not threatened |
| 42. | <i>Xanthorrhoea preissii</i> | Grass Tree/Balga | Not threatened | Not threatened |
| INTRODUCED FLORA | | | | |
| 1. | <i>Cenchrus clandestinus</i> | Kikuyu Grass | Alien to WA | |
| 2. | <i>Hypochaeris species</i> | Flatweed | Alien to WA | |
| FUNGI | | | | |
| 1. | <i>Cortinarius rotundisporus</i> | Elegant Blue Cortinar | Not threatened | Not threatened |

AREA 2

REMNANT VEGETATION – RIPARIAN VEGETATION AND CREEKLINE

Vegetation Condition: GOOD TO VERY GOOD CONDITION (see Keighery Condition Scale)

Vegetation Type: MEDIUM FOREST AND LOW WOODLAND (MOSAIC)

- Dominant canopy species are *Eucalyptus patens* (Blackbutt/Yarri) and *Eucalyptus megacarpa* (Bullich)
- Often dense and diverse understorey of shrubs, sedges and rushes. Dominant native understorey species include *Acacia pentadenia* (Karri Wattle), *Taxandria linearifolia* (Swamp Peppermint), *Taxandria parviceps* (Fine Teatree), *Astartea species* and *Pteridium esculentum* (Bracken Fern) and introduced species include *Histiopteris incisa* (Batwing Fern) and *Rubus anglocandicans* (Blackberry)

- *Callistachys lanceolata* (Native Willow/Wonnitch), *Taxandria linearifolia* (Swamp Peppermint), *Homalospermum firmum* and *Taxandria parviceps* (Fine Teatree) dominate the canopy in lower-lying areas
- Stands of *Taxandria juniperina* (Warren River Cedar/Wattie) with minimal understorey also occur
- Small area of *Melaleuca preissiana* (Stout Paperbark/Moonah) occurs near the creekline on lower-lying western edge
- The narrow, relatively ephemeral creekline, maintains some flow year-round from freshwater seeps
- Introduced weed species are present although predominantly confined to the edges of the bushland apart from *Rubus anglocandicans* (European Blackberry) and *Histiopteris incisa* (Batwing Fern) which have invaded the creekline

| AREA 2: FLORA SPECIES | | | | |
|------------------------------|--------------------------------------|------------------------|---------------------------|-----------------------------|
| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
| NATIVE FLORA | | | | |
| 1. | <i>Acacia hastulata</i> | | Not threatened | Not threatened |
| 2. | <i>Acacia mooreana</i> | | Not threatened | Not threatened |
| 3. | <i>Acacia pentadenia</i> | Karri Wattle | Not threatened | Not threatened |
| 4. | <i>Astartea ?sp. southern</i> ranges | | Not threatened | Not threatened |
| 5. | <i>Beaufortia decussata</i> | Gravel Bottlebrush | Not threatened | Not threatened |
| 6. | <i>Beaufortia sparsa</i> | Swamp Bottlebrush | Not threatened | Not threatened |
| 7. | <i>Billardiera variifolia</i> | | Not threatened | Not threatened |
| 8. | <i>Callistemon glaucus</i> | Albany Bottlebrush | Not threatened | Not threatened |
| 9. | <i>Callistachys lanceolata</i> | Native Willow/Wonnitch | Not threatened | Not threatened |
| 10. | <i>Dampiera hederacea</i> | Karri Dampiera | Not threatened | Not threatened |
| 11. | <i>Drosera species</i> | A Sundew | Not threatened | Not threatened |
| 12. | <i>Empodisma gracillimum</i> | Tanglefoot | Not threatened | Not threatened |
| 13. | <i>Eucalyptus megacarpa</i> | Bullich | Not threatened | Not threatened |
| 14. | <i>Eucalyptus patens</i> | Common Blackbutt | Not threatened | Not threatened |
| 15. | <i>Evandra aristata</i> | | Not threatened | Not threatened |
| 16. | <i>Gahnia decomposita</i> | Saw Sedge | Not threatened | Not threatened |
| 17. | <i>Grevillea trifida</i> | | Not threatened | Not threatened |
| 18. | <i>Haemodorum spicatum</i> | Bloodroot/Mean/Born | Not threatened | Not threatened |
| 19. | <i>Homalospermum firmum</i> | | Not threatened | Not threatened |
| 20. | <i>Hypolaena exculsa</i> | | Not threatened | Not threatened |
| 21. | <i>Lepidosperma gracile</i> | | Not threatened | Not threatened |
| 22. | <i>Lepidosperma longitudinale</i> | Pithy Sword-sedge | Not threatened | Not threatened |
| 23. | <i>Lepidosperma tetraquetrum</i> | Square Sedge | Not threatened | Not threatened |
| 24. | <i>Leucopogon australis</i> | Spiked Beard-heath | Not threatened | Not threatened |
| 25. | <i>Leucopogon capitellatus</i> | Beard-heath | Not threatened | Not threatened |
| 26. | <i>Leucopogon verticillatus</i> | Tassel Bush | Not threatened | Not threatened |
| 27. | <i>Melaleuca preissiana</i> | Stout Paperbark/Moonah | Not threatened | Not threatened |
| 28. | <i>Patersonia occidentalis</i> | Purple Flag Iris | Not threatened | Not threatened |

AREA 2: FLORA SPECIES

| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
|-------------------------|----------------------------------|--------------------------------------|--|-----------------------------------|
| NATIVE FLORA | | | | |
| 29. | <i>Pericalymma ellipticum</i> | Swamp Teatree | Not threatened | Not threatened |
| 30. | <i>Pteridium esculentum</i> | Bracken Fern | Not threatened | Not threatened |
| 31. | <i>Schoenus ?efoliatus</i> | | Not threatened | Not threatened |
| 32. | <i>Styliidium adnatum</i> | Common Beaked Triggerplant | Not threatened | Not threatened |
| 33. | <i>Styliidium scandens</i> | Climbing Triggerplant | Not threatened | Not threatened |
| 34. | <i>Taxandria juniperina</i> | Warren River Cedar/Wattie | | Not threatened |
| 35. | <i>Taxandria linearifolia</i> | Swamp Peppermint | | Not threatened |
| 36. | <i>Taxandria parviceps</i> | Fine Tea Tree | Not threatened | Not threatened |
| 37. | <i>Thomasia paniculata</i> | | Not threatened | Not threatened |
| 38. | <i>Xanthorrhoea preissii</i> | Grass Tree/Balga | Not threatened | Not threatened |
| INTRODUCED FLORA | | | | |
| 1. | <i>Anthoxanthum odoratum</i> | Sweet Vernal Grass | Alien to WA | |
| 2. | <i>Cenchrus clandestinus</i> | Kikuyu Grass | Alien to WA | |
| 3. | <i>Gladiolus undulatus</i> | Wavy Gladioli | Alien to WA | |
| 4. | <i>Histiopteris incisa</i> | Batwing Fern | Alien to WA | |
| 5. | <i>Holcus lanatus</i> | Yorkshire fog | Alien to WA | |
| 6. | <i>Hypochaeris species</i> | Flatweed | Alien to WA | |
| 7. | <i>Juncus articulatus</i> | | Alien to WA | |
| 8. | <i>Juncus microcephalus</i> | | Alien to WA | |
| 9. | <i>Rubus angiocandicans</i> | European Blackberry | Alien to WA Declared pest**** | Weed of National Significance**** |
| 10. | <i>Watsonia species</i> | Watsonia | Alien to WA | |
| FUNGI | | | | |
| 1. | <i>Aseroe rubra</i> | Anemone Stinkhorn/Starfish Stinkhorn | Possibly only formally recorded once in WA. Endemic to 5km radius of study area (WA) | |
| 1. | <i>Cortinarius rotundisporus</i> | Elegant Blue Cortinar | | |

AREA 3:

CLEARED LAND AND DAM

Vegetation condition: **VERY DEGRADED** (see Keighery Condition Scale)

Vegetation type:

- Flora comprises weed or crop species with very isolated occurrence of native trees, shrubs and ground cover layers
- Potential for regeneration and revegetation of native flora with intensive management

➤ Dam area is supporting some native riparian flora

AREA 3: FLORA SPECIES

| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
|-------------------------|-----------------------------------|----------------------------|---------------------------|-----------------------------|
| NATIVE FLORA | | | | |
| 1. | <i>Juncus pallidus</i> | Pale Rush | Not threatened | Not threatened |
| 2. | <i>Lepidosperma longitudinale</i> | Pithy Sword-sedge | Not threatened | Not threatened |
| 3. | <i>Styliidium adnatum</i> | Common Beaked Triggerplant | Not threatened | Not threatened |
| 4. | <i>Taxandria parviceps</i> | Fine Teatree | Not threatened | Not threatened |
| INTRODUCED FLORA | | | | |
| 1. | <i>Anthoxanthum odoratum</i> | Sweet Vernal Grass | Alien to WA | |
| 2. | <i>Cenchrus clandestinus</i> | Kikuyu Grass | Alien to WA | |
| 3. | <i>Gladiolus undulatus</i> | Wavy Gladioli | Alien to WA | |
| 4. | <i>Holcus lanatus</i> | Yorkshire fog | Alien to WA | |
| 5. | <i>Hypochaeris species</i> | Flatweed | Alien to WA | |
| 6. | <i>Juncus articulatus</i> | Jointed Rush | Alien to WA | |
| 7. | <i>Juncus microcephalus</i> | | Alien to WA | |
| 8. | <i>Mentha pulegium</i> | Pennyroyal | Alien to WA | |
| 9. | <i>Watsonia species</i> | Watsonia | Alien to WA | |

AREA 4 - GLENROWAN ROAD FRONTAGE - INCLUDES BUILDING ENVELOPE AREA

CLEARED LAND, DRAINAGE LINES AND DAM

Vegetation condition: **VERY DEGRADED** (see Keighery Condition Scale)

Vegetation type:

- Flora comprises weed or crop species
- Constructed drainage lines have been planted and are recruiting with native flora
- Dam area is supporting minimal native riparian flora

AREA 4: FLORA SPECIES

| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
|-------------------------|------------------------------|--------------------|---------------------------|-----------------------------|
| NATIVE FLORA | | | | |
| 1. | <i>Juncus pallidus</i> | Pale Rush | Not threatened | Not threatened |
| INTRODUCED FLORA | | | | |
| 1. | <i>Anthoxanthum odoratum</i> | Sweet Vernal Grass | Alien to WA | |
| 2. | <i>Cenchrus clandestinus</i> | Kikuyu Grass | Alien to WA | |
| 3. | <i>Eucalyptus species</i> | Planted | Alien to WA | |
| 4. | <i>Gladiolus undulatus</i> | Wavy Gladioli | Alien to WA | |
| 5. | <i>Holcus lanatus</i> | Yorkshire fog | Alien to WA | |
| 6. | <i>Hypochaeris species</i> | Flatweed | Alien to WA | |
| 7. | <i>Juncus articulatus</i> | Jointed Rush | Alien to WA | |
| 8. | <i>Juncus microcephalus</i> | | Alien to WA | |

AREA 4: FLORA SPECIES

| NO. | SCIENTIFIC NAME | COMMON NAME | CONSERVATION STATUS (WA)* | CONSERVATION STATUS (FED)** |
|-----|-------------------------|-------------------------|---------------------------|-----------------------------|
| 9. | <i>Mentha pulegium</i> | Pennyroyal | Alien to WA | |
| 10. | <i>Oxalis purpurea</i> | Largeflower Wood Sorrel | Alien to WA | |
| 11. | <i>Romulea rosea</i> | Guildford Grass | Alien to WA | |
| 12. | <i>Watsonia species</i> | Watsonia | Alien to WA | |

*CONSERVATION STATUS (WA)

At a State level, native flora species are protected under the Wildlife Conservation Act 1950. Species of the highest conservation significance are gazetted Threatened Flora under the Act and listed in the Wildlife Conservation (Rare Flora) Notice and reviewed annually.

Department of Biodiversity, Conservation and Attractions produces a list of Priority species and ecological communities (PECs) that have not been assigned statutory protection under the WC Act. Priority flora are under consideration for declaration as 'Rare Flora', classified as in urgent need of further survey (Priority 1-3), require monitoring every 5-10 years (Priority 4) or require a specific conservation program to prevent the taxon becoming threatened within five years (Priority 5).

