



SHAPING THE FUTURE OF WESTERN AUSTRALIA



Statutory Planning Committee Agenda

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

Meeting No. 7687

Tuesday, 13 September, 2022, 9:30 am

Room 2.24, 140 William Street










This meeting is not open to members of the public

1. Declaration of opening
2. Apologies
3. Members on leave of absence and applications for leave of absence
4. Disclosure of interests
5. Declaration of due consideration
6. Minutes
 - 6.1. Confirmation of minutes - Meeting No. 7686 on Tuesday, 30 August 2022 7 - 36
7. Deputations and presentations
8. Statutory items for decision
 - 8.1. Proposed Local Development Plan - Lot 655 Helena Valley Road, Helena Valley (160322) 37 - 43
9. Confidential items
 - 9.1. City of Busselton - Local Planning Scheme No. 21, Amendment No. 40 (TPS/2717) 44 - 44
 - 9.2. Shire of Carnarvon - Local Planning Scheme No.13, Amendment No.1 - For Final Determination (TPS/2742) 45 - 45
 - 9.3. Planning Reform - draft Structure Plan Guidelines - SPC Report (PLH2020P0090)
10. Section 31 Items
11. Reports for noting
12. Stakeholder engagement and site visits
13. Urgent or other business
14. Items for consideration at a future meeting
15. Meeting closure

Information for SPC Members

Quorum: 5 of 10 members

Representation in accordance with the Planning and Development Act 2005

	Mr David CADDY WAPC Chairman <i>Schedule 2, clause 4(2)(a)</i>		Mr Len KOSOVA Local Government Representative <i>Schedule 2, clause 4(2)(f)</i>
	Mr Vaughan DAVIES Nominee of the Director General, Department of Planning, Lands and Heritage <i>Schedule 2, clause 4(2)(b)</i>		Mr Lino IACOMELLA WAPC Appointee <i>Schedule 2, clause 4(2)(g)</i>
	Ms Lynne CRAIGIE Nominee of the Minister for Regional Development <i>Section 10(1)(c)(viii)</i>		Ms Nina LYHNE WAPC Appointee <i>Schedule 2, clause 4(2)(g)</i>
	Ms Kym DAVIS Community Representative <i>Schedule 2, clause 4(2)(d)</i>		Mr Ross THORNTON WAPC Appointee <i>Schedule 2, clause 4(2)(g)</i>
	Ms Marion THOMPSON Professions Representative <i>Schedule 2 clause 4(2)(e)</i>		

Role of the Statutory Planning Committee:

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)(c)(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 2017/01) 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-
- (1) Part 5 and 8 of the Act and the Planning and Development (Local Planning Scheme) Regulations 2015 in relation to any Improvement Plan or Improvement Scheme; and
 - (2) Any gazetted Improvement Scheme;
- but excluding matters concerning –
- (i) applications for approval to developments of State or Regional Significance;
 - (ii) scheme amendments relating to zoning (including amendments to the zoning table);
 - (iii) the preparation of a new Improvement Plan or Scheme
- 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, Maitland, 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. 7686
Tuesday, 30 August, 2022

- Members:** David Caddy - Chairman WAPC
Lynne Craigie - 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
Ross Thornton - WAPC Appointee
- Apologies:** Vaughan Davies - Nominee of the Director General, Department of Planning, Lands and Heritage
- Others present:** Kathy Bonus - Chief Planning Advisor, Reform, Design and State Assessment
Justin Breeze - Planning Manager, Metro South and Peel
Mario Carbone - Senior Planning Officer, Metro North
Christine Collins - A/Planning Manager, Schemes and Amendments
Andrew Cook - Planning Manager, Metro North
Michael Daymond - Strategic Advisor WAPC
Sam Fagan - Manager Commission Business
Parwez Jahmeerbacus - Principal Planning and Engineering Officer, Strategy and Engagement
Michelle King - Senior Commission Support Officer
Nicole Lucas-Smith - Planning Director, Metro South and Peel
Delia Neglie - Planning Manager, Metro Central
Frank Ness - Senior Planning Officer, Metro North
Phillida Rodic - Planning Director Reform Projects, Reform, Design and State Assessment
Michelle Sanfilippo - Commission Support Team Leader
David Saunders - Assistant Director General, Land Use Planning
Mat Selby - Planning Director, Metro North
Jamie Townend - Senior Planning Officer, Metro Central

1. Declaration of opening

The Chairman declared the meeting open at 10:05am, acknowledged the peoples of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members. The

Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

2. Apologies

Nil.

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

Vaughan Davies - Nominee of the Director General

4. Disclosure of interests

Mr Kosova declared a Perceived Impartiality Interest on Item 8.12 - City of Nedlands - Local Planning Scheme No. 3, Amendment No. 12 - Consideration prior to advertising. Mr Kosova stated that his private consultancy, LK Advisory has been invited by the City of Nedlands to put a bid on an upcoming project, on which the City is yet to make a decision. Mr Kosova further stated that no financial relationship exists at present. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Mr Kosova's conduct in relation to the matter.

Mr Kosova declared a Perceived Impartiality Interest on Item 9.2 - Shire of Serpentine Jarrahdale - Town Planning Scheme No. 2, Amendment No. 208 – For Final Determination. Mr Kosova stated that his private consultancy, LK Advisory has previously represented several landowners within the proposed scheme amendment area, and that there is no current work ongoing. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Mr Kosova's conduct in relation to the matter.

Mr Kosova declared a Direct Pecuniary Interest on Item 9.3 - Shire of Serpentine Jarrahdale - Town Planning Scheme No. 2, Amendment No. 209 – For Final Determination. Mr Kosova stated that his private consultancy, LK Advisory has made a submission on behalf of a landowner within the scheme amendment area, and that submission (Submitter No. 15) is included in Attachment 5 of the agenda. Members agreed that Mr Kosova should not be present during the discussion and/or decision-making procedure on the item.

Mr Kosova declared a Direct Pecuniary Interest on Item 9.4 - Town of Mosman Park - Local Planning Scheme No. 3, Amendment No. 1 - For Final Determination. Mr Kosova stated that the Town of Mosman Park is a current client of his private consultancy, LK Advisory. Members agreed that Mr Kosova should not be present during the discussion and/or decision-making procedure on the item.

Mr Kosova declared a Perceived Impartiality Interest on Item 9.5 - City of Stirling - Local Planning Scheme No. 3, Amendment No. 115 - For Final Approval. Mr Kosova stated that his private consultancy, LK Advisory has recently completed a project of which the City of Stirling was a client for, and that there is no current work ongoing. Members agreed that Mr Kosova is permitted to be present during the discussion and/or decision-making procedure on the item as it is unlikely to influence Mr Kosova's conduct in relation to the matter.

5. Declaration of due consideration

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

5.1 Questions from members and responses from DPLH staff provided prior to the meeting

6. Minutes

6.1 Confirmation of minutes - Meeting No. 7685 on Tuesday, 16 August 2022

Moved by Mr Iacomella

Seconded by Ms Thompson

That the minutes of the Statutory Planning Committee meeting held on Tuesday, 16 August 2022, be confirmed as a true and correct record of proceedings.

The motion was put and carried

7. Deputations and presentations

7.1 Proposed Local Development Plan - Lot 6 Hale Road, Wattle Grove (Item 8.1)

Presenters: Mitch Bisby and Mark Szabo – Burgess Design Group

Mr Bisby and Mr Szabo presented to the Statutory Planning Committee to ask that the Committee support the proposed variations to open space as per the City's approach, stating that over 60% of lots have been sold and the variation is consistent and a reasonable compromise, and that a reduction in outdoor open space is not complementary to the setbacks.