** CONSERVATION STATUS (FEDERAL)

Nationally Threatened Flora and Ecological Communities are determined by the Western Australian Threatened Species Scientific Committee according to criteria set out in the Environmental Protection and Biodiversity Conservation Act (1999) and are listed by the Department of the Environment and Energy (DoEE).

***DECLARED PEST: The Department of Agriculture and Food, Western Australia regulates harmful plants under the *Biosecurity and Agriculture Management Act 2007* (BAM Act). Plants that are prevented entry into the State or have control or keeping requirements within the State are known as declared pests.

****WEEDS OF NATIONAL SIGNIFICANCE: Regarded as the worst weeds in Australia of their invasiveness, potential for spread, and economic and environmental impacts. 32 Weeds of National Significance (WoNS) have been agreed by Australian governments. Consideration was also given to their ability to be successfully managed.

KEIGHERY CONDITION SCALE 1994 (adapted by Government of Western Australia, 2009)

| CONDITION | DESCRIPTION |
|-------------------------------|--|
| Pristine | Pristine or nearly so, no obvious signs of disturbance. |
| Excellent | Vegetation structure intact, disturbance affecting individual species and weeds are non-aggressive species. |
| Very Good | Vegetation structure altered; obvious signs of disturbance. For example, disturbance to vegetation structure caused by repeated fires; the presence of some more aggressive weeds; dieback; logging; & grazing. |
| Good | Vegetation structure significantly altered by very obvious signs of multiple disturbances. Retains basic vegetation structure or ability to regenerate it. For example, disturbance to vegetation structure caused by very frequent fires; the presence of some very aggressive weeds at high density; partial clearing; dieback; & grazing. |
| Degraded I (Poor) | Basic vegetation structure severely impacted by disturbance. Scope for regeneration but not to a state approaching good condition without intensive management. For example, disturbance to vegetation structure caused by very frequent fires; the presence of very aggressive weeds; partial clearing; dieback; & grazing. |
| Very Degraded II (Very Poor) | The structure of the vegetation is no longer intact and the area is completely or almost completely without native species. These areas are often described as 'parkland cleared' with the flora comprising weed or crop species with isolated native trees or shrubs. |
| Completely Degraded/Alienated | Complete absence of native plant species and either loss of the soil or long-standing barriers to recruitment from seed. |

FAUNA (OPPORTUNISTIC SIGHTINGS)

Area 1

REMNANT VEGETATION

NATIVE FAUNA:

- Grey Fantail (*Rhipidura albiscapa*) - not threatened
- Red Wattlebird (*Anthochaera carunculata*) - not threatened
- Bandicoot (diggings) (*Isodon obesulus subsp. fusciventer*) - Priority 4 (WA) Department of Biodiversity, Conservation and Attractions Priority list
- Western Banjo Frog/Pobblebonk (*Limnodynastes dorsalis*) - not threatened

INTRODUCED FAUNA:

- None noted

Area 2

REMNANT VEGETATION - RIPARIAN VEGETATION AND CREEKLINE

NATIVE FAUNA:

- Grey Fantail (*Rhipidura albiscapa*) - not threatened
- Forest Red-tailed Black-Cockatoo (*Calyptorhynchus banksii subsp. naso*) - Vulnerable under WA and Australian legislation
- Bandicoot (diggings) (*Isodon obesulus subsp. fusciventer*) - Priority 4 (WA) Department of Biodiversity, Conservation and Attractions Priority list
- Western Banjo Frog/Pobblebonk (*Limnodynastes dorsalis*) - not threatened
- Australian Ringneck/28 Parrot (*Platycercus zonarius*) - not threatened

INTRODUCED FAUNA:

- Fox - Alien to WA, Declared Pest (WA)

Area 3

CLEARED LAND AND DAM

NATIVE FAUNA:

- Western Banjo Frog/Pobblebonk (*Limnodynastes dorsalis*) - not threatened

INTRODUCED FAUNA:

- None noted

Area 4

GLENROWAN ROAD FRONTAGE - INCLUDES BUILDING ENVELOPE AREA - CLEARED LAND, DRAINAGE LINES AND DAM

NATIVE FAUNA:

- None noted

INTRODUCED FAUNA:

- None noted

Our Ref: WAPC156035
Your Ref: 156035
Enquiries: Planning Services



**Please treat
 this
 email as the
 original and
 only copy**

26 February 2018

Western Australian Planning Commission
 PO Box 1108
 ALBANY WA 6330

Attn: Matthew Bunce

Emailed to: albanypso@planning.wa.gov.au

Dear Mr Bunce

Re: Proposed Subdivision – No. 218 (Lot 14) Glenrowan Road, Scotsdale

Further to your letter dated 13 December 2017 requesting the Shire's comments pertinent to the above mentioned application, the following information is provided.

Relevant Town Planning Scheme No. 3 (TPS 3) Provisions

In accordance with the Shire of Denmark's TPS 3, the lot in question is zoned "Rural". The intent of the rural zone is to provide for a range of normal rural activities and to protect such land from inappropriate uses.

A range of agricultural based land uses can be considered by the Shire within the Rural zone under Table 1 of TPS 3. Fragmentation of rural landholdings in the manner proposed will allow the introduction of additional non rural activities, placing constraints upon current rural land management practices and limit future diversification of agricultural operations due to buffer and amenity considerations.

Clause 5.1, Table 2 – Development Standards within TPS 3 establishes a minimum front development setback requirement of 50 metres within the Rural zone. The proposed subdivision does not demonstrate that sufficient space is available for a building envelope within Lot 1 to accommodate the required 50 metre development setback, bushfire separation requirements and an existing dam (which is not notated on the subdivision plan).

Relevant Local Planning Strategy (LPS) Provisions

Under the Shire's adopted LPS the subject land is designated as 'Priority Agriculture' (NB: applicant's report references site is designated as 'General Agriculture' which is incorrect).. In relation to the 'Priority Agriculture' designation the following is relevant:

Part 1 Section 4.8 "Rural Land – Productive"

Objective:

- Identify and protect Priority Agriculture land of State and regional significance and General Agriculture land which is the balance of the rural land not identified for settlement or future subdivision.
- To ensure appropriate land management controls occur with intensive agricultural uses to protect water catchments and to ensure these uses occur in the appropriate location.

Strategies:

- d. Retain remnant vegetation areas and encourage actions that support environmental enhancement through revegetation and waterways improvements.

Implementation:

2. Council introduce a “Priority Agriculture” zone (or similar) into the Town Planning Scheme with provisions consistent with the objectives and appropriate land use classes etc, reflective of WAPC SPP 2.5 requirements, and zone the land identified as such in the Local Planning Strategy.
4. Prior to introducing the “Priority Agriculture” and “General Agriculture Resource” zone provisions into the Town Planning Scheme, Council not support land uses considered incompatible.
5. Council will only support subdivision of rural land in accordance with the provisions of this Local Planning Strategy.
6. Council generally not support subdivisions which further fragment any land within the Priority Agriculture and General Agriculture areas in accordance with WAPC Development Control Policy 3.4.

Part 2 Section 6.11.2 “Priority Agriculture”

The Lower Great Southern Strategy (LGSS) has identified, based on soils mapping from the Department of Agriculture, land which has been classified as Priority Agriculture with State or regional significance. The LGSS recommends that this land not be used for any other purposes. The area identified as Priority Agriculture under the Lower Great Southern Strategy has generally been identified in the LPS, with some areas added/excluded as a result of an assessment by Council predominantly having regard to slope and water supply availability. It is understood that the Department of Agriculture is undertaking a review of the soils mapping however this data was not available at the time of preparing the LPS.

It is a key objective of this LPS that the identified Priority Agriculture land be protected in accordance with the WAPC’s SPP 2.5 Policy. SPP 2.5 requires that land that has been formally identified as agriculture land of state or regional significance be zoned ‘Priority Agriculture’ where such land is not already zoned Rural Residential or Rural Smallholdings.

Consistent with State Planning Policy 2.5, the LPS accepts that there shall be a general presumption against subdivision of identified Priority Agriculture areas.

In assessing subdivision applications the Shire shall also give due regard to the WAPC’s Development Control Policy 3.4 which sets out the principles in determining applications to achieve the objectives of the SPP2.5 policy.

Part 2 Section 6.12.3 “Landscape Protection Zones and Conservation Lots”

Specifically in relation to Conservation Lots, they are currently provided for in the current State Planning Policy 2.5: Land Use Planning in Rural Areas and current Development Control Policy 3.4: Subdivision of Rural Land. On this basis, the LPS supports the creation of Conservation Lots.

Having regard to the above provisions, notwithstanding that the LPS supports the general principle of creating Conservation Lots, it is considered that this subdivision will result in further land fragmentation for the primary purpose of creating additional rural smallholding/lifestyle lots and does not represent a coordinated approach to the creation of conservation lots.

Relevant Town Planning Scheme (TPS) Policies

The following Town Planning Policies are applicable to this proposal:

- *Policy No. 29: Rural Settlement Strategy (Policy 29) applies, with the subject land located in Policy Area 6: Scotsdale Brook Catchment. As per the provisions of Policy 29, the following is relevant:*
 - *Clause 6.2 – This area contains some of the best horticultural quality soils in the shire. Currently, the dominant land use in this area is grazing with some intensive agricultural and horticultural activities. There is also increasing pressure for special rural subdivision and tourist development to Scotsdale Road and Scotsdale Brook. The average lot size is 40 hectares.*
 - *Clause 6.2 – The predominant management issues are protection of landscape, rural character, remnant vegetation, waterways, eutrophication, over-clearing, water quality and potential salinity, retention of remnant vegetation, nutrient export to waterways and wetlands, fire risk and protection and use of prime agricultural land.*
 - *Clause 3.3.1 – To conserve the potential of the area to support horticulture on capable land and in such a manner that it will not further exacerbate problems identified in the above management issues.*
 - *Clause 6.3.2 – To encourage horticultural activities on appropriate land.*
 - *Clause 6.4.2 – Further subdivision will generally not be supported unless it can be thoroughly demonstrated to the satisfaction of Council that lot sizes proposed and water supply will be capable of supporting a range of horticultural uses. This does not automatically mean Council support will be forthcoming.*
 - *Clause 6.4.3 – Council may support subdivision and development applications for small scale tourist orientated development providing it can be demonstrated that the land is not good quality horticultural land and that it can achieve suitable buffers from adjoining good quality agricultural land.*
 - *Clause 6.4.4 – In order to protect horticultural land, Council will not support special rural/landscape protection development.*
 - *Clause 6.4.5 – Council will require all development to retain and protect existing remnant vegetation and may require additional revegetation or specific measures to protect existing remnant vegetation.*

In respect of the above, the proposed subdivision conflicts with the relevant provisions of Policy 29.

WAPC Development Control Policy 3.4

With regard to Clause 6.5 Conservation of Biodiversity & Natural Heritage of Development Control Policy 3.4: Subdivision of Rural Land, Planning Services consider the following is relevant in considering this proposal:

- *Although remnant vegetation on proposed Lot 1 may be worthy of protection it is questioned if the area is of sufficient size to warrant the creation of a conservation lot when the vegetation is likely to otherwise be protected from indiscriminate clearing under the provisions of TPS No. 3 and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.*
- *The area nominated for protection includes an area of land that does not currently contain any remnant vegetation. It is noted that DBCA has indicated that the Conservation Covenant would not be supported without this area being included and revegetated. The Shire is concerned with the prospect that further subdivision may now be considered on the basis of a proposal to re-vegetate existing cleared land. A review of*

*aerial photographs and vegetation analysis across the Shire indicates that this could potentially set a much wider precedent for broad scale subdivision exacerbating the removal of such land from productive agricultural use. The fragmentation of rural land in such circumstance would appear to be directly in conflict with the general policy provisions outlined in DC 3.4 which stipulates that “(a) the creation of new or smaller lots **will be by exception**”. It is contended that the ability to establish a conservation covenant should not be the sole determining factor for supporting further fragmentation of rural landholdings and a more holistic approach should be applied to the assessment of such applications as per the general policy provisions.*

- *The Shire is not supportive of conditions being applied that would place an onus upon the Shire to manage and monitor revegetation works should subdivision approval be granted. There is concern with the practicality of enforcing, monitoring and policing any such revegetation works and how this will be secured once the titles are created and transferred to future landowners. The 24 month maintenance periods referenced under the standard subdivision guidelines are also considered insufficient to secure revegetation for a conservation purpose.*
- *The proposed subdivision will result in the further fragmentation of rural land identified as Priority Agriculture in the Shire’s LPS, creating a lot of a size more aligned to a special rural/ lifestyle lot. This form of subdivision will introduce the likelihood of additional residential development without any direct association to the prevailing agricultural land use. The fragmentation of land in this manner has the potential to generate land use conflict and place restrictions on the Shire’s consideration of legitimate rural based land uses. In this instance the potential for conflict would be exacerbated by the relatively small size of the ‘Conservation Lot’ and position of the covenanted vegetation which restricts options for the siting of a building envelope.*
- *The precedent being established for continued fragmentation of rural landholdings is evident in the number of conservation lots now being approved, including subdivision of the immediately adjoining landholding (WAPC 153624). In that case, however, the area nominated for covenant purposes was larger and position so as to be contiguous with an adjoining reserve rather than an isolated vegetation pocket.*
- *The area of remnant vegetation being used to justify the proposed subdivision does not appear to be based upon any unique circumstance from that which would apply to other landholdings throughout the Priority Agriculture areas in the LPS.*

State Planning Policy 3.7

With regard to State Planning Policy 3.7: Planning in Bushfire Prone Areas and the associated Guidelines, Planning Services consider the following is relevant in considering this proposal:

- *The subject property is designated as bushfire prone as per the Map of Bush Fire Prone Areas.*
- *The subject lot has not been identified within a strategic planning document as suitable for further development, including a broader analysis of bushfire risk. The proposed subdivision would permit the introduction of additional residential development within an area that is likely to be subject to an extreme bushfire risk.*
- *Further subdivision of this property will facilitate the introduction of additional development on-site, increasing fire risk over and above that currently existing which should ideally be avoided given SPP 3.7 Policy Objectives 5.1 and 5.2, being:*

5.1 Avoid any increase in the threat of bushfire to people, property and infrastructure.
The preservation of life and the management of bushfire impact are paramount.

5.2 Reduce vulnerability to bushfire through the identification and consideration of bushfire hazards in decision-making at all stages of the planning and development process.

- The proposal does not comply with Acceptable Solution A3.1 & A3.4 by reason that Lot 2 is proposed to be serviced by a battle axe access leg which cannot accommodate two different vehicular access routes, noting that alternative emergency access arrangements through Lot 1 would be restricted by vegetation to be retained as part of the proposed conservation covenant.
- Proposed Lot 2 contains an existing approved Cellar Sales operation. Having regard to the nature of the proposed use, and in the context of the prevailing bushfire risk a condition was applied to the development approval granted on 23 November 2016 to ensure that the driveway/accessway was located, designed and constructed to meet the Acceptable Solution requirements A3.5 of Element 3: Vehicular Access. The approved driveway location does not accord with the development approval (refer Attachment B).
- It is considered that there is a need for a bushfire management plan to be provided for the site, including liaison with the relevant covenanting agency - noting the extreme bushfire risk areas on-site, high fuel loads within the proposed covenant areas, and access constraints identified above.

Site Assessment

Site conditions are as follows:

- Proposed Lot 1 is currently vacant, with the exception of a small dam and access driveway. The dam location has not been depicted on the plan of subdivision.
- Proposed Lot 2 contains a single house, associated rural outbuildings and several dams. Approval to operate a Cellar Sales business from an existing outbuilding on site was granted by the Shire in November 2016.
- Proposed Lot 1 will be afforded direct frontage access to Glenrowan Road, which is an unsealed rural road.
- Proposed Lot 2 will be reliant upon access via a battleaxe access leg. The battleaxe access leg does not reflect the alignment of the existing driveway which was secured as part of a development approval granted for the cellar sales operation within proposed Lot 2. The current driveway is designed to avoid established areas of remnant vegetation on-site. The proposed driveway is intended to follow the fence line and will traverse an area of vegetation shown to form part of the Conservation Covenant area.
- The proposed Conservation Covenant covers an area of cleared/ pasture land which is proposed to be subject to revegetation as per a requirement of DBCA to meet the minimum requirements to warrant covenanting.

Attached as Attachment A are photos of the site that were taken by Planning Services during the site visit.

Shire Recommendation

Having regard to the above, it is recommended the subdivision be refused on the following grounds:

1. The proposed subdivision is inconsistent with the 'Rural zoning of the land in Council's Town Planning Scheme. The purpose and intent of this zoning is to provide for the range of normal rural activities conducted in the Shire and to protect such land from inappropriate uses. Subdivision in the manner proposed would create the potential for additional building development and the introduction of increased non-rural activity in conflict with the zoning objectives.

2. *Approval to the subdivision would result in the creation of lots of a much smaller size than that prevailing in the locality and therefore set an undesirable precedent for other nearby and surrounding subdivisions.*
3. *It has not been demonstrated that sufficient area is available within proposed Lot 1 for a building envelope to accommodate the required minimum 50 metre front setback in TPS 3 and Bushfire Planning separation requirements.*
4. *The proposed subdivision is contrary to the Priority Agriculture Land Use designation in the Shire of Denmark Local Planning Strategy and the Shire's Local Planning Policy No. 29: Rural Settlement Strategy (Policy 29) - Policy Area 6: Scotsdale Brook Catchment.*
5. *The proposed subdivision is inconsistent with Development Control Policy 3.4 (DC 3.4) which states that the creation of new or smaller lots will be by exception; and that such proposals will be considered against strategies and Schemes.*
6. *The Shire is not satisfied that it is necessary for subdivision to take place to meet the stated aims of protecting remnant vegetation within the Rural zone, noting that the vegetation is otherwise likely to be protected from indiscriminate clearing under the provisions of the Shire of Denmark's Town Planning Scheme No. 3 and/or the Environmental Protection (Clearing of Native Vegetation) Regulations 2004. A covenant could also be secured to the Department of Biodiversity, Conservation and Attractions without the subdivision occurring (noting Department's advice that approval to the conservation covenant does not imply acceptance/support of the subdivision proposal as there are other important considerations to take into account in this regard).*
7. *The Shire is not satisfied that the existing remnant vegetation on-site warrants subdivision in the manner proposed, noting that the Department of Biodiversity, Conservation and Attractions' support is subject to revegetation of additional cleared areas. This does not constitute an exceptional circumstance for the purpose of applying the general policy provisions of DC 3.4 and could equally be attributed to numerous other properties across Rural zoned areas of the Shire.*
8. *The proposal will allow the introduction of additional housing development within a bushfire prone area that is likely to be subject to an extreme fire hazard risk, noting that the majority of proposed Lot 1 is assigned a BAL rating of Flame Zone. Such subdivision would be contrary to the Policy objectives of SPP 3.7, being to avoid any increase in the threat of bushfire to people, property and infrastructure.*
9. *The subdivision proposal provides for a battleaxe access leg in an extreme bushfire area and as per Acceptable Solution A3.4 of the Guidelines for Planning in Bushfire Prone Areas, battleaxe legs should be avoided.*
10. *Approval to the subdivision would create an undesirable precedent for the continued fragmentation of landholdings across the Rural zone and Priority Agricultural areas of the Shire.*

Should the WAPC be considering approving this subdivision, it would be appreciated if liaison could occur with Planning Services to provide conditions and/or advice notes accordingly.

I trust the above information is of assistance to you to progress this application. Should you have any further queries or require further clarification, please do not hesitate to contact Jasmine Tohill, Senior Town Planner, on telephone (08) 9848 0313 or email planner3@denmark.wa.gov.au.

Yours faithfully



Annette Harbron
Director Sustainable Development

Enc. Attachment A: Site Photos
Attachment B: Previously Approved Driveway

Melinda Lyons

From: Craig Pursey <craig.pursey@denmark.wa.gov.au>
Sent: Friday, 29 November 2019 1:34 PM
To: Cate Gustavsson
Cc: Kevina Richardson
Subject: RE: WAPC #156035 - info for statutory planning committee

Hi Cate,

Apologies for the delay in responding to this request. It seems that it was lodged toward the end of the previous Director's time with the Shire and then was placed indefinitely on hold before the other staff members could deal with it.

I have met with Mr Douglas and discussed the proposal. He has stated that he had previous meetings with Annette Harbron and Bill Parker regarding the reconsideration who indicated to him that they would be open to the reconsideration, but unfortunately neither of these officers left notes from their meeting. From my assessment I have the following comment on behalf of the Shire of Denmark:

The Shire still objects to the creation of a conservation lot for the reasons originally stated, and particularly on the basis that:

- The proposed lot size is far smaller than the recommendations of DC3.4 and it would require revegetation to achieve the 85% coverage required; which appears to be contrary to the intention of the conservation lot 'exceptional circumstances' in this policy. If the WAPC chooses to support this proposal the Shire of Denmark is absolutely opposed to being the responsible party for policing any revegetation condition;
- Whilst it is recognised that the wetland and associated flora and fauna are worthy of protection, it does not necessarily follow that subdivision is the only way of securing its protection; and
- The subject site is identified a 'Priority Agriculture' In the Shire's Local Planning Strategy and the introduction of a smaller lot in this area has potential to introduce a sensitive land use into a predominantly farming area.

The Shire recognises that whilst no Bushfire Management Plan or land capability assessment for the proposed conservation lot has been lodged it to prove that it is developable, from a rudimentary appraisal it seems that these are not likely to be fatal flaws. Secondary access for the battle-axe lot may need to be explored, however it is recognised that it is less than the 600m maximum length.

If the WAPC chooses to support the proposed reconsideration on the basis that the wetland in question is of overriding environmental significance we do understand that it is possible to vary the requirement for a 50m front setback and that a house is capable of being developed on proposed Lot 1.

If you require a more formal response please let me know.

Regards

Craig Pursey

Manager Sustainable Development

Shire of Denmark

PO Box 183, Denmark WA 6333

☎ Admin: (08) 9848 0322

☎ Direct: (08) 9848 0314

☎ Mobile: 0458 705 283



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From: Cate Gustavsson <Cate.Gustavsson@dplh.wa.gov.au>
Sent: Friday, 29 November 2019 11:33 AM
To: Craig Pursey <craig.pursey@denmark.wa.gov.au>
Subject: RE: WAPC #156035 - info for statutory planning committee

Hi Craig,

The owner lodged a formal request for WAPC reconsideration in June 2018 after the WAPC refused the original 1 into 2 subdivision in May 2018 citing 7 reasons for the refusal. The Shire had provided referral advice to the initial subdivision application in February 2018. The original application was lodged by Sam Williams – Town Planner on behalf of the owner, Stuart Douglass. The Reconsideration was lodged by the owner.

In reviewing the Reconsideration, WAPC had sought further advice from the Shire and DBCA in June 2018 with a further reminder in July 2018. To date no such response seems to have been received.

In August 2018 the owner requested that the Reconsideration was placed on hold as he was travelling overseas, and that he would like to be able to discuss the matters arising once the Shire and DBCA responses had been received.

On 23 September 2019, DPLH officers attended on onsite meeting with the owner to discuss the 7 refusal points together with a site inspection. A further office meeting was held with DPLH officers on 15 November as the owner wished to clarify some of the information discussed at the onsite meeting. At the 15 November meeting the owner requested a further extension of the period in which he could provide additional information prior to the reconsideration being submitted for a decision by the WAPC in the form of a report to the Statutory Planning Committee. This included reference to previous discussions with Annette Harbron and Bill Parker and a perceived view that the proposed subdivision was supported by the Shire, although the original referral advice was to the contrary.

DPLH officers have drafted a report for SPC consideration, however we are mindful that we should allow the owner due time to provide all necessary supporting information. However, given the time period since the refusal of the initial application some 18 months ago, it is feasible that the Reconsideration should now be finalised.

Although the WAPC have not received a response from the local government to the request for further advice on the Reconsideration (sent in June and July 2018), DPLH are still in a position to hold off lodging the report to SPC until 14 December 2019 to allow for further information from you.

If you would like to discuss this matter, I'm available to meet the Shire or discuss the matter via telephone.