7.2 Proposed Subdivision to create 56 residential lots - Lots 16 Harrow Street, 26 and 547 Malvern Street and 27 Blundell Street, Dayton (Item 8.7)

Presenters: Mitch Bisby and Mark Szabo – Burgess Design Group and Simon Munkton – GM Property Group and Malvern Star Pty Ltd

Mr Bisby, Mr Szabo and Mr Munkton presented to the Statutory Planning Committee to address the extent of unmanaged public utilities corridors and the impacts on amenity in Dayton. Mr Bisby requested that the Committee support the removal of Condition 24 and the modification of Condition 16 so that the gas pipeline can be retained in private ownership which would result in better maintenance outcomes and reduced bushfire risk, whilst offering a unique lifestyle option and reducing the burden the City of Swan's management of these corridors.

Members queried the pipeline easement dictating a narrow area on which to build a house, and whether any market discussion has occurred if it is appealing as a lot. Mr Bisby stated large sheds, trampolines and gardens can be located on the pipeline and that the response is positive to this. Members queried if Condition 24 impacts

the availability to produce 56 lots, Mr Bisby stated that the benefit is to improve the management, amenity and bushfire risk and that unkempt corridors impact surrounding lots if not in private ownership.

7.3 Draft North Ellenbrook (East) District Structure Plan (Item 8.5) - Combined Deputation

Presenters: Anthony Rowbottam - Lendlease, Daniel Martinovich - CLE Town Planning + Design and Megan Adair - Satterley Property Group

Ms Adair presented to the Statutory Planning Committee on behalf of Satterley Property Group in support of the modifications in general to the District Structure Plan, however stated that Satterley investigations have identified a possible wetland on the northern side and requested that this be investigated prior to finalisation. Ms Adair requested that a modification be included that the District Open Space (DOS) be amended having regard to environmental impacts prior to its finalisation.

Mr Martinovich presented to the Statutory Planning Committee in support of the recommendation, and stated that all modifications are accepted, without change to the DOS or high school site. Mr Martinovich discussed the suitability of the land for development in line with the Metropolitan Region Scheme and noted the extensive collaboration and engagement with the City of Swan, Department of Education and State Government to reach this stage of the draft District Structure Plan (DSP) which provides clear framework. Mr Martinovich stated the possible wetland is not mapped by any State Government agency and has not raised a response of comment from the Department of Biodiversity, Conservation and Attractions.

Members queried the relocation of the high school site, noting that the owners of Lots 104 and 106 were not aware. Mr Martinovich stated that the high school was workshopped extensively, and the location was moved based on advice from the Department of Education, based on input on traffic movement and flow and the broader school plan for the area. Mr Martinovich stated that the current location in the DSP serves as catchment for the east, including a planned bus route and delivery in the first stage.

Members queried whether an urban deferred process was necessary, Ms Adair responded that due to regional infrastructure to go into the area this was the best step to place a quantum of people and ratios which would all infrastructure providers the ability to begin planning, following the completion of the interchange.

7.4 Draft North Ellenbrook (West) District Structure Plan - For Final Consideration (Item 8.6)

Presenter: Jeremy Cordina – Parcel Property

Mr Cordina presented to the Statutory Planning Committee to acknowledge the collaboration with the Department of Planning, Lands and Heritage (DPLH), and the efficient thought-out process undertaken

as part of the DSP. Mr Cordina highlighted the whole government coordination and the group formed by the DPLH, Local and State Governments and landowners which was key to addressing issues, creating action lists which were clearly articulated to allow landowners to see and consult on those issues, enabling solutions to be brought forward and worked on through the group meetings. Mr Cordina acknowledged the State Government support for securing the Federal funding for the intersection, which was one of the key issues to be resolved as part of the DSP.

7.5 Draft North Ellenbrook (West) District Structure Plan - For Final Consideration (Item 8.6)

Presenter: Darren Evans - Satterley

Mr Evans presented to the Statutory Planning Committee to provide background on 166 and 169 Halden Road, Bullsbrook. Mr Evans stated that the northern portion of 166 is proposed Parks and Recreation without reasoning provided and the proposed integrator B road runs through the creek line on the lot and has an unnecessary curve design. Mr Evans stated that Halden Road is currently used as a track and has an existing creek crossing that should be retained. Mr Evans discussed how the land is degraded and has more development potential than has been allocated and requested that the Parks and Recreation zoning be deleted from 166, the integrator B road be realigned straight along the northern boundary and the open space be deleted from Halden Road.

Members discussed the colouring of Halden Road depicted in the DSP, and it was noted that the colouring is an indication only and might be spilling over not necessarily denoting the exact location of the road.

7.6 Castledare Local Structure Plan - Lot 4 Fern Road and Lots 100 and 102 Castledare Place, Wilson (Item 8.8)

Presenters: Patricia Tan and Sergio Famiano – City of Canning

Ms Tan and Mr Famiano presented to the Statutory Planning Committee on the Foreshore area, which the City of Canning understood to be under the management of the State Government in the interim and will only be handed over to the City after the implementation of the Foreshore Management Plan. Ms Tan stated that the foreshore requires remediation with the necessary upgrades carried out prior to handover to the City. Ms Tan stated that the City will not pay the cost of upgrades of the existing area or provision of infrastructure and the funding will be required to be provided for by the landowner and/or Western Australian Planning Commission. Ms Tan noted that the City of Canning will maintain the infrastructure post-handover.

7.7 Shire of Serpentine Jarrahdale - Town Planning Scheme No. 2, Amendment 208 (Item 9.2) and Amendment 209 (Item 9.3)

Mr Kosova declared an Actual Indirect Pecuniary Interest on this item and left the meeting at 10:55am.

Presenters: Andrew Trosic, Deon Van Der Linde and Sally Murphy – Shire of Serpentine Jarrahdale

Mr Trosic, Mr Van Der Linde and Ms Murphy presented to the Statutory Planning Committee on behalf of the Shire of Serpentine Jarrahdale, on Amendments No. 208 and 209. Mr Trosic stated that Amendment No. 208 is responsive to patterns and happenings in Byford, through close consultation with stakeholders. Mr Trosic discussed the need for refinements to ensure opportunities for urban development that will be able to be supported by necessary infrastructure. Mr Trosic stated that Amendment No. 209 responds to the strong growth experienced in Mundijong, enacts a Developer Contribution Plan for the Whitby Mundijong area and some investigation and adjustments are to be undertaken for west Mundijong to reflect feedback from developers and proponents regarding infrastructure.

Mr Kosova returned to the meeting at 11:00am.

7.8 Subdivision to create 71 Rural Residential Lots, Public Open Space and balance lots - Lots 245 & 248 Lakes Road, Nambeelup (Item 8.11)

Presenters: Justin Page and Ella Compton - Element, Henry Dykstra - Harley Dykstra and Jason Hick - Emerge

Mr Page, Mr Dykstra, Mr Hick and Ms Compton presented to the Statutory Planning Committee in support of the recommendation and conditions for the subdivision to create 71 rural residential lots. Mr Page acknowledged the collaboration with the DPLH and the Shire of Murray.

7.9 Town of Mosman Park – Local Planning Scheme No. 3, Amendment No. 1 – For Final Determination (Item 9.4)

Mr Kosova declared an Actual Indirect Pecuniary Interest on this item and left the meeting at 11:03am.

Presenter: Michaela Pilosof - Town of Mosman Park

Ms Pilosof presented to the Statutory Planning Committee on behalf of the Town of Mosman Park, to provide background on the Gill Street Café which has operated under development approval (DA) since February 2012 under the previous Town Plan Scheme No. 2 and is to change from a delicatessen to a café. Ms Pilosof stated that an additional use was granted for a restaurant/café to address the non-conforming use in February 2018 and duplicated the 2012 DA approval conditions. Ms Pilosof stated that the Scheme amendment seeks to remove the conditions attached to the additional use and seek flexibility through the development application process. Ms Pilosof noted that if a future DA were lodged by the café, it would be required to address concerns around traffic, noise and amenity. Ms Pilosof stated that the Scheme is not needed for the City to facilitate orderly and proper use of the café and that the City considers the DA an acceptable method to address any issues through management plans and assessment as part of the DA process.