Kind Regards
Cate

Cate Gustavsson | Principal Planning Officer | Land Use Planning
178 Stirling Terrace, Albany WA 6330
9892 7311 | 0438 284 887
www.dplh.wa.gov.au

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From: Craig Pursey [<mailto:craig.pursey@denmark.wa.gov.au>]
Sent: Friday, 29 November 2019 10:54 AM
To: Cate Gustavsson <Cate.Gustavsson@dplh.wa.gov.au>
Subject: RE: WAPC #156035 - info for statutory planning committee

Hi Cate,

Happy to discuss.
I understand his concerns and our previous position and comments.

Is the DPLH waiting on formal comment on the request for reconsideration from us, where is this in the system?

Regards

Craig Pursey
Manager Sustainable Development
Shire of Denmark
PO Box 183, Denmark WA 6333
☎ Admin: (08) 9848 0322
☎ Direct: (08) 9848 0314
☎ Mobile: 0458 705 283
www.denmark.wa.gov.au



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From: Cate Gustavsson <Cate.Gustavsson@dplh.wa.gov.au>
Sent: Thursday, 28 November 2019 1:03 PM
To: Craig Pursey <craig.pursey@denmark.wa.gov.au>
Subject: FW: WAPC #156035 - info for statutory planning committee

Hi Craig,

In relation to this site, can you please liaise with me, prior to providing any advice, thoughts etc. to Mr. Douglass as this with the WAPC for formal reconsideration?

Thank you
Kind Regards
Cate

Cate Gustavsson | Principal Planning Officer | Land Use Planning
178 Stirling Terrace, Albany WA 6330
9892 7311 | 0438 284 887
www.dplh.wa.gov.au



The department is responsible for planning and managing land and heritage for all Western Australians – now and into the future

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Department of Biodiversity,
Conservation and Attractions

Science and Conservation

Our ref: Douglass Enquiry
Enquiries: Monica Hunter
Phone: (08) 9219 9517
Email: monica.hunter@dbca.wa.gov.au

Mr Stuart Douglass
PO Box 964
DENMARK, WA 6333

Dear Mr Douglass,

RE: NATURE CONSERVATION COVENANT – Lot 14 Glenrowan Road, Scotsdale

At your request, the Department of Biodiversity, Conservation and Attractions' Nature Conservation Covenant Program (NCCP) has undertaken an assessment of the above property's vegetation for its suitability for protection under a conservation covenant with the Program, in light of the proposed subdivision.

In assessing the conservation value of this land, and its suitability for inclusion in the Covenant Program, the Department has assessed the property's biodiversity conservation values, and the potential impact on those values of the proposal affecting it. The Department is not prepared to accept a property into the Covenant Program where the proposed future landuse will impact on the biodiversity values, or the ability to maintain those values, to the extent that the land will not be considered to have high biodiversity values in the future.

Based on the interim Bushland Condition Assessment prepared by Melissa Howe following her site visit on 31/08/2017, and a brief site visit on the 12/09/2017 by Janine Liddelow, Peter Bamess and Monica Hunter, the Department is pleased to confirm that the above property is considered to be in suitable condition for a conservation covenant.

The property contains approximately two hectares of mosaic karri forest in very good condition and approximately seven hectares of riparian vegetation, in mostly good to very good condition, of which approximately 1.3 hectares is considered degraded due to slashing for fire prevention. It also contains suitable habitat trees for the threatened Carnaby's cockatoo (listed as endangered) and forest red-tailed black cockatoo (listed as vulnerable). The site is also utilized by local populations of southern brown bandicoots, listed as Priority 4.

No threatened flora were located during the site visits however, populations of priority flora found within a five km radius include *Andersonia* sp. *Virolens* (G.J. Keighery 12000), *Banksia serra*, *Eucalyptus virginea*, *Lasiopetalum* sp. Denmark, *Stylidium* sp. Kordabup and *Tetraparia* sp. Blackwood River.

Based on the draft proposed subdivision guide plan provided by Sam Williams (attached), the proposed lots will only retain sufficient biodiversity value to be accepted into the Covenant Program if all remnant bushland is placed under covenant (including the north west corner) and

deliberate revegetation is applied to the area shown on aerial photography as hashed.

Additionally, the subdivision line appears to be limited to previously cleared land, minimising the impacts of development and the associated fire protection measures on the bushland to be conserved.

As the Covenant will be prepared as a condition of the subdivision, all costs involved in the process will be completed at your expense. A table providing cost estimates is attached.

The timeline for completing a conservation covenant is at least 6 months, and you are advised to contact the Covenant Program at least 12 months before conditional approval expires. If you have less than six months before your approval expires, the Department may not be able to complete the covenant in time and will not bear any responsibility for this.

If any of the information on which this decision was based should change, then this new information will need to be submitted to the Covenant Program for reassessment.

Acceptance into the Covenant Program of land subject to a subdivision proposal, **should not** be interpreted as support by the Covenant Program or Department for that proposal. Nor does acceptance of the land into the Covenant Program guarantee approval for a subdivision proposal, as there are often other significant planning considerations.

If you have any queries regarding the covenant process, please contact Lei Zhang, Covenant Officer on (08) 9219 9518.

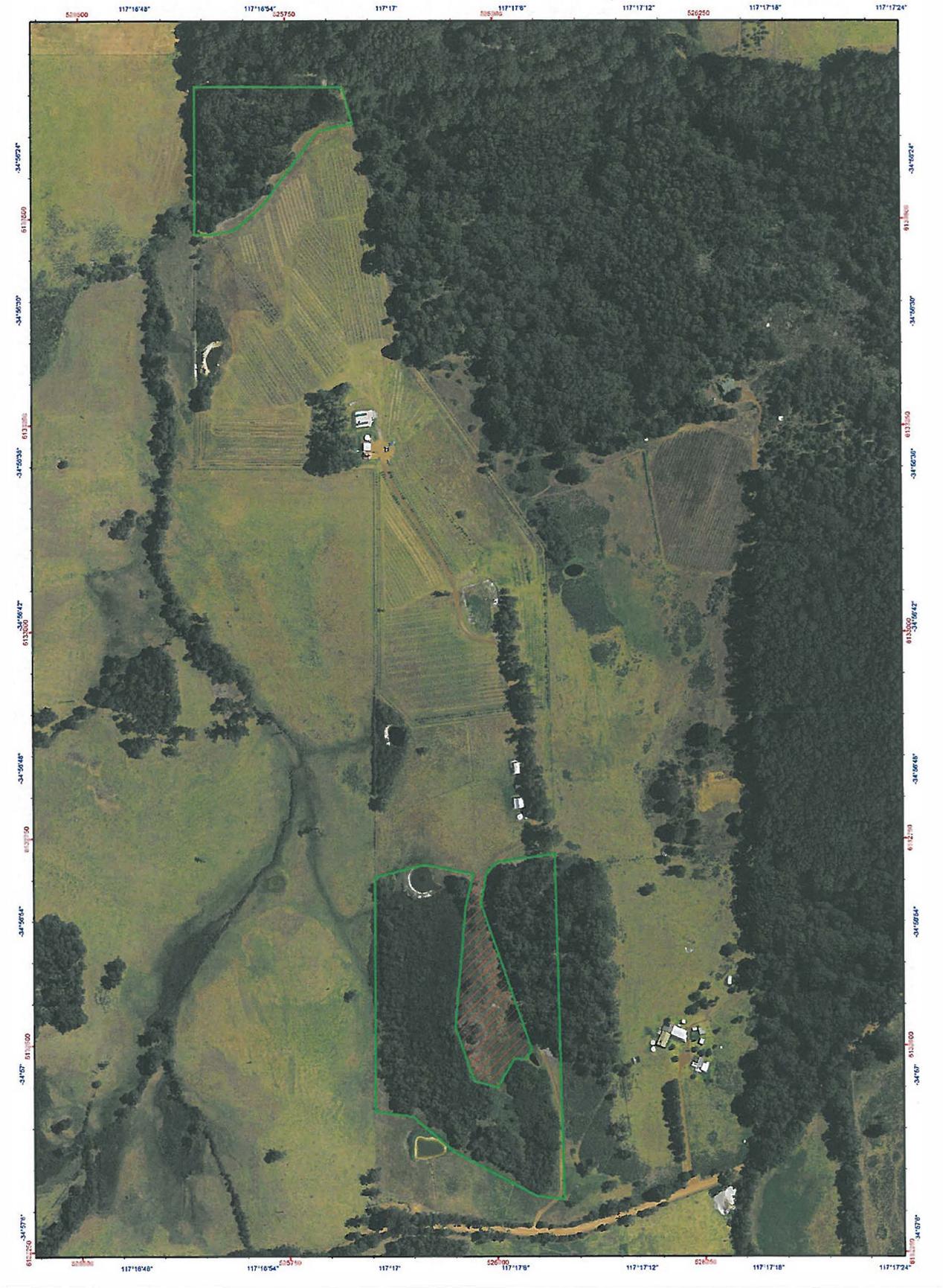
Yours sincerely,



Monica Hunter
Covenant Officer
for Mark Webb
DIRECTOR GENERAL

19 September 2017

cc. Landuse Planning Officer, Warren Region, DBCA



Melinda Lyons

From: Mark Jendrzejczak
Sent: Thursday, 31 October 2019 2:28 PM
To: Mark Jendrzejczak
Subject: FW: I have spoken with Mark from Dept Planning - 218 Glenrowan Rd

File note – discussed Mr Douglass’ email with Lei today by phone. I indicated to Lei that:

- DPLH had previously discussed the issues at length with Mr Douglass and while he is correct that the issue of revegetation is a key issue, it is a rural planning policy interpretation issue and support by DBCA for covenanting (whether revegetation is proposed or the area is already vegetated) does not automatically mean the WAPC supports a proposal.
- There are also other policy issues with this proposal and while some of them may fall away depending on WAPC’s position (to be established via reporting to SPC), others are not necessarily insurmountable (e.g. bushfire policy matters still require resolution; proposed house site on the conservation lot has significant constraints). The intention of reporting to SPC is to gauge whether the WAPC supports the proposal for a conservation lot on this land in principle (in relation to lot size, revegetation, veg area etc.) because if it does, Mr Douglass can potentially move on to addressing those other issues. If it does not, it is not considered right or proper to request this further work be done at the applicant’s time and cost if it would not change the decision.

Lei also confirmed that:

- the DBCA covenant program is restrictive in action so there is no way for any revegetation to be enforced other than naturally (e.g. can’t specify replanting, can only specify conditions that prevent any clearing)
- no certainty could be given that completion of any natural revegetation to the necessary standards would occur within the 3 year timeframe of any approval.

Lei indicated he would reply to Mr Douglass’ email advising that DBCA has no further comments to make and Mr Douglass should liaise with DPLH to discuss further.

Mark Jendrzejczak | Senior Planning Officer | Land Use Planning
 178 Stirling Terrace, Albany WA 6330
 9892 7306 |
www.dplh.wa.gov.au



**Department of Planning,
 Lands and Heritage**



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From: Lei Zhang [mailto:lei.zhang@dbca.wa.gov.au]
Sent: Thursday, 31 October 2019 1:21 PM
To: Mark Jendrzejczak <Mark.Jendrzejczak@dplh.wa.gov.au>
Subject: FW: I have spoken with Mark from Dept Planning - 218 Glenrowan Rd

From: Stuart Douglass <stuart.douglass01@gmail.com>
Sent: Monday, 28 October 2019 3:20 PM
To: Lei Zhang <lei.zhang@dbca.wa.gov.au>
Cc: Monica Hunter <monica.hunter@dbca.wa.gov.au>
Subject: Re: I have spoken with Mark from Dept Planning - 218 Glenrowan Rd

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.

Lei,

I left a message on your cell number. I am currently working in New Zealand so difficult to catch up with time difference etc.

As you may recall our planning application based on a covenant is continuing to present challenges.

The department of planning in Albany does appear to be changing their story depending on the stakeholder involved, hence Monica's email to me a few weeks ago advising that issues around the covenant were not of primary concern.

In fact this information specifically contradicts an on site meeting that was had with the department of planning.

A list of objections were detailed and prioritised during this meeting.

It appears that the previous "in perpetuity" objection to the covenant has been dropped by the department of planning.

The primary and over-arching objection detailed in that meeting was the enforcement of a condition in the covenant for "revegetation." The department of planning felt that the re-vegetation could not be completed in the time frame of the execution of a sub-division, and that the "re-vegetation" condition of covenant was the major sticking point.... A no go for them.

There were additional objections detailed, none of which were felt to be insurmountable... but it was agreed that without some kind of clarification around the re-vegetation issue that there was little point in moving on to negotiate and explore the other issues.

This was the reason for me contacting your department last month... I have never seen the covenant conditions or offer, and therefore have no idea of the wording or content? This was all handled by a third party. (Sam Williams).

It may simply be that an acceptable rewording of the conditions of covenant, combined with a (personal by me) statutory declaration of specific compliance will satisfy the primary concern, and allow us to move on to the other issues.

I have no idea why the department of planning seemed to lead Monica to the conclusion that the other issues were critical? As far as my other meetings are concerned these are all negotiable...

I trust this clarifies the situation... Hopefully you can shed some light on this matter? A copy of the covenant or specific correspondence that I am not party to may help me understand where the problems lie.

Many thanks for your consideration.

Best Regards

Stuart Douglass.

On Thu, Oct 17, 2019 at 3:11 PM Monica Hunter <monica.hunter@dbca.wa.gov.au> wrote:

Hi Stuart

I tried to call you but it rang out. I have spoken with Mark from the Dept of Planning and can confirm that there is nothing further from the Covenant Program that can contribute to the decision or that can sway the decision. The majority of the factors which have high weighting in the decision are related to the Shire and other planning factors which are out of our control and unrelated to conservation covenants. It is probably in your best interest that the decision goes to the Statutory Planning Committee as the report from the Committee will discuss each factor in detail.

Lei is back next week and would be able to give you further background on the covenant role over the last years' worth of correspondence however, if any of your queries are related to the planning side of things then Mark at the Dept of Planning is happy to discuss further with you.

I am sincerely sorry that there is nothing I can do further for you.

Kind regards

Monica Hunter | Covenant Officer | Species & Communities Branch | **Part-time: Mondays and Thursdays**

Department of Biodiversity, Conservation and Attractions | Kensington | Ph. 9219 9517 |
monica.hunter@dbca.wa.gov.au



Department of Biodiversity,
Conservation and Attractions



*We're working for
Western Australia.*

From: Monica Hunter
Sent: Thursday, 17 October 2019 8:58 AM
To: 'Stuart Douglass' <stuart.douglass01@gmail.com>
Subject: RE: Proposed covenant at 218 Glenrowan Road

Thanks Stuart. He called for me yesterday but I don't work Wednesdays but he told my work colleague he would call back today.

Kind regards

Monica Hunter | Covenant Officer | Species & Communities Branch | **Part-time: Mondays and Thursdays**

Department of Biodiversity, Conservation and Attractions | Kensington | Ph. 9219 9517 |
monica.hunter@dbca.wa.gov.au



Department of Biodiversity,
Conservation and Attractions



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Western Australia.*

From: Stuart Douglass <stuart.douglass01@gmail.com>
Sent: Tuesday, 15 October 2019 5:43 PM
To: Monica Hunter <monica.hunter@dbca.wa.gov.au>
Subject: Re: Proposed covenant at 218 Glenrowan Road

[External Email] This email was sent from outside the department – be cautious, particularly with links and attachments.

Monica,

I think that Mark from Albany Department of Planning will be calling or emailing you with details.

If you don't hear anything from him in the next day or so then please let me know.

Thanks.

Stuart

On Mon, 14 Oct 2019, 11:08 Stuart Douglass, <stuart.douglass01@gmail.com> wrote:

| | | | |
|--|---|--------------------|---------------|
| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2019 | File number | DP/10/01648/1 |
| Subject | Operational Policy 1.1: Subdivision of Land - General Principles – Final Approval | | |
| Purpose | Requires WAPC decision | | |
| Title of Approving Officer | Chief Planning Advisor | | |
| Agenda Part for Reports (All parts are confidential unless otherwise stated) SPC - Non-Confidential (To be published to the website) | | | |
| SUMMARY | | | |
| <p>Updated Operational Policy 1.1 Subdivision of Land - General Principles improves the general principles that apply to the subdivision of land (Attachment 1). The operational policy is presented to the Statutory Planning Committee for final approval. In addition, approval is sought to make the administrative amendment to rename all existing ‘Development Control Policies’ to ‘Operational Policies’ in accord with the State Planning Framework SPP1 November 2017 (as endorsed by the WAPC on 24 May 2017).</p> | | | |
| DETAILS OF PROPOSAL | | | |
| <p><u>Operational Policies</u> The renaming of all ‘Development Control Policies’ to ‘Operational Policies’ is an administrative change to remove inconsistency within the policy framework and to provide clarity as to the status of these policies. The WAPC report stated: <i>“The key changes to be made to SPP1 ... with a view to simplifying the categories of instruments referenced: reverting to “Operational Policies” rather than “Development Control and Operational Policies” ... it is proposed that the DC policies be renamed as Operational Policies when advertised for public consultation or otherwise once SPP1 has been gazetted;”</i></p> <p>It is considered appropriate to make this administrative change now, so as to not create confusion by having some policies named ‘development control policies’, when the new or updates policies are called ‘operational policies’.</p> <p><u>Operational Policy 1.1 Subdivision of Land - General Principles</u> Operational Policy 1.1 includes a updates of to current legislative names, revised wording to improve readability and further clarification of policy provisions. Key changes following public advertising are to:</p> <ul style="list-style-type: none"> • introduce heritage considerations for the subdivision of land that contain heritage listed buildings; • include reference to <i>The Institute of Public Works Engineering Australia (IPWEA) Local Government Guidelines for Subdivisional Development October 2017(edition 2.3)</i>; • introduce proposed lots of less than 260m² and /or irregular configuration may need to demonstrate suitability through building plans for a residential dwelling; • protection of large trees, where practicable, in development sites; • design site responsive subdivisions that protect environmentally sensitive areas such as foreshores and flood prone land; • support the maintenance and enhancement of the urban tree canopy; • ensure that each strata lot (or survey strata lot) is to be provided with its own suitable utility service connection which is protected by easements, where necessary. This is to ensure that each lot is development ready and does not result in the need to extend services over adjacent strata lots after titles have been issued and | | | |

- Removal of reference to leases which are determined by the WAPC under the *Planning and Development Act 2005*.

It should be noted that the lease information is not in the current (2004) DC1.1 policy, but was added in 2017 for advertising. In the context of planning reform, which is seeking to have line of sight for information in the planning system to be more transparent, it is considered more appropriate for lease information to be dealt with as a separate document, rather than have it located in a subdivision policy. DPLH officers are currently reviewing this information, and it is likely to be compiled into a fact sheet.

In consideration of public submissions and subsequent amendments, Operational Policy 1.1 Subdivision of Land - General Principles is now recommended for final approval.

BACKGROUND

The DPLH is progressively undertaking a review of Development Control Policies and Planning Bulletins. DCP 1.1 (June 2004) was updated and approved for advertising by the Statutory Planning Committee on 27 September 2016.

The WAPC endorsed on 24 May 2017 to amend the SPP1 planning framework which included 'Development Control Policies' being changed to 'Operational Policies'.

Draft DCP 1.1 was advertised for public comment on the Planning WA website for 60 days closing on 23 March 2018. The submissions table records 67 comments from 12 submissions (Attachment 2).

The submissions were received from local government, State agencies and private sector organisations. The submission table shows comments that are indicative of the importance of the policy to inform the subdivision assessment and decision making within Western Australia and the majority of comments were suggestions that the submitters believed would improve the understanding and application of the policy.

Five policies DCP1.1, DCP1.2, DCP1.7, DCP 2.5 and DCP 5.1 were advertised simultaneously. Any relevant general comments have been placed in the submission table of advertised DCP 1.1.

KEY ISSUES

| | | |
|--|--|------------------|
| Consistency with WAPC Policies & Planning Framework | SPP1 State Planning Framework | Fully consistent |
| Government Considerations | N/A | N/A |
| Budget | In-house (officer hours and incidentals) | |
| Consultation | 60 days public consultation (Submission table - Attachment 2). | |

RECOMMENDATION

That the Statutory Planning Committee resolves to:

- 1. Approve for publication Operational Policy 1.1: Subdivision of Land - General Principles as amended (Attachment 1);***
- 2. Note the Schedule of Submissions. Draft Development Control Policy 1.1: Subdivision of Land - General Principles (Attachment 2) and***
- 3. Approve the renaming of all 'Development Control Policies' to 'Operational Policies'.***

ATTACHMENTS

A1 - Operational Policy 1.1: Subdivision of Land - General Principles.1
A2 - Schedule of Submissions. Draft Development Control Policy 1.1: Subdivision of Land - General Principles.

Background notes

1. This policy sets out the general principles, which will be used by the Western Australian Planning Commission (WAPC) in determining applications for the subdivision of land. It also indicates the basic requirements for the creation of new lots and the procedures the WAPC will follow in processing subdivision applications.
2. The context to this policy is provided by *State Planning Policy 1 - State Planning Framework (SPP 1)*, the *State Planning Strategy* and the principles for sustainable land use and development contained in *Directions 2031 and Beyond, Perth and Peel @ 3.5 million* and the Sub-regional planning frameworks that guide the structure planning and subdivision for greenfield and large brownfield (urban infill) sites.
3. The policy is complemented by other policies which are concerned with the more detailed aspects of lot creation for particular land uses. The general principles should be read together with the relevant use-specific policy to give a comprehensive coverage of the WAPC's policy requirements for any land use.

1. Introduction

- 1.1 This policy is primarily concerned with those matters contained in Part 10, of the *Planning and Development Act 2005*, the *Planning and Development Regulations 2009*, *Strata Titles Act 1985 (as amended)*, and *Strata Titles (General) Regulations 2019* which deal with the subdivision of land alienated from the Crown. The policy sets out the general principles which will guide the WAPC in determining applications for subdivision.

For the purposes of this policy, subdivision includes the creation of a new lot or lots, the amalgamation of existing lots, and any other dealings in land which require the approval of the WAPC. This includes the creation of freehold, survey-strata, strata and leasehold lots.

- 1.2 In its determination of applications, the WAPC will seek to ensure that the broad objectives contained in section 2 of this policy are met. Applications that do not comply with the objectives will either not be approved or the WAPC may impose conditions, to an approval, to secure these objectives.

2. Policy objectives

- To control the subdivision of land, number, size and arrangement of lots, within the framework of the relevant legislation, regulations and policy.
- To ensure that the subdivision of land is consistent with *State Planning Policy No. 1 - State Planning Framework (SPP No. 1)*, *Perth and Peel@3.5million* and relevant WAPC policies and plans.
- To ensure that subdivision is consistent with the provisions of the local planning scheme.
- To ensure a comprehensive and co-ordinated approach to the subdivision of WAPC endorsed urban expansion areas in metropolitan Perth, regional centres and towns.

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Draft Operational Policy 1.1: Subdivision of Land-General Principles.

- To ensure the subdivision pattern is responsive to the characteristics of the site, including environmental features, sustainability principles and the local planning context.
- To create a site-responsive design through a street and lot layout that provides local amenity, safe and efficient modes of transport including cycling and walking.
- To promote a sense of place and conservation of a place of historic cultural heritage significance.
- To ensure that any subdivision of land with heritage listed buildings and grounds does not prejudice the heritage significance of the property.
- To ensure that the subdivision is consistent with orderly and proper planning and the character of the area.
- To facilitate development which achieves appropriate community standards of health, safety and amenity.
- To support the maintenance and enhancement of the urban tree canopy.
- To ensure constructed vehicle access from the gazetted public road system to each new lot.
- To create lots that are capable of lawful development and, at the same time, ensure that existing lots or the development upon them is not rendered illegal.
- To secure utility services to each new lot appropriate for the intended use of the lot.
- To make appropriate arrangements for development contributions, where necessary and relevant, for the orderly and proper planning of the locality containing the subdivision.
- To make appropriate arrangements, where necessary for planning purposes, for the ceding or transfer of land.

3. Policy measures

3.1 Consistency with long-term planning goals

SPP 1 sets out the general principles for planning and brings together the WAPC's State Planning Policies, regional and sub-regional strategies, operational policies, position statements and guidelines into a single policy framework. SPP 1 together with any applicable region scheme and the relevant local planning scheme, including any local planning strategy (pursuant to the Model Provisions as set out in the *Planning and Development [Local Planning Scheme] Regulations 2015*), provide the planning policy direction which guides the WAPC in determining subdivision applications.