Mr Kosova returned to the meeting at 11:07am.

7.10 City of Kalamunda - Local Planning Policy 33 - Tree Retention, Amendments to the Deemed-to-Comply Provisions of the Residential Design Codes Volume 1 (Item 8.4)

Written Deputation: Chris Lodge and Carli O'Brien - City of Kalamunda

Members noted the written submission on Item 8.4 - City of Kalamunda - Local Planning Policy 33 - Tree Retention, Amendments to the Deemed-to-Comply Provisions of the Residential Design Codes Volume 1.

7.11 Draft North Ellenbrook East District Structure Plan Lots 104 & 106 Sawpit Road, Bullsbrook (Item 8.5)

Written Deputation: Derek Clauson - Landowner

Members noted the written submission at Item 8.5 - Draft North Ellenbrook East District Structure Plan Lots 104 & 106 Sawpit Road, Bullsbrook.

7.12 Draft North Ellenbrook (East) District Structure Plan – For Final Consideration (Item 8.5) and Draft North Ellenbrook (West) District Structure Plan - For Final Consideration (Item 8.6)

Written Deputation: Ian Humphrey - City of Swan

Members noted the written submission on Item 8.5 - Draft North Ellenbrook (East) District Structure Plan – For Final Consideration and Item 8.6 - Draft North Ellenbrook (West) District Structure Plan - For Final Consideration.

7.13 Town of Mosman Park – Local Planning Scheme No. 3, Amendment No. 1 – For Final Determination (Item 9.4)

Written Deputation: George Ashton - Element Advisory Pty Ltd

Members noted the written submission on Item 9.4 - Town of Mosman Park – Local Planning Scheme No. 3, Amendment No. 1 – For Final Determination.

ITEMS FOR DECISION

8.2 Proposed Local Development Plan - Subdivision Stages 1 and 2 Cranwood Crescent, Viveash (158848)

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves, pursuant to Clause 7.3.2 of State Planning Policy 7.3 Residential Design Codes (Volume 1) to:

- 1. approve the amended deemed-to-comply provisions proposed by the Cranwood Crescent Subdivision (Stages 1 & 2) Local Development Plan;*

2. *advise the City of Swan of its decision.*

The motion was put and carried

8.3 Proposed Local Development Plan - Lots 2, 3 and 6 Midland Road, Helena Valley (156909)

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves, pursuant to Clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1) to:

1. *approve the amended deemed-to-comply provision for vehicular access proposed by the Local Development Plan for Lots 2, 3 and 6 Midland Road, Helena Valley (dated 7 July 2022); and*
2. *advise the Shire of Mundaring to consider Local Development Plan provisions for Lot 62 that ensure street walls and fences provide for passive surveillance of the streets and contribute to attractive streetscapes when determining the Local Development Plan.*

The motion was put and carried

8.4 City of Kalamunda - Local Planning Policy 33 - Tree Retention - Amendments to the Deemed-to-Comply Provisions of the

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves to:

1. *approve the amended deemed-to-comply provisions proposed by the City of Kalamunda Local Planning Policy 33 - Tree Retention, relating to clauses 5.3.2 Landscaping (C2.1 (iii) and (vi)), C2.2(iii) (including Tables 1.1 and 1.2) and 5.3.4 Design of car parking spaces (C4.3); pursuant to clause 7.3.2 of State Planning Policy 7.3 - Residential Design Codes Volume 1. These amendments are only supported for areas coded R25 or less;*
2. *require the City to delete clauses 5.3.2 Landscaping (C2.2 (i), (ii) and (iv) from the deemed-to-comply section and recommend that these be relocated to the Tree Retention - General Requirements section of the Local Planning Policy;*
3. *require the City to amend section 7(1) of Local Planning Policy 33 by deleting reference to the alternative design principles and include reference to design principles 5.3.4 - design of car parking spaces. Existing design principles 5.3.4 - design of car parking spaces to be added to Table 1.*
4. *advise the City as follows:*
 - a. *the LPP should make it clear that proposals which meet clause 61 of the Deemed Provisions of the Regulations are*

exempt from development approval and that the LPP does not remove these exemptions requirements;

- b. in respect to subdivision requirements, make it clear that the City will make a recommendation to the WAPC on subdivision proposals and that LPP provisions that affect the WAPC's subdivision requirements will be considered on a case by case basis. The LPP should not include requirements that fetter the WAPC in determining subdivision applications;*
- c. recommend tree planting requirements (at a ratio of 1 per 2 trees) not apply to subdivisions; and*
- d. it may wish to undertake further consultation, prior to determining the LPP.*

The motion was put and carried

8.9 Proposed Local Development Plans for the Glades Estate (Stages 12A and B) Byford (159992 and DP/16/00222)

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves, pursuant to Clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1), to:

- 1. approve the amended deemed-to-comply provisions proposed by the Glades Stage 12A and B Local Development Plan;*
- 2. advise the Shire of Serpentine Jarrahdale of its decision; and*
- 3. further advise the Shire of Serpentine Jarrahdale that approval of the local development plan should not be construed as support for ongoing reduction of open space for R20 coded lots in future stages of the Glades Estate south of Orton Road.*

The motion was put and carried

8.10 Shire of Serpentine-Jarrahdale - Local Development Plan - Whitby Stage 3 LDP 20 (DP/16/00222)

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves, pursuant to Clause 7.3.2 of State Planning Policy 7.3 Residential Design Codes (Volume 1) to:

- 1. approve the amended deemed to comply provisions proposed by the Whitby Town Estate Stage 3 Local Development Plan No. 20; and*
- 2. advise the Shire of Serpentine-Jarrahdale of its decision.*

The motion was put and carried

8.12 City of Nedlands - Local Planning Scheme No. 3, Amendment No. 12 - Consideration prior to advertising (TPS/2715)

Moved by Ms Craigie

Seconded by Ms Lyhne

That the Statutory Planning Committee resolves:

- 1. That the preferred approach regarding tree retention on private land is through the implementation of a significant tree register under Local Planning Schemes;*
- 2. To acknowledge the intent of the City of Nedlands to provide protection for existing trees on private land within the local government area;*
- 3. To advise the City of Nedlands that it is strongly encouraged to modify Amendment No. 12 to facilitate the preparation of a significant tree register, consistent with the City of Subiaco and Town of Mosman Park local planning schemes and to achieve consistency in local planning scheme content responding to the retention of trees on private land; and*
- 4. To advise Council that Amendment No. 12 to the City of Nedlands Local Planning Scheme No. 3 is suitable for advertising in accordance with regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015.*

The motion was put and carried

9.1 Shire of Mundaring - Local Planning Scheme No. 4, Amendment No. 16 - For Final Determination (TPS/2432)

THIS ITEM IS CONFIDENTIAL

9.2 Shire of Serpentine Jarrahdale - Town Planning Scheme No. 2, Amendment No. 208 – For Final Determination (TPS/2425)

THIS ITEM IS CONFIDENTIAL

9.3 Shire of Serpentine Jarrahdale - Town Planning Scheme No. 2, Amendment No. 209 - For Final Determination (TPS/2426)

THIS ITEM IS CONFIDENTIAL

9.4 Town of Mosman Park - Local Planning Scheme No. 3, Amendment No. 1 - For Final Determination (TPS/2795)

THIS ITEM IS CONFIDENTIAL

9.5 City of Stirling - Local Planning Scheme No. 3, Amendment No. 115 - For Final Approval (TPS/2750)

THIS ITEM IS CONFIDENTIAL

The Chairman declared a brief adjournment at 11:12am.