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3.2 Context and site analysis

3.2.1 Subdivision applications should be submitted with sufficient detail and information as is necessary to enable the WAPC to decide on the application. The *Planning and Development Regulations 2009* specify the requirements for making an application for subdivision approval to the WAPC as well as the matters the WAPC must have regard to in considering an application for subdivision approval. The relevant matters include but are not limited to:

- (a) the size, shape and dimensions of each lot;
- (b) the services available to each lot;
- (c) drainage of the land;
- (d) access to each lot;
- (e) the amount of public open space to be provided;
- (f) any relevant planning scheme;
- (g) any relevant regulations and
- (h) any relevant local laws relating to town planning.

An application for subdivision approval is made by lodging a Form 1A application with the WAPC for approval of freehold, survey-strata or leasehold (survey-strata) subdivision. An application for strata or leasehold (strata) subdivision is to be made on a Form 15A.

3.2.2 Both Forms set out the information required to accompany a subdivision application. Upon assessment of an application, further information may be required to be provided to address site specific features of a proposal.

3.2.3 The purpose of a context analysis is to ensure that new subdivision and development is connected to and integrated with surrounding natural and developed areas, including planned and committed development for adjacent sites. The context analysis also identifies key opportunities and constraints presented by the site.

3.2.4 The WAPC will require sufficiently detailed assessment of the site and its immediate surrounds, in accordance with the relevant policies of the WAPC, demonstrating:

- a sustainable and environmentally responsive site design, including response to environmental values onsite and on adjoining land;
- the creation of a sense of place and identity based upon natural and cultural assets and
- compatible integration of interfaces between the development site and neighbouring land use and development.

3.2.5 For larger scale subdivisions, for example, major urban expansion areas or new industrial subdivisions, a more detailed context and site analysis may be necessary.

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3.3 Site responsive design

All subdivisions should be designed so they:

- 3.3.1 are consistent with the capability of the land and recognise the environmental and visual characteristics of the surrounding area.
- 3.3.2 are climate-responsive where topography and other site conditions allow. Avoidance of major earthworks is also supported as it reduces the demand for basic raw materials and the loss of remnant vegetation. Protection of large remnant trees, where practicable, is encouraged, both on development sites, as well as in road reserves and open space areas.
- 3.3.3 respond to the physical characteristics of an area including topography, soils, drainage, vegetation, natural features and visual characteristics of the site. Lot layouts also need to address site constraints and optimise orientation to suit energy efficient housing where possible.
- 3.3.4 protect areas of remnant bushland, significant mature trees and other environmentally sensitive areas including foreshores and flood prone land.
- 3.3.5 having regard for the existing and proposed distribution of public open space in the immediate locality. Residential lots should be located convenient to areas of public open space and all lots should be served by a suitable level of community services, schools, retail facilities and the like.
- 3.3.6 consider the quantity of imported fill in low lying areas and consider alternative earthwork and drainage strategies that minimise use of imported fill.

3.4 Structure plans

- 3.4.1 Structure planning is a process of developing a framework for the integrated subdivision and development of a major residential, commercial or industrial area or an activity centre. Structure plans are particularly useful to coordinate subdivision and development in areas of fragmented ownership, including with respect to staging and sequencing aspects. Structure plans should be supported by appropriate technical documents addressing specific site characteristics and state planning policies.
- 3.4.2 Preparation of a structure plan may be required under the provisions of a local planning scheme.
- 3.4.3 Where a structure plan is a requirement of a local planning scheme, it must be prepared in accordance with the scheme provisions and have regard to the provisions of any regional or sub-regional strategy. The *Planning and Development (Local Planning Schemes) Regulations 2015* contain deemed provisions for the preparation and consideration of structure plans under local planning schemes. A structure plan is determined by the WAPC.
- 3.4.4 Structure plan may also be accompanied by cost-sharing arrangements between landowners for the provision of common infrastructure. *State Planning Policy 3.6 Development Contributions for Infrastructure (SPP 3.6)* provides guidance on the scope of development contributions that may be acceptable. Model provisions for development contributions in local planning schemes have also been adopted.

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- 3.4.5 The WAPC will have regard to any adopted structure plan and development contribution arrangement when considering subdivision applications submitted within an area covered by the structure plan or development contribution arrangement.

3.5 Super lot subdivisions

- 3.5.1 There is a presumption against “super lot” subdivision of land holdings which are identified or zoned for future urban purposes and which are already of a size suitable for that purpose (generally less than 150 hectares) where this could prejudice the orderly and proper planning of the land.
- 3.5.2 However, where it can be demonstrated that a super lot subdivision of a large land holding will not be contrary to the orderly and proper planning of the land, a super lot subdivision may be supported subject to:
- (1) The land being zoned ‘Urban’, ‘Industrial’, ‘Central City Area’ or ‘Regional Centre’ in the *Metropolitan Region Scheme* or region planning scheme and appropriately zoned in the local planning scheme.
 - (2) The original land holding being given subdivision approval for at least the first stage of development and actual development having commenced.
 - (3) The preparation of a comprehensive local structure plan in liaison with the local government and to the satisfaction of the WAPC. The structure plan shall be accompanied by a report, which clearly indicates the development contributions, capabilities and obligations of each super lot.
 - (4) Development contributions, capabilities and obligations referred to in (3) being the subject of a record on title pursuant to section 70A of the *Transfer of Land Act 1993*, or a legal agreement with the WAPC and/ or any other relevant public authority which shall be binding on subsequent owners and supported by caveats lodged by the WAPC to ensure that prospective purchasers are aware of the commitments.
- 3.5.3 Depending on the degree of need to maintain flexibility in the planning of the original land holding, the WAPC may approve the excision of only one super lot to incorporate the first stage(s) of development. The subdivision of the whole of the land holding into super lots of 20 hectares or greater may be considered where arrangements regarding the provision of infrastructure have been established in accordance with SPP 3.6.
- 3.5.4 Where development contributions can be conveniently made at the time of a super lot subdivision, the WAPC will require that these be ceded as conditions of subdivision, to be either transferred to the Crown at that time, or to be the subject of a separate legal agreement which ensures the transfer of a site at some future nominated time.

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3.6 Development contributions

3.6.1 The WAPC may impose conditions requiring development contributions (including the ceding of land) for the provision of infrastructure and services which are necessary and relevant to the subdivision.

These contributions may be in the form of:

- ceding of land for roads, public open space, primary school sites, drainage and other public works;
- construction of infrastructure works which are transferred to public authorities on completion;
- monetary contributions to acquire land or undertake works by public authorities or others and
- rehabilitation of environmentally degraded lands.

The scope and arrangements for development contributions that can be required as a condition of subdivision are set out in WAPC SPP 3.6.

3.7 Lawful development

3.7.1 Local planning schemes usually incorporate standards governing the development of lots, most commonly through minimum lot size for different land uses. Also, relevant, are minimum frontage requirements, the need to meet setback requirements, compliance with open space provisions etc. In areas not subject to an operational scheme, similar requirements may be contained in local laws made under the *Local Government Act 1995*. For residential development, *State Planning Policy 7.3 Residential Design Codes – V1* provide guidance on the minimum and average lot sizes which the WAPC will have regard to.

3.7.2 Lots which cannot be developed in accordance with relevant statutory requirements will not be approved.

The WAPC will also ensure that, by creating a new lot, it does not render an existing lot or development upon that lot illegal in terms of statutory requirements. Such matters may include lot sizes, parking, setbacks or the provision of services.

3.7.3 Residential lots of less than 260m² in size and/or irregular configuration may need to demonstrate whether the site can accommodate a dwelling, through a development application and/or building plans being lodged with the local government. The WAPC may, where appropriate, impose conditions of approval relating to obtaining and implementing development approvals required to integrate subdivision and development.

3.7.4 WAPC approval of a subdivision application includes the works necessary to carry out the subdivision, but it does not include approval for subsequent development on the subdivided lots.

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3.8 Leasehold Strata

3.8.1 Under the *Strata Titles Act 1985* (as amended) * subdivision may be undertaken as a leasehold scheme specified for a fixed term, which may include the opportunity to postpone the expiry of the leasehold through the by-laws. This can either be leasehold (survey-strata) or leasehold (strata). Leasehold schemes are for a fixed term of 20 to 99 years (inclusive of any postponement).

In considering a leasehold application or an amendment to the leasehold by-laws to postpone the leasehold term, the WAPC shall consider:

- The proponents request and rationale;
- Consistency with the relevant state planning framework for the area;
- The orderly and proper planning of the area.

3.9 Utility services provision

3.9.1 The WAPC requires that each new lot is provided with an acceptable level of utility services appropriate for its intended use, provided by either a public, or a licensed private, service provider. The level and standard of such services will be determined by the WAPC, in the context of the intended use, the size of the lot, soil conditions, the provisions of the local planning scheme and the *Government Sewerage Policy 2019*, together with the provisions of any other published policy that may be relevant.

It is the Commission's expectation that each strata lot or survey strata lot is to be provided with its own suitable utility service connection which is protected by easements, where necessary. This is to ensure that each lot is development ready and does not result in the need to extend services over adjacent strata lots after titles have been issued.

3.9.2 Subdivision may be proposed for land across which there is an existing public utility easement or infrastructure (such as high voltage electricity transmission and distribution lines, natural gas pipelines, gas distribution systems, major water, sewerage mains and drainage). In such instances the subdivider should negotiate with the service provider concerned before lodging an application with the WAPC and, if possible, reach agreement on the:

- management of relevant risk issues;
- surrender of the existing easements, if appropriate and
- way in which the infrastructure will be protected and/or relocated upon subdivision.

A letter from the agency confirming the arrangements should be supplied with the subdivision application. The WAPC will normally impose a condition requiring certification from the servicing agency concerned that both the surrender of existing easements and protection of the infrastructure will be undertaken to the specifications of the agency. This condition will normally be imposed unless the WAPC is satisfied that the requirement of the servicing agency is unreasonable.

*Footnote: All schemes created before the commencement of the *Strata Titles Amendment Act 2018* are freehold schemes.

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Draft Operational Policy 1.1: Subdivision of Land-General Principles.

3.10 Vehicular access

- 3.10.1 New lots will be created only where each lot has, or can be, provided with direct frontage access to a constructed public road, which is connected to the road system of the locality, this may include through common property, as appropriate. This is to ensure the provision of public utility and other services as well as to provide vehicular and pedestrian access to the lot. Subdivision and subsequent development should not compromise the safety and function of existing or proposed regional roads.
- 3.10.2 Where new roads are needed, the subdivider will be required to dedicate, construct and drain these roads to the satisfaction of the WAPC on the advice of the local government and/or Main Roads. The WAPC may also require existing roads or rights of way to be widened, constructed, upgraded or dedicated to ensuring compliance with this policy.

3.11 Capability for development

- 3.11.1 All new lots should be physically capable of development for their intended purpose.
- 3.11.2 To ensure that all new lots are physically capable of development, the WAPC may require various works/actions to be undertaken including the land being filled and drained, connection to an external system of drainage or construction of a driveway and/or access road, before a lot title is created. In some instances, the provision of a geotechnical and/or hydrological report may be required to evaluate the physical suitability of land to sustain an activity. *The Institute of Public Works Engineering Australasia (IPWEA) Local Government Guidelines for Sub Divisional Development October 2017 (edition 2.3)* provides relevant standards. The WAPC obtains advice of the local government and relevant referral authorities, in respect to the development capability of the land.

3.12 Other policy requirements

- 3.12.1 The WAPC's SPP 1 includes other policies dealing with the subdivision of land into lots for specific land uses. The policies contain the requirements of the WAPC and should be read in conjunction with this policy.

4. Implementation of policy

4.1 Procedures

- 4.1.1 Applications to the WAPC, for the subdivision of land should be made on the appropriate Form and include such information as is required, having regard to the scale and context of the proposal.
- As required by the relevant legislation, the WAPC will forward a copy of each subdivision application to any government agency, local government, utility service provider or public body whose powers or functions may be affected for comments and recommendations. The responses will be considered by the WAPC in determining an application and may form conditions of approval.

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Draft Operational Policy 1.1: Subdivision of Land-General Principles.

4.2 Reviews

4.2.1 Should the applicant seek a WAPC decision reviewed there are two avenues available:

- request the WAPC to reconsider the refusal or condition/s of approval, in accordance with s144 or s151 of the *Planning and Development Act 2005* or
- lodge an application to the State Administrative Tribunal, in accordance with s251 of the *Planning and Development Act 2005*.