The meeting was resumed at 11:20am, with all members present.

8.11 Subdivision to create 71 Rural Residential Lots, Public Open Space and balance lots - Lots 245 & 248 Lakes Road, Nambeelup (162129)

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

Moved by Mr Iacomella

Seconded by Ms Davis

That the Statutory Planning Committee resolves to approve the subdivision of Lots 245 and 248 Lakes Road, North Dandalup as shown on the plan date-stamped 27 July 2022 subject to the following condition(s) and advice:

CONDITION(S):

Administrative

1. *The plan of subdivision is to be modified in accordance with the attached plan (Attachment A) dated 15 August 2022. (Western Australian Planning Commission)*
2. *Arrangements being made with the Shire of Murray to provide a Stage Specific Asset Management Plan to assess and calculate the costs of maintaining the public open space to be ceded free of cost to the Crown through this subdivision. (Local Government)*
3. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lot(s) advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:*

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

4. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lots 6, 7, 18 -27, 42 - 45, 59, 66 – 70 inclusive advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:*

"This lot is located in an area identified as being subject to inundation. Additional planning and building requirements may apply to development on this lot to ensure inundation risk is managed. Filling of land outside of building envelopes is not permitted as land subject to inundation acts as important flood storage for the catchment" (Local Government)

Buildings and use

5. *All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme, Building Act 2011, and National Construction Code Series/Building Code of Australia (as amended). (Local Government)*
6. *Uniform fencing being constructed along the boundaries of lots abutting Lakes Road and Geary Road. (Local Government)*
7. *Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lots 11 & 12 at the time of subdivision approval of those lots being demolished and materials removed from the lots. (Local Government)*
8. *Prior to commencement of subdivisional works, a detailed plan identifying building envelopes on all lots on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development. (Local Government)*
9. *The landowner/applicant shall provide a written undertaking to advise prospective purchasers of the provisions of the local government's local planning scheme that relate to the use and management of the land. (Local Government)*

Drainage and site works

10. *Prior to the commencement of subdivisional works, an urban water management plan is to be prepared and approved, in consultation with the Department of Water and Environmental Regulation, consistent with the approved Local Water Management Strategy (2019) (Local Government)*
11. *Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site, or appropriately treated and connected to the local drainage system. Engineering drawings and specifications are to be in accordance with an approved Urban Water Management Plan (UWMP) for the site, or where no UWMP exists, to the satisfaction of the Western Australian Planning Commission. (Local Government)*
12. *The land being filled, stabilised, drained and/or graded as required to ensure that:*
 - a. *lots can accommodate their intended development; and*
 - b. *finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with*

the existing and/or proposed finished ground levels of the land abutting; and

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

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

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

- 14. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the Planning and Development Act 2005. (Local Government)*

- 15. Arrangements being made for the filling and/or capping of any bores and/or wells, or the identification of any bore and/or well to be retained on the land. (Local Government)*

Environment

- 16. Prior to the commencement of subdivision works a wetland management plan for the Resource Enhancement wetland (Public Open Space area 9) is to be prepared and approved to ensure the protection and management of the sites environmental assets with satisfactory arrangements being made for the implementation of the approved plan. (Local Government)*

- 17. Prior to the commencement of subdivisional works, measures being undertaken to identify any vegetation on the site worthy of retention, including any potential habitat or foraging trees for threatened fauna species, and protection measures implemented to ensure such vegetation is not impacted by subdivisional works. (Local Government)*

- 18. A revegetation plan being prepared, approved and implemented for revegetation in accordance with the approved structure plan with appropriate native species to the specifications of the Local Government. (Local Government)*

- 19. A fence restricting vehicle, pedestrian, stock and feral animal access to the Resource Enhancement wetland (Public Open Space 9) is to be constructed around the perimeter of the public open space to protect the wetland. (Local Government)*

20. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lots 27, 28, 56 & 57. Notice of this notification is to be included on the diagram or plan of survey (deposited plan).

The notification is to state as follows:

"The use of this lot may be affected by the following activities that occur in the adjacent Conservation Reserve identified on the structure plan:

- a. prescribed burning for the enhancement and conservation of biodiversity values and/or fire hazard reduction purposes;*
- b. application of herbicides and other chemicals for weed and plant disease control;*
- c. feral animal control; and*
- d. road construction and maintenance." (Local Government)*

Fire and Emergency

21. Information is to be provided to demonstrate that the measures contained in Section 6; Table 5 of the bushfire management plan dated June 2022 have been implemented during subdivisional works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan. (Local Government)

22. A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor.

Notice of this notification is to be included on the diagram or plan of survey (deposited plan).

The notification is to state as follows:

"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land". (Western Australian Planning Commission)

23. A 6 metre wide emergency access way in accordance with the approved plan of subdivision (attached) is to be provided. The provision of necessary access rights for the emergency access way:

- a. as an easement under Sections 195 and 196 of the Land Administration Act 1997 in favour of the Local Government and/or public authority for emergency fire purposes and the deed of easement to specify care and management of the*

easement area is by the Local Government. (Local Government)

Lot design

- 24. Local Development Plan(s) being prepared and approved for lots 1 - 13 shown on the plan dated 15 August 2022 (attached) that address quiet house design and construction requirements in accordance with the Transport Noise Assessment ref: 21116844-01, dated 10 December 2021. (Local Government)*
- 25. The landowner/applicant shall make arrangements to ensure that prospective purchasers of lots subject of a Local Development Plan are advised in writing that Local Development Plan provisions apply. (Local Government)*

Reserves

- 26. The proposed reserve(s) shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for recreation and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)*
- 27. Arrangements being made for the proposed public open space to be developed by the landowner/applicant to a minimum standard and maintained for two summers through the implementation of an approved landscape plan providing for the development and maintenance of the proposed public open space in accordance with the requirements of Liveable Neighbourhoods and to the specifications of the local government. (Local Government)*

Roads and access

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

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

29. *Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken for construction of roads in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:*
- a. street lighting in accordance with dark sky principles is installed on all new subdivisional roads to the standards of the relevant licensed service provider and*
 - b. roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly and*
 - c. temporary turning areas are provided to those subdivisional roads that are subject to future extension. (Local Government)*
30. *Lakes Road being widened in accordance with the Attached Plan (Attachment 1) by the landowner transferring the land required to the Crown free of cost for the purpose of widening. (Local Government)*
31. *Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of the intersection of Geary Road and Lakes Road in accordance with the Attached Plan (Attachment 1). (Local Government)*
32. *All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's Liveable Neighbourhoods policy. (Local Government)*
33. *Suitable arrangements being made with the local government for the provision of vehicular crossovers to service the lot(s) shown on the approved plan of subdivision. (Local Government)*
34. *Pursuant to Section 150 of the Planning and Development Act 2005 and Division 3 of the Planning and Development Regulations 2009 a covenant preventing vehicular access onto Lakes Road being lodged on the certificate(s) of title of proposed lots 1 - 13 at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of the local government, in accordance with the plan dated 14 March 2022 (attached) and the covenant is to specify:*
- "No vehicular access is permitted to and from Lakes Road."*
- (Local Government)*
35. *Redundant vehicle crossover(s) to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or landscaping to the specifications of the local government. (Local Government)*
36. *A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lots 1 - 13. Notice of this notification is to be*

included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

'This lot is situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise.' Additional planning and building requirements may apply to development on this land to achieve an acceptable level of noise reduction. (Western Australian Planning Commission)

Servicing

- 37. Arrangements being made with a licensed electricity network operator for the provision of an underground electricity distribution system that can supply electricity to each lot shown on the approved plan of subdivision. (Western Power)*
- 38. Arrangements being made to the specifications of Western Power for the provision of necessary electricity easements to the lots shown on the approved plan of subdivision/plan dated 15 August 2022 (attached). (Western Power)*
- 39. The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)*
- 40. Arrangements being made with a licensed water provider for the provision of a suitable water supply service to each lot shown on the approved plan of subdivision. (Water Corporation)*
- 41. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)*
- 42. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:*

'A reticulated sewerage service is not available to the lot(s). As such, an on-site secondary treatment and disposal system of sewage (which includes nutrient removal) will be required. Therefore, the developable area of the lot is reduced. There are ongoing landowner obligations to ensure that the treatment and disposal system is regularly maintained in accordance with relevant health regulations. Contact the local government for further information.' (Local Government)

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

A reticulated sewerage service is not available to the lot(s). As such, an on-site sewage system will be required. Clean fill will be required in order to achieve separation distances between sewage disposal system(s) and groundwater. (Local Government)

ADVICE:

1. *The applicant is advised that the Western Australian Planning Commission support for the application is based on ultimate lot yield at full development of the structure plan area remaining consistent with nutrient modelling in the approved Local Water Management Strategy (March 2019) and the concept plan (Plan 3) in the structure plan, being 325 lots. The applicant is advised an updated concept plan should be prepared to support any future subdivision applications, to demonstrate cumulative lot yield.*
2. *In regard to Condition 6, the uniform fencing abutting Lakes Road and Geary Road is generally to be open style rural fencing.*
3. *In regard to Condition 7, a demolition permit may be required to be obtained from the local government prior to the commencement of demolition works.*
4. *Condition 10 has been imposed in accordance with Better Urban Water Management Guidelines (WAPC 2008). Further guidance on the contents of urban water management plans is provided in 'Urban Water Management Plans: Guidelines for preparing and complying with subdivision conditions' (Published by the then Department of Water 2008).*
5. *Further to Condition 10 the Shire of Murray advise*
 - a. *the urban water management plan is to include full design of east west major drain to Nambeelup Brook including best management practice water quality treatment at the brook and offline management at various sections across the length; and*
 - b. *Lots 6, 7, 42, 43, 44 and 45 are to be strategically filled and drained to provide a contiguous inundation free area as specified in the structure plan. Easements may be required where inundated land has no overland flow path to the road network.*

6. *Further to Condition 12 the excavation batters from the previous extractive industry site are to be made safe and batters sloped to the satisfaction of the local government.*
7. *In regard to Condition 16 the Wetland Management Plan should provide for a 30m buffer around the resource enhancement wetland. In relation to bushfire management a three (3) metre wide access track/firebreak be installed by the developer immediately inside the POS boundaries, constructed to a limestone or gravel standard.*
8. *Also in regard to Condition 16 the Wetland Management Plan is to include information on wetland buffer, revegetation, and proposed landscape infrastructure including fencing, access paths, signage, stormwater management and ongoing management.*
9. *In regard to Condition 18, revegetation should include public open space and drainage areas within private lots.*
10. *Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a moderate to low risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation's (DWER) acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>*
11. *In regard to Condition 21 the Shire of Murray advise prior to the commencement of any works the design standard of the emergency access roads and intersections with Lakes Road and Corio Road are required to be supported with engineering drawings and specifications.*
12. *The landowner/applicant and the local government are advised to refer to the Institute of Public Works Engineering Australia Local Government Guidelines for Subdivisional Development (current edition). The guidelines set out the minimum best practice requirements recommended for subdivision construction and granting clearance of engineering conditions imposed.*
13. *In regard to condition 27, Landscape Plans and Specifications to be submitted to and approved by the local government prior to works commencing and works undertaken in accordance with the approved plans.*
14. *In regard to Condition 28, the landowner/applicant is advised that the road reserves, including the constructed carriageways, laneways, truncations and footpaths/dual use paths are to be generally consistent with the approved plan of subdivision.*
15. *In regard to Condition 29 the Shire of Murray advise the new northern east west road is to be designed to connect with*

existing and proposed roads so the road location and width can accommodate a future bridle path.

- 16. In regard to Condition 29, the landowner/applicant is advised that to achieve the dark sky principles, new street lighting is to comply with a correlated colour temperature of 3,000 kelvins or less, shielded luminaires and in accordance with AS4282:2010 – control of the obtrusive effects of lighting.*
- 17. Further to Condition 31, the Lake Road/Geary Road intersection upgrade is to be asphalted in accordance with the Institute of Public Works Engineering Australia Local Government Guidelines for Subdivisional Development (current edition).*
- 18. In regard to Condition 37, Western Power provides only one underground point of electricity supply per freehold lot.*
- 19. In regard to Condition 40 the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*
- 20. The applicant/landowner is advised that pursuant to the Commonwealth Telecommunications Act 1997 there will generally be a requirement for the installation of fibre-ready telecommunications infrastructure. Exemptions can be sought for certain types of development. Further information is available from the Australian Government Department of Infrastructure, Transport, Regional Development and Communications website at www.infrastructure.gov.au*

The motion was put and carried

8.1 Proposed Local Development Plan - Lot 6 Hale Road, Wattle Grove (160170)

Members discussed trends in variations to R Codes through Local Development Plans to have more bulk on lots, and less open space and whether this trend is supported by Local Governments. Members discussed the garage locations detailed in Attachment 2 and queried the garage designation for some lots over others. It was noted that side entry pits have been designated opposite lots where a garage has been determined. Members discussed the tree retention and were advised that the focus has been to look at the R Code variation for open space, however the City can recommend applying a condition protecting the remanent trees on the lots.

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

Moved by Ms Davis

Seconded by Mr Thornton

That the Statutory Planning Committee resolves, pursuant to Clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1), to not approve the reduction in the private open space requirement and proposed modification to the outdoor living area requirement proposed by the Local Development Plan for Lot 6 Hale Road, Wattle Grove (dated 23 July 2021) for the following reasons:

- 1. The reduced open space requirement will result in a closer form of development that would be inconsistent with nearby residential development and the objectives and design principles of clause 5.1.4 of the R-codes; and*
- 2. advise the City of Kalamunda of its decision.*

The motion was put and carried

8.5 Draft North Ellenbrook (East) District Structure Plan – For Final Consideration (2020-216677)

Members discussed the proposal for the land to be zoned Urban Deferred and discussed the history of the Tonkin Highway Interchange prior to Federal funding announcement, and the Traffic Impact Assessment which focussed on the internal road network of the District Structure Plan. It was noted that following this, discussion took place between the DPLH and MainRoadsWA to conduct further refinement studies, to which the City of Swan and Main Roads WA raised no objections to the District Structure Plan. Members discussed the need to undertake a broader study, including water and sewer works, noting there is strategy to do so, however funding is not yet in place. Members noted that if the amendment was not initiated final approval could be Urban once all investigations are completed over the course of the preparation.

Members queried the broader regional road assessment that is to be undertaken and queried the potential wetland area as presented in the deputation at Item 7.3. Members were advised that there is no wetland in that location identified in the Environmental Impact Assessment, nor is a wetland listed on any database. Members were advised that this potential wetland would not halt the process of moving forward with the District Structure Plan (DSP) and that if further assessment is required it can be dealt with at a later stage. Members were advised that the DPLH and Main Roads WA are working together to look at outer roads, the wider network, including Bullsbrook and Ellenbrook, and the connection between the East and the West DSP. Members noted that the assessment will also look at addressing traffic flows from Tonkin Highway and NorthLink, and that more technical detail will be available at the next stage.