4.3 Compliance with subdivision approvals

4.3.1 Following approval of a subdivision application, the applicant is to make arrangements in liaison with relevant government agencies, local government and utility service providers, to comply with any conditions imposed.

When the WAPC is satisfied that all conditions have been complied with, it will endorse the diagram of survey, prior to the issue of a certificate of title(s) by the Registrar of Titles.

ATTACHMENT 2 Schedule of Submissions. Draft Development Control Policy 1.1: Subdivision of Land-General Principles.

1. Satterley
2. Shire of Mundaring
3. City of Rockingham
4. Department of Jobs, Tourism, Science and Innovation.
5. City of Armadale
6. City of Stirling
7. City of Vincent
8. UDIA
9. Heritage Council
10. Main Roads
11. Department of Water and Environmental Regulation.
12. WALGA

| Comment number | Submission number | Submission | Comment |
|-------------------------|-------------------|---|--|
| Background notes | | | |
| 1 | 1 | 1. Delete reference to 'Variation No.3' | Upheld. |
| 2 | 7 | 1. Include an introductory sentence which expressly stipulates that 'All standard subdivision applications must be approved by the WAPC as per section 135 of the Planning and Development Act 2005.' | Dismissed. The opening paragraph of OP 1.1 already states <i>'This policy sets out the general principles, which will be used by the Western Australian Planning Commission (WAPC) in determining applications for subdivision of land.'</i> |
| 3 | 1,6,7 | 2. Delete 'draft Perth and Peel @ 3.5M suite of sub-regional planning frameworks.' because there is some confusion as to whether Directions 2031 and Beyond or the draft Perth and Peel@ 3.5M is the metropolitan strategy. | Dismissed. Both apply to the metropolitan area. Add Directions 2031 and Beyond to point 2. |

| Comment number | Submission number | Submission | Comment |
|-----------------------|-------------------|--|--|
| 4 | 6 | 2 & 3. Reference to Perth and Peel @3.5 Million and Liveable Neighbourhoods (2009 are supported as it provides a nexus between DC Policy 1.1 and the overarching State planning framework. | Noted. |
| 5 | 7 | 3. It should explicitly include key types of policy, particularly state planning policies and development control policies. | Dismissed. The policy identifies <i>Liveable Neighbourhoods</i> which is a key policy. Listing all possible State Planning Policies and Development Control Policies is not supported as they can be easily accessed dependent upon the issues related to the subdivision. |
| 1.Introduction | | | |
| 6 | 1 | Prefers the old format rather than the new document format. | Noted. |
| 7 | 2 | (a) Need to address trade-off between irregular shaped lots and environmentally responsive design. (b) Need procedures for clearance of conditions. | (a)Upheld. Policy text to addresses irregular shaped lots in section 3.7.3. (b)Dismissed. DPLH operational procedures not suitable to include in policy. |
| 8 | 4 | 'The Department has reviewed the below development control policies and does not have any comment to provide.' | Noted. |
| 9 | 6 | The City is supportive of updates to these Development Control policies. | Noted. |

| Comment number | Submission number | Submission | Comment |
|----------------|-------------------|---|--|
| 10 | 6 | The City is supportive of modifications which align the Development Control Policies with overarching planning instruments e.g. State Planning Strategy 2050, Perth and Peel@ 3.5million, Liveable Neighbourhoods etc. | Noted. |
| 11 | 8 | UDIA notes that the draft Development Control Polices (DCP) 1.1 is generally consistent with the current versions of the policy and therefore the Institute offers limited comment. | Noted. |
| 12 | 12 | (a)Reference to 'town planning scheme' should be changed to 'local planning scheme'. (b) Include appropriate references to the <i>IPWEA Local Government Guidelines for Subdivisional Development</i> . | (a) Upheld. Update text. (b) Upheld. IPWEA guidelines inserted into section 3.11.2 of the Policy |
| 13 | 6 | Supports inclusion of 'vacant strata' subdivision. | Noted. |
| 14 | 6 | Recommends that the term 'built strata' be defined. | Dismissed. A <i>built strata</i> is not the correct term. It is a <i>strata scheme</i> and is already defined under the <i>Strata Titles Amendment Act 2018</i> . |
| 15 | 7 | 1.2 The policy should include the sentence: ' <i>The conditions of development approval will be determined in conjunction with recommendations from the relevant local government and other relevant authorities</i> '. | Dismissed. Section 142 and 143 of the <i>Planning and Development Act 2005</i> requires the WAPC to refer the subdivision proposal to local government, a public authority or utility services provider and to consider their recommendations. |

| Comment number | Submission number | Submission | Comment |
|-----------------------------|-------------------|---|---|
| 16 | 2 | 1.2. Proposes more detail regarding conditions in respect of validity, model conditions and variations to model conditions. | Dismissed. WAPC has model conditions that are self-explanatory. Variations to the conditions would be based upon the merits of a proposal. |
| 2. Policy objectives | | | |
| 17 | 3 | Amend first objective to include 'policy'. | Upheld. Objective 1 be amended to read: <i><u>'To control the subdivision of land, number, size and arrangement of lots within the framework of the relevant legislation, regulations and policy.'</u></i> |
| 18 | 3 | Amend the third objective to read: <i>'To ensure that all lots created have regard and are not in conflict with the zoning and provisions of the relevant local government planning scheme'.</i> | Upheld in part and objective 3 to read: <i><u>'To ensure that subdivision is consistent with the provisions of the local planning scheme.'</u></i> |
| 19 | 3 | Suggests referencing Section 138 (2) Planning and Development Act 2005 (The Act) legislation in policy objectives so decisions not conflicting with local planning scheme. | Dismissed. Objectives should support the implementation of the Act however they do not have to reference specific clauses to do this. The wording of the objective reflects the intent of section 138 (2). |
| 20 | 6,7 | Sixth objective: Consideration be given to expanding the meaning of terms including 'site-responsive design', 'local amenity' and 'sense of place', which are subject to interpretation. | Dismissed. 'Site responsive design' is expanded upon in section 3.3.'Local amenity' and 'sense of place' are well used terms reflecting quality urban environments. |

| Comment number | Submission number | Submission | Comment |
|--------------------------------------|-------------------|--|--|
| 21 | 7,9 | <p>Include the following:</p> <ul style="list-style-type: none"> • <i>'To protect buildings that have significant heritage value recognised at local and/or state level.'</i> and • <i>'To protect environmental features from unnecessary degradation because of subdivision and/or development'</i> and • <i>'design that reflects any pre-existing heritage built form characteristics.'</i> | <p>Upheld.</p> <p>Add in section 2: A new objective 8 <u><i>'To ensure that any subdivision of land with heritage listed buildings and grounds does not prejudice the heritage significance of the property.'</i></u> and Inserting in objective 5 <u><i>'...characteristics of the site, including environmental features...'</i></u></p> |
| 22 | 7,9 | Use clear and consistent terms in line with State Planning Policy 3.5 Historic Heritage Conservation. | Upheld. Add text to section 2, objective 7 <u><i>'sense of place and conservation of a place of historic cultural heritage significance.'</i></u> |
| 3.2 Context and site analysis | | | |
| 23 | 2,3 | <p>3.2.1. Proposes referencing:</p> <ul style="list-style-type: none"> • Bush fire management plans • Environmental Technical Reports • Urban Water Management Plan • Bushfire Management Plan; and Traffic Impact Assessment with subdivision applications. | Dismissed. Subdivision application Form 1A identifies various reports that may be submitted to support an application. |
| 24 | 6 | 3.2.1. Support reference to legislation that specifies matters to be addressed by the proponent. | Noted. |
| 25 | 10 | 3.2.1. (d) Access to each lot' should be expanded to 'access to the subdivision area, including | Dismissed. Section 3.2.1 is not an exhaustive list of all matters that need to be shown on a subdivisions |

| Comment number | Submission number | Submission | Comment |
|-----------------------------------|-------------------|--|--|
| | | emergency access/egress' (particularly as required by SPP 3.7). | application. Not all subdivisions involve the construction of roads or are in bushfire prone areas. This information will be required to be provided for the applications to which it is relevant. |
| 26 | 10 | 3.2.2. Opportunity to reference the TIA guidelines and impacts on wider network. | Dismissed. Section 3.2.2 and 3.2.3 refer to providing site context, and it is not the appropriate location to refer to Traffic Impact Assessment(TIA) guidelines. |
| 3.3 Site responsive design | | | |
| 27 | 2 | Suggests numbering paragraphs. Also, include reference to fauna and bushfire in the third paragraph. | Upheld numbering of paragraphs. Dismiss including fauna and bushfire as section 3.3.4 reference environmentally sensitive areas and bushfire is addressed in the Form 1A application form. |
| 28 | 3 | Give further explanation to <i>'site responsive design encouraging housing diversity'</i> and deleting matters covered in Liveable Neighbourhoods. | Dismiss. Following the finalisation of the Design WA suite, including Neighbourhood Design (Liveable Neighbourhoods) a comprehensive review of this operation policy will be required, and these issues can be addressed at this stage to remove any overlaps. |
| 29 | 5 | This section gives the impression that it applies solely to residential subdivision. | Upheld. Text added to specify all subdivisions required to be site responsive. |
| 30 | 5 | It might be appropriate to cross-reference Draft State Planning Policy 4.1-industrial interface when that SPP gets finalised. | Dismissed. The <i>Planning and Development Act 2005</i> requires decision makers to have due regard to State Planning Policies and they do not need to be specifically listed in the operational policy. |
| 31 | 6 | Section 3.3. be expanded to specify that the subdivision design should require the retention of | Upheld. Section 3.3 refers generally to the loss of vegetation. The retention of significant trees should be |

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| | | existing significant trees wherever it is reasonable to do so. | included in the policy. The following words added to second paragraph of section 3.3.2' <u>'Protection of large remnant trees, where practicable, is encouraged, both on development sites, as well as in road reserves and open space areas.'</u> |
| 32 | 7 | The following sentence ' <i>Lots should be located convenient to areas of passive and active open space and all lots should be served by a suitable level of community services, schools, retail facilities and the like</i> ' should be amended to ' <i>served by... 'retail facilities and the like specific to the context of the subdivision and/or development.'</i> | Dismissed. The existing paragraph describes the types of land uses more clearly. The proposed change is not required. |
| 33 | 10 | 3.3. Para1 Include reference to a secondary network. Provision of direct property access to lower order roads and streets rather than distributor roads. This facilitates safer and more efficient access and improved amenity for those lots. Reference DC 1.7 & 5.1. | Dismissed. These are valid considerations suited to inclusion in DCP 1.7 and DCP 5.1. |
| 34 | 12 | There needs to be a greater acknowledgement of the retention of existing trees on a site. | Upheld. 3.3.4 Text to read ' <u>protect areas of remnant bushland, significant mature trees and other environmentally sensitive areas including foreshores and flood prone land.</u> ' |
| 35 | 12 | (a) That the Department consider reviewing the information contained within Planning Bulletins 52/2009, 110/2013 and 71, considering the review of Development Control Policy 1.1; | (a)Noted. Planning Bulletin 52 and 110 relate to information about the approval process for strata titles. As part of the strata reform project, fact sheets are being |

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| | | <p>(b) Delete the first and last paragraphs of Section 3.3, as it does not provide any guidance in how to achieve 'Site responsive design';</p> <p>(c) Inclusion of additional words in the section 'Site responsive design' as follows: <i>'Lot size and subdivision layouts need to respond to the physical characteristics of an area including topography, soils, drainage, <u>existing</u> vegetation, <u>retention of trees</u>, and natural features and views.'</i></p> | <p>prepared to provide guidance on strata and leasehold schemes. This will cover some of the details currently provided in planning bulletin 52 and 110, potentially removing the need for the bulletins.</p> <p>(b)Dismissed. Paragraphs provide important considerations for subdivision design.</p> <p>(c)Dismissed. Additional underlined text 'existing' proposed is not supported and protection of trees is in section 3.3.4.</p> |
| 3.4 Structure plans | | | |
| 36 | 1 | Debatable as to whether a structure plan made under a local planning scheme is 'non-statutory'. | <p>Noted. Structure plans do not have the statutory force of a scheme, but they do form part of the statutory decision-making framework. The provisions in the advertised policy are referenced in the Local Planning Scheme regulations and therefore are not required to be included in the policy. Remove the following text from section 3.4 '<u>Such structure plans are non-statutory plans and a decision-maker for an application for development approval or subdivision approval in an area that is covered by the structure plan is to have due regard to, but is not bound by, the structure plan when determining the</u></p> |