Members queried why the final plan of the DSP was not re-advertised after the high school site was relocated and discussed the need to re-advertise that portion of the plan, given landowners have advised that they had not been consulted. Members were advised that there could still be some refinement regarding the location of the high school, and it

would not be set until the Metropolitan Region Scheme reservation is confirmed, however further consultation and advertising on that specific issue could be undertaken.

Members discussed the funding contribution of the landowners prior to the completion of the Tonkin Highway Interchange and queried if a legal requirement needs to be included to secure the \$25 million funding commitment. Members were advised that all parties have agreed to the contribution and the next step is to ensure the funding is secured in the text of the DSP, and that infrastructure radiates from the proposed intersection on Tonkin Highway, in line with timing and the intent of the development of the area. Members discussed adding a notation on the plan to show the district high school site is to be further resolved and justification is to be provided for its relocation to the current position.

Members moved an amendment to the recommendation of the Department of Planning, Lands and Heritage to amend point one to read: *“approve the draft North Ellenbrook (East) District Structure Plan as a strategic framework for further planning and investigation subject to the Schedule of Modifications indicated in Attachment 7”* and to change the word “endorsement” to “approval” in point three and add an additional point that a notation be added to the Schedule of Modifications (Attachment 7) that states *“That justification be provided in the District Structure Plan text for the relocation of the high school site as recommended and that the justification outlines that the location and size of this land use is to be determined at local structure planning.”* and amend the numeration accordingly.

Moved by Mr Kosova

Seconded by Mr Iacomella

That the Statutory Planning Committee resolves to:

1. *approve the draft North Ellenbrook (East) District Structure Plan as a strategic framework for further planning and investigation subject to the Schedule of Modifications indicated in Attachment 7;*
2. *add a notation to the Schedule of Modifications (Attachment 7) that states “That justification be provided in the District Structure Plan text for the relocation of the high school site as recommended and that the justification outlines that the location and size of this land use is to be determined at local structure planning.”;*
3. *note the Schedule of Submissions in Attachment 6; and*
4. *authorise Department of Planning, Lands and Heritage officers to review the modifications and ensure they have been satisfactorily undertaken and arrange for approval of the draft North Ellenbrook (East) District Structure Plan accordingly.*

The motion was put and carried

8.6 Draft North Ellenbrook (West) District Structure Plan - For Final Consideration (2020-217258)

Members moved an amendment to the recommendation of the Department of Planning, Lands and Heritage to amend point one to read: *“approve the draft North Ellenbrook (West) District Structure Plan as a strategic framework for further planning and investigation subject to the Schedule of Modifications indicated in Attachment 7”* and to change the word *“endorsement”* to *“approval”* in point three.

Moved by Mr Kosova

Seconded by Ms Thompson

That the Statutory Planning Committee resolves to:

- 1. approve the draft North Ellenbrook (West) District Structure Plan as a strategic framework for further planning and investigation subject to the Schedule of Modifications indicated in Attachment 7;*
- 2. note the Schedule of Submissions in Attachment 6; and*
- 3. authorise Department of Planning, Lands and Heritage officers to review the modifications and ensure they have been satisfactorily undertaken and arrange for approval of the draft North Ellenbrook (West) District Structure Plan accordingly.*

The motion was put and carried

8.7 Proposed Subdivision to create 56 Residential lots - Lots 16 Harrow Street, 26 and 547 Malvern Street and 27 Blundell Street, Dayton (160773)

Members considered the possibility of retaining the reservations in private ownership, given the ongoing maintenance issues presented in the deputation at Item 7.2. Members were presented with the history of the original application to hold in public reserve, which was followed by an amended plan to retain in private ownership. Members were advised that the policy position is that the corridor be retained in State ownership and management and that the structure plan also recommends this position. Members discussed the suboptimal proposed lot sizes and historical issues with accessing these corridors.

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage, subject to an administrative amendment to replace the incorrect date *“06 May 2022”* with the correct the date of the Subdivision Plan, date stamped 16 February 2022, as detailed in Attachment 2 of the agenda.

Moved by Ms Lyhne

Seconded by Mr Kosova

That the Statutory Planning Committee resolves to approve the application for subdivision of Lot 16 Harrow Street, Lot 26 Malvern Street, Lot 27 Blundell Street, and Lot 547 Malvern Street, Dayton as

shown on the plan date-stamped 16 February 2022. This decision is valid for four years subject to the following conditions and advice:

Administration

- 1. The landowner/applicant contributing towards development infrastructure provisions pursuant to the City of Swan Local Planning Scheme No. 17. (Local Government)*
- 2. The landowner/applicant making a pro-rata contribution towards the cost of the acquisition of the primary school site identified in the subdivision locality. (Department of Education)*

Services

- 3. Arrangements being made with a licensed electricity network operator for the provision of an underground electricity distribution system that can supply electricity to each lot shown on the approved plan of subdivision. (Western Power)*
- 4. The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)*
- 5. Arrangements being made with a licensed water provider for the provision of a suitable water supply service to each lot shown on the approved plan of subdivision. (Water Corporation)*
- 6. Arrangements being made with the Water Corporation for the provision of a sewerage service to each lot shown on the approved plan of subdivision. (Water Corporation)*
- 7. The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body. (Water Corporation)*

Access and Drainage

- 8. The land being filled, stabilised, drained and/or graded as required to ensure that:*
 - a. lots can accommodate their intended development; and*
 - b. finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and*
 - c. stormwater is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)*
- 9. Prior to the commencement of subdivisional works, an urban water management plan is to be prepared and approved, in consultation with the Department of Water and Environmental Regulation, consistent with the West Swan East Local Water Management Strategy revision 2. (Local Government)*

10. *Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site, or appropriately treated and connected to the local drainage system. Engineering drawings and specifications are to be in accordance with an approved Urban Water Management Plan (UWMP) for the site, or where no UWMP exists, to the satisfaction of the Western Australian Planning Commission. (Local Government)*
11. *Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development. In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government).*
12. *Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost. As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)*
13. *Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken for construction of roads in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:*
- a. street lighting in accordance with dark sky principles is installed on all new subdivisional roads to the standards of the relevant licensed service provider;*
 - b. roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly;*
 - c. temporary turning areas are provided to those subdivisional roads that are subject to future extension; and*

- d. temporary connection between the two 15m wide road reserves at balance Lot 3. (Local Government)
- 14. All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's Liveable Neighbourhoods policy. (Local Government)
- 15. Satisfactory arrangements being made with the local government for the partial cost of upgrading and/or construction of Blundell Street where it abuts the application area to an urban standard. (Local Government)

Bushfire

- 16. The bushfire management plan (Envision Bushfire Protection, Version 4, Dated 26 June 2022) is to be revised in consultation with the local government to address the bushfire hazard resulting from the ceding of the Dampier Bunbury Natural Gas Pipeline easement. The bushfire management plan (Envision Bushfire Protection, Version 4, Dated 26 June 2022) is to be further updated as follows:
 - a. EX1 Point 3 to be modified that the City of Swan Fire Hazard Reduction Notice does not require grass to be maintained "at all times", only between November 1 and April 30 of each year;
 - b. EX1 Spatial representation of the proposed risk management strategies' point 7 needs to include 3m wide, 4m vertical height clearance; and
 - c. Individually sold lots cannot be subject to a joint firebreak as per EX1 Spatial representation of the proposed risk management strategies. (Local Government)
- 17. Information is to be provided to demonstrate that the measures contained in 'Table 3 and Section 6 - Responsibilities for implementation and management of the bushfire measures of the bushfire management plan' (revised Envision Bushfire Protection, Version 4, Dated 26 June 2022), or in a subsequent version supported by the City of Swan, have been implemented during subdivisional works. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan. (Local Government)
- 18. A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lots with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: "This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply

to development on this land". (Western Australian Planning Commission)

19. Local Development Plan(s) being prepared and approved for lots adjoining the Dampier Bunbury Natural Gas Pipeline corridor shown on the plan dated 16 February 2022 (attached) that address the following:
 - a. Setbacks to facilitate building exclusion zones on all individual lots affected by a bushfire rating of BAL-FZ or BAL-40
 - b. Building exclusion zones for lots affected by gas pipeline buffers. (Local Government)
20. The landowner/applicant shall make arrangements to ensure that prospective purchasers of lots the subject of a Local Development Plan are advised in writing that Local Development Plan provisions apply. (Local Government)
21. Should the north-south roads not connect to the road system to the south of Lot 547, an emergency access way over Lots 42, Balance Lot 3 and the DBNGP easement is to be provided to connect the roads to Malvern Street, until such time as through roads are established. The provision of necessary access rights for the emergency access way as an easement under Sections 195 and 196 of the Land Administration Act 1997 in favour of the Local Government for emergency fire purposes and the deed of easement is to specify care and management of the easement area is by the Local Government. (Local Government)

Environment and Pipeline

22. Prior to commencement of subdivision works, investigation for soil and groundwater contamination is to be carried out to determine if remediation is required. If required, remediation, including validation of remediation, of any contamination identified shall be completed prior to the issuing of titles on advice from the Department of Water and Environmental Regulation, to ensure that the lots created are suitable for the proposed use. Investigations and remediation are to be carried out in compliance with the Contaminated Sites Act 2003 and current Department of Water and Environmental Regulation Contaminated Sites Guidelines. (Department of Water and Environmental Regulation)
23. A notification, pursuant to section 165 of the Planning and Development Act 2005 is to be placed on the Certificates of Title of proposed Lots 42-56 advising the existence of a hazard or other factor. Notice of this notification is to be included on any new deposited plans. The notification to state as follows: "This lot is adjacent or in relatively close proximity to the Dampier to Bunbury Natural Gas Pipeline (DBNGP) corridor established under the Dampier to Bunbury Pipeline Act 1997. Approval from the DBNGP Land Access Minister through the Department of

Planning, Lands and Heritage may be required for any registration of new interests that may affect the DBNGP Land Access Minister rights, construction work, access or fencing within the DBNGP corridor. As such development restrictions consistent with the advice contained in Planning Bulletin 87 should be strictly adhered to.” (Western Australian Planning Commission)

24. The Dampier Bunbury Natural Gas Pipeline easement shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for Public Utilities and vested in the Crown under Section 152 of the Planning and Development Act 2005, such land to be ceded free of cost and without any payment of compensation by the Crown. (Western Australian Planning Commission)

ADVICE:

- 1. In regard to Condition 3, Western Power provides only one underground point of electricity supply per freehold lot.*
- 2. In regard to Conditions 5, 6 and 7, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/applicant, a Land Development Agreement under Section 83 of the Water Services Act 2012 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*
- 3. Condition 9 has been imposed in accordance with Better Urban Water Management Guidelines (WAPC 2008). Further guidance on the contents of urban water management plans is provided in 'Urban Water Management Plans: Guidelines for preparing and complying with subdivision conditions' (Published by the then Department of Water 2008).*
- 4. In regard to Condition 22 any alteration to the natural ground levels on lots 42-56 adjacent to the DBNGP corridor will require engineering assessment and prior approval by DBP. There must be no change in contours of land in the DBNGP corridor.*
- 5. Pursuant to section 41 of the DBP Act, restrictions will apply to the area of land that is contained in the DBNGP corridor. Proponent is required to apply for section 41 approval specifically for (but not limited to):*
 - i. any possible encroachment by construction personnel, equipment, excess building materials and spoils during construction.*
 - ii. construction of access road, roads and movements of heavy machinery across the DBNGP corridor.*

- iii. A section 41 form and other relevant information can be found on our website: <https://www.dplh.wa.gov.au/projects-and-initiatives/dampier-to-bunbury-pipeline>
6. The landowner/applicant is advised that the Department of Water and Environmental Regulation has prepared dust control guidelines for development sites, which, outline the procedures for the preparation of dust management plans. The dust management plans are generally approved, and their implementation overseen, by the Local Government. Further information on the guidelines can be obtained from the Department of Water and Environmental Regulation's website: www.dwer.wa.gov.au under air quality publications.
7. The landowner/applicant and the local government are advised to refer to the Institute of Public Works Engineering Australia Local Government Guidelines for Subdivisional Development (current edition). The guidelines set out the minimum best practice requirements recommended for subdivision construction and granting clearance of engineering conditions imposed.

The motion was put and carried

8.8 Castledare Local Structure Plan - Lot 4 Fern Road and Lots 100 and 102 Castledare Place, Wilson (SPN/2327)

Members were advised that there has been ongoing collaboration with the City of Canning (the City), the applicant and the Department of Biodiversity Conservation and Attractions (DBCA) with regard to the future management of the land to be ceded free of cost, however the City maintains that all constraints, infrastructure and new facilities be provided by the applicant. Members were advised that if the recommendation is supported subject to modifications it would also include modifying the structure plan boundary to include the foreshore area with additional requirements for foreshore management. Members were further advised that the subdivision process will determine the timing and provide an opportunity for the City to advertise the Foreshore Management Plan (FMP), should they choose, if the applicant were to submit the FMP upfront. Members were advised that the FMP will be a condition of the subdivision and that the WAPC can ensure the City is party to it, and that the structure plan will make clear that the content of the FMP clearly outlines the roles and responsibilities, in conjunction with the DBCA and the City.

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

Moved by Ms Davis

Seconded by Ms Thompson

That the Statutory Planning Commission resolves to:

- i. *require the applicant to modify the Castledare Local Structure Plan, in accordance with the attached Schedule of Modifications (appended as Attachment 4); and*
- ii. *resubmit the modified plan to the Western Australian Planning Commission for final approval pursuant to Clause 22(b), Schedule 2 - Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015.*

The motion was put and carried

9.6 State Planning Policy 7.3 Residential Design Codes Volume 1 and related policies - For Final Adoption (DP/17/00098)

THIS ITEM IS CONFIDENTIAL

10. Section 31 Items

Nil.

11. Reports for noting

Nil.

12. Stakeholder engagement and site visits

Nil.

13. Urgent or other business

Nil.

14. Items for consideration at a future meeting

Nil.

15. Meeting closure

The next ordinary meeting is scheduled for 9:30am on Tuesday, 13 September 2022.

There being no further business before the Committee, the Chairman thanked members for their attendance and declared the meeting closed at 12:15pm.

CHAIRMAN

DATE

REPORT TO	Statutory Planning Committee		
Meeting date	13 September 2022	File number	160322
Subject	Proposed Local Development Plan - Lot 655 Helena Valley Road, Helena Valley		
Purpose	Requires WAPC decision		
Title of Approving Officer	Planning Director - Metro North		
Agenda Part for Reports (All parts are confidential unless otherwise stated) SPC - Non-Confidential (To be published to the website)			
SITE-SPECIFIC DETAILS			
Region/s	Perth		
Local government/s	Shire of Mundaring		
Landowner/Consultant	Peter Beyer/Rowe Group		
Bushfire Prone Area	YES		
SUMMARY			
<p>The Western Australian Planning Commission (the Commission) has received a local development plan (LDP) from the Shire of Mundaring (the Shire) with a request to determine proposed variations to the deemed-to-comply provisions of <i>State Planning Policy 7.3: Residential Design Codes - Volume 1</i> (the R-Codes).</p> <p>The proposed variations relate to open space and vehicular access requirements for an approved subdivision of Lot 655 Helena Valley Road, Helena Valley. The proposed variations are supported, given the locational characteristics and as it is considered to be consistent with the relevant objectives and design principles of the R-Codes.</p> <p>Officers of the Department of Planning, Lands and Heritage do not have delegated authority to deal with the R-Codes variations proposed by the LDP, therefore it is presented to the Statutory Planning Committee for determination.</p>			
DETAILS OF PROPOSAL			
<p>The Shire has requested the Commission approve proposed variations to the deemed-to-comply provisions of the R-Codes for an LDP relating to an approved 41 lot subdivision at Lot 655 Helena Valley Road, Helena Valley (Attachment 1: Location Plan and Attachment 2: Proposed Local Development Plan).</p> <p>The proposed variations requiring the Commission's approval are as follows:</p> <ul style="list-style-type: none"> a) reducing the open space requirement from 45% to 40%. This applies to the entire subdivision approval of 41 lots, which are coded R30; and b) parking accessed from the primary street for two corner lots instead of the secondary street. <p>The proposed LDP also includes other variations to the deemed-to-comply requirements, such as front setback requirements; however, these do not require the Commission's approval.</p>			