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| | | | <u>application.</u> ' |
| 37 | 2 | Structure plans being substituted by Local Development Plans (LDP). Need to reference LDP's and when they are preferred for use. | Noted. The precinct design planning framework discussion paper Figure A2 clearly shows when to prepare a local development plan. |
| 38 | 6 | 3.4.1. Re-insert deleted text <i>"They have also been known as outline development plans and comprehensive development plans."</i> | Dismissed. Transition provisions to covered naming are outlined in section 76 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> '. |
| 39 | 1 | 3.4.4. Reference to 'draft revised version 'regarding SPP3.6 should be 'as amended'. | Dismissed. Text 3.4.4 has been amended and updated as <u>'State Planning Policy 3.6 Development Contributions for Infrastructure (SPP 3.6)'</u> |
| 3.5 Super lot subdivisions | | | |
| 40 | 2 | Requests a definition of 'super lot' in a glossary. | Dismissed. The text refers to super lots being 20 hectares or greater. |
| 41 | 3 | Super lot subdivision may create unconstructed regional road reserves due to uncertainties with road construction responsibilities. | Upheld in part. The responsibilities related to road construction are addressed in section 3.10.2. Text 3.10.2. to read' <i>Where new roads are needed, the subdivider will be required to dedicate, construct and drain these roads to the satisfaction of the WAPC on the advice of the local government and/or Main Roads. The WAPC may also require existing roads or rights of way to be widened, constructed, upgraded or dedicated to ensuring compliance with this policy.'</i> |

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| 42 | 3 | 3.5.2. (3) be amended to only support super lot subdivision where there is a structure plan identifying development contribution. | Dismissed. Section 3.5.2(3) currently states: ' <i>The preparation of a comprehensive local structure plan...</i> ' and ' <i>The structure plan shall be accompanied by a report, which clearly indicates the development contributions.....</i> ' |
| 3.6 Strata titles | | | |
| 43 | 2,6 | Include leasing of industrial land. | Dismissed. Lease of land under the <i>Planning and Development Act 2005</i> is not included in this policy and will be covered by a fact sheet that is currently being development. |
| 44 | 2 | 3.6.4. Suggest 2nd paragraph providing information regarding caravan parks be excluded as it is only information and not policy. | Upheld. Text removed from the policy. |
| 45 | 5 | 3.6.4. Please clarify in paragraph 2: are the leasing requirements of the RTA Act separate to the leasing requirements of the P & D Act. | Noted. This text has been removed from the policy as the <i>Residential Tenancies Act 1987</i> is not subdivision. The lease arrangements are independent. <i>The Planning and Development Act 2005</i> applies to lease or licence to use or occupy land where conditions of use whereas the <i>Residential Tenancies Act 1987</i> regulate the relationship of owners and tenants under residential tenancy agreements. |
| 3.7 Development contributions | | | |
| 46 | 7 | 3.7.1. Replace the word 'developer' with 'development' to reflect the wording in SPP 3.6. | Upheld. Replace ' <i>developer contributions</i> ' with ' <i>development contributions</i> ' in policy text. |
| 47 | 11 | (a) 3.7.1. Add the following underlined text to the first dot point: ceding of land for roads, public open space (<u>inclusive of fit for purpose water</u> | (a) Dismissed. This is a significant matter and relevant to the review and public advertising of Planning Bulletin 21 Cash in Lieu of Public Open Space and DCP 2.3 |

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| | | supply), primary school sites, drainage and other public works. (b) 3.7.1. Regarding ceding and developer contributions rehabilitating ceded lands should be included to carry weight for the rehabilitation of degraded foreshore areas, at time of subdivision. Add fourth dot point: rehabilitation of degraded ceded lands. | Public Open Space. (b) Dismissed. This is a significant matter which would require public advertising if introduced into the policy. At present there is no requirement under planning legislation or higher order State Planning Policies to require rehabilitation of land as part of a land transfer. |
| 3.8 lawful development | | | |
| 48 | 2 | 3.8.2. Suggests inclusion of text that states the WAPC may require a development application be lodged with local government to test firstly that the site can accommodate a dwelling prior to applying for subdivision approval | Upheld. Add new text.3.7.3 <u>Residential lots of less than 260m2 in size and/or irregular configuration may need to demonstrate whether the site can accommodate a dwelling, through a development application and/or building plans being lodged with the local government. The WAPC may, when appropriate, impose conditions of approval relating to obtaining and implementing development approvals required to integrate subdivision and development.</u> |
| 49 | 1 | 3.8.1. Substitute 'minima' for 'minimal'. | Dismissed. Text changed to minimum. |
| 50 | 2 | Suggests clarification of S157 of the Planning and Development Act 2005. | Upheld. Add new text.3.7.4 <u>WAPC approval of a subdivision application includes the works necessary to carry out the subdivision, but it does not include approval for subsequent development on the subdivided lots.</u> |
| 51 | 8 | 3.7.2. 'This section should also provide reference to the provision of the Residential Design Codes.' | Dismissed. The preceding paragraph 3.7.1 under the same heading of 'lawful development' makes reference to the Residential Design Codes-V1. |

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| 3.9 Utility services provision | | | |
| 52 | 6 | ‘Utility services provision’ it is recommended that the provisions are modified to include local government (drainage) infrastructure. The s stormwater drainage system runs through private land and is not protected by easements. Introduction of a provision which references such infrastructure will provide the WAPC with the enabling powers to compel land owners to make provision for such infrastructure so that it does not affect the development capability of the land once subdivided. | Dismissed. Stormwater drainage design is normally resolved between the landowner, Water Authority and local government |
| 53 | 5 | 3.9.1. in situations where a proposed lot cannot be serviced by certain infrastructure, such as reticulated water, it may be necessary for subdividers to inform potential landowners of their obligations to install an alternative service (i.e. Rainwater tank) prior to occupation of development. | Noted. The WAPC may allow subdivision without certain infrastructure by registering a memorial on title as the policy suite enables flexibility by the WAPC. |
| 3.10 Vehicular access | | | |
| 54 | 7 | 3.10.1. The City recommends adding a provision outlining when bonds are acceptable for driveways for group dwellings and an additional provision outlining an alternative construction method in the interim period while the development is underway. | Dismissed. Bonds or requiring driveway construction for group dwellings should be resolved by the local government based on the merits of the proposal when they are determining whether to clear the condition of subdivision approval. |

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| 55 | 10 | 3.10.1. Main Roads is also concerned about development approvals being granted on sites which necessitate further subdivision and access provision- despite Main Roads not supporting such proposals. Often the DA is preceding the subdivision and not providing for orderly and proper planning. | Noted. |
| 56 | 7 | 3.10.2. The City of Vincent has a Built Form Policy with specific clauses pertaining to rights-of-way. The WAPC should also act on the advice of local government with regards to rights-of-way, which should be mentioned in this clause. | Upheld. Section 3.10.2 to read ' <i>Where new roads are needed, the subdivider will be required to dedicate, construct and drain these roads to the satisfaction of the WAPC on the advice of the local government and/or Main Roads. The WAPC may also require existing roads or rights of way to be widened, constructed, upgraded or dedicated to ensuring compliance with this policy</i> '. |
| 57 | 10 | 3.10.2. Where new roads or upgrades are required to Main Roads assets, in principle agreement from Main Roads to the proposed works will be required prior to the subdivision approval. | Noted. Subdivision applications are referred to Main Roads for advice and comment which enables any issues to be addressed. |
| 3.11 Suitability and capability for development | | | |
| 58 | 3 | Recommends that the words 'Suitability and' be removed from heading of Section 3.11 to better reflect the content which is aligned to the capability of the site. | Dismissed. The terminology used in this section is 'suitability', 'capability' and 'ability' so, retaining suitability in the title is appropriate |
| 59 | 11 | 3.11. <i>Better Urban Water Management (WAPC 2008)</i> , should be applied where there is deemed to be sufficient risk. | Noted. Add text to 3.11.2 ' <i>The WAPC obtains advice of the local government and relevant referral authorities, in</i> |

| Comment number | Submission number | Submission | Comment |
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| | | <p>Add a fourth point: Ensure an appropriate level of consideration is given to the total water cycle in accordance with <i>Better Urban Water Management (WAPC 2008)</i> by requiring an Urban Water Management Plan, where the responsible authority deems there to be sufficient justification.</p> | <p><u>respect to the development capability of the land.'</u></p> |
| 60 | 7 | <p>Brief provision in addition to what is included here should be made to assist potential purchasers in understanding how they should proceed in researching the capability of land for development.</p> | <p>Dismissed. Subdivision process will ensure that new lots are suitable for development.</p> |
| 61 | 10 | <p>3.11.2. "Construction of a driveway" should be edited to include "construction of a driveway and access road".</p> | <p>Upheld. Include text 'to first paragraph of section 3.11.2. <u>'construction of a driveway and/or access road, before a lot title is created.'</u></p> |
| 62 | 10 | <p>3.11.4. Suggest new dot point like 3.11.3. along the lines "<i>The WAPC obtains advice of Main Roads in respect of matters interfacing with or impacting upon roads under the care, control and management of Main Roads. Main Roads will advise the WAPC as to the suitability and capability of access to and from the site. This advice is necessarily informed by a Transport Assessment and may limit the scale of development due to accessibility constraints due to the safety or performance impacts anticipated on adjacent roads.</i>"</p> | <p>Dismissed. Subdivision applications are referred to Main Roads for advice and comment which enables any issues to be addressed.</p> |

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| 4.Implementation of policy | | | |
| 63 | 2 | Include guidance on how operational policies are implemented. | Dismissed. Application of policy is provided for through the <i>Planning and Development Act 2005</i> and <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> . |
| 4.1 Procedures | | | |
| 64 | 9 | Recommended that section 4.1.1 is extended, to note that subdivision of land included in the Register of Heritage Places or a place subject to a heritage agreement will be referred to the Heritage Council of Western Australia for advice. | Dismissed. This is a procedural matter. DPLH refers subdivision proposals to the Heritage Council of WA where a lot subject of a subdivision application includes a State Heritage listed property. |
| Miscellaneous | | | |
| 65 | 3 | Recommends that the policy state, that in the event there is a dispute over compliance with a condition of subdivision approval, the WAPC will determine the matter. | Dismissed. Section 143 (1) (c) of the <i>Planning and Development Act 2005</i> states the WAPC is responsible for clearance of conditions of subdivisions. This is a procedural matter not a policy issue. |
| 66 | 7 | Local planning policies (where applicable in any form to subdivision and future development) should also be taken into account. | Dismissed. The role of local planning policy is to guide local government in its decision making under the provisions of their local planning scheme, not the WAPC in making subdivision determinations. |
| 67 | 10 | There is no mention of the hierarchy of approvals. For example, the need for a Structure Plan or Detailed Area Plan to inform the broader context of an area, or whether a subdivision of land, and associated conditions, then supersedes any prior development approvals. | Dismissed. The 'hierarchy' of approvals does not uniformly apply to all applications. Each proposal needs to be considered on its merits by the decision-making authority who can determine if other approvals are required prior to the one they are considering, being determined. |



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| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | TPS/2405 |
| Subject | City of Bayswater Town Planning Scheme No. 24 – Amendment No. 84 – For Final Approval | | |
| 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 land use permissibility for ‘telecommunications infrastructure’ is consistent with the objectives of <i>State Planning Policy 5.2 – Telecommunications Infrastructure</i>. | | | |

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| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 2020 | File number | TPS/2439/1 |
| Subject | City of Wanneroo District Planning Scheme No.2, Amendment No. 170 – for Final Approval | | |
| 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 proposed amendment is consistent with the objectives of the General Rural zone under the City of Wanneroo District Planning Scheme No. 2, particularly in respect of the rural character and amenity of the surrounding area; • whether the proposed amendment is consistent with the objectives of State Planning Policy 2.5 – Rural Planning; and • whether it is appropriate to restrict the period for which an additional use applies through a scheme provision. | | | |



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| REPORT TO | Statutory Planning Committee | | |
| Meeting date | 4 February 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.