BACKGROUND

The LDP area is located 600m east of Roe Highway and has frontages to Helena Valley Road and Tamala Grove. The land is zoned Urban under the Metropolitan Region Scheme and Development under the Shire's Local Planning Scheme No.4. A structure plan was approved for the site in June 2021 and a subdivision application was approved by the Commission in December 2021.

The *Planning and Development (Local Planning Schemes) Regulations 2015* (in Schedule 2, Clause 47) stipulate that an LDP may only be prepared in certain circumstances, such as where required by a structure plan or a condition of subdivision approval. In this respect, the structure plan identifies the need for an LDP and the subdivision approval includes a condition requiring the preparation of an LDP to address the following:

- a) Vehicle access and parking;
- b) Fencing and retaining walls;
- c) Dwelling orientation including surveillance of adjoining public open space (as applicable); and
- d) Setbacks to address bushfire requirements, if necessary.

KEY ISSUES

Consistency with WAPC Policies & Planning Framework	Planning and Development (Local Planning Schemes) Regulations 2015	Fully consistent
	State Planning Policy 7.3: Residential Design Codes Volume 1	Broadly consistent, some discretion required
Government Considerations	N/A	N/A
Consultation	The Shire of Mundaring recommends that the Commission supports the proposed variations.	

PLANNING ASSESSMENT

Policy Context

Clause 7.3.2 of the R-Codes permits local governments to use an LDP to amend deemed-to-comply requirements. In doing so, it identifies certain variations that the local government may approve and others that the local government may only vary with the Commission's approval, including variations to open space and vehicle access requirements.

Where a proposed variation requires the Commission's approval, the local government is required to demonstrate, to the satisfaction of the Commission, that the proposed variation:

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

These matters are addressed in the assessment below.

The *Planning and Development (Local Planning Schemes) Regulations 2015*, prevents the local government approving an LDP if it varies a deemed-to-comply requirement of the R-Codes that requires Commission approval and such approval has not been obtained.

Open Space Variation

The LDP seeks to reduce the open space requirement by 5% (40% in lieu of 45%) for the proposed 41 lots. The minimum outdoor living area requirements are not proposed to change.

Locational Characteristics

The proponent seeks the variation to the open space requirement to be more consistent with nearby estates that are able to utilise the medium-density single house development standards outlined within Planning Bulletin 112 (Bulletin 112). This includes the Bushmead Estate which is located approximately 600m to the south within the City of Swan. Bulletin 112 outlines acceptable variations to the deemed-to-comply requirements, which includes the open space requirement to be reduced to as little as 10% of the lot area or 20m², whichever is greater. The open space variation proposed by the LDP (40% in lieu of 45%) is considered minor in the context of the open space requirements permitted under Bulletin 112.

The proposed 5% reduction to the open space requirement is considered to represent a suitable compromise between the standard deemed-to-comply requirements and the absolute minimum requirements described within Bulletin 112 and can be supported.

R-Codes Objectives and Design Principles

Clause 5.1.4 of the R-Codes set out design principles which requires residential development include open space that:

- reflects the existing and/or desired streetscape character;
- provides access to natural sunlight for the dwelling;
- reduces building bulk on the site, consistent with the expectations of the applicable density code;
- provides an attractive setting for the buildings, landscape, vegetation and streetscape;
- provides opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and
- provides space for external fixtures and essential facilities.

The proponent is seeking the 5% open space variation to ensure the lot product remains competitive and meets market expectations given other estates within the locality, but within the City of Swan, have adopted the acceptable variations to the deemed-to-comply requirements outlined within Bulletin 112. The Shire has not adopted a local planning policy to apply the variations to the deemed-to-comply provisions provided within Bulletin 112.

The Shire supports the variation to the open space requirement as the proposed lots are much larger (average of 475m²) than the required lot size under the R30 coding (average of 300m² required). Due to the larger lot sizes (and even with the 5% reduction), these lots will achieve a greater area (sqm) of open space than comparable smaller lots with the same coding but using the standard percentage of open space.

Therefore, although the proposal will enable slightly larger dwellings to be constructed, the larger lot sizes created by the subdivision would ensure that sufficient open space for the lots will be met. Other R-Code requirements such as minimum outdoor living areas, landscaping, solar access and side and rear setbacks are not proposed to change. On this basis, it is considered that the variation to the open space requirement satisfies the above design principles.

Vehicular Access

The deemed-to-comply provisions of the R-Codes requires that vehicular access to a corner lot be taken from the secondary street. The proposed LDP seeks to vary this requirement for two corner lots by allowing vehicular access from the primary street. The remaining four corner lots have access from the secondary street.

Locational Characteristics

The subject land abuts established residential areas to the south and east. Existing houses on the majority of the corner lots in these residential areas have vehicular access and garages at the primary street frontage rather than the secondary street. In this respect, the proposed LDP is generally consistent with built form outcomes in the adjacent residential areas.

The proposed variation will also provide for the following:

- proposed Lot 211 abuts public open space (POS) and requiring access from the primary street will avoid a garage being located adjacent to the POS. This will improve opportunities for passive surveillance of the POS.
- proposed Lot 228 has limited northern aspect and requiring access from the primary street will avoid a garage being positioned to affect the northern solar access. The lot also have a very wide (22m) primary street frontage to the southern boundary making it a suitable location for access.

The proposed variations to the access requirements would have limited application and represent a direct response to site-specific considerations. On this basis, the proposed variations are suitably justified in terms of location.

R-Codes Objectives and Design Principles

Under Clause 5.3 of the R-Codes, the relevant objective is:

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

The design principles for vehicular access under clause 5.3.5 of the R-Codes is:

Vehicle access provided for each development site to provide;

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

Locating the vehicle access from the primary street in this instance is considered to improve the design outcome for these two lots given the location and configuration of these lots. The proposed lots also adjoin low volume access streets. The proposed variations for the two lots are considered to be consistent with the objectives and design principles of the R-Codes, providing for safe and legible pedestrian and vehicle access and provides opportunity for quality landscaping.

<p><u>Implementation</u></p> <p>The LDP will enable single houses to be administered through the Shire's building licence approval process.</p> <p>Conclusion</p> <p>The proposed variations to the deemed-to-comply requirements of the R-Codes for open space and vehicular access are considered acceptable and approval is recommended.</p>
<p>RECOMMENDATION</p> <p><i>That the Statutory Planning Committee resolves, pursuant to clause 7.3.2 of State Planning Policy 7.3: Residential Design Codes (Volume 1), to approve the amended deemed-to-comply provisions for open space and vehicular access proposed by the Local Development Plan for Lot 205 (No.655) Helena Valley Road, Helena Valley (dated 7 July 2022).</i></p>
<p>ATTACHMENTS</p> <p>A1 - Location Plan A2 - Proposed Local Development Plan</p>



Legend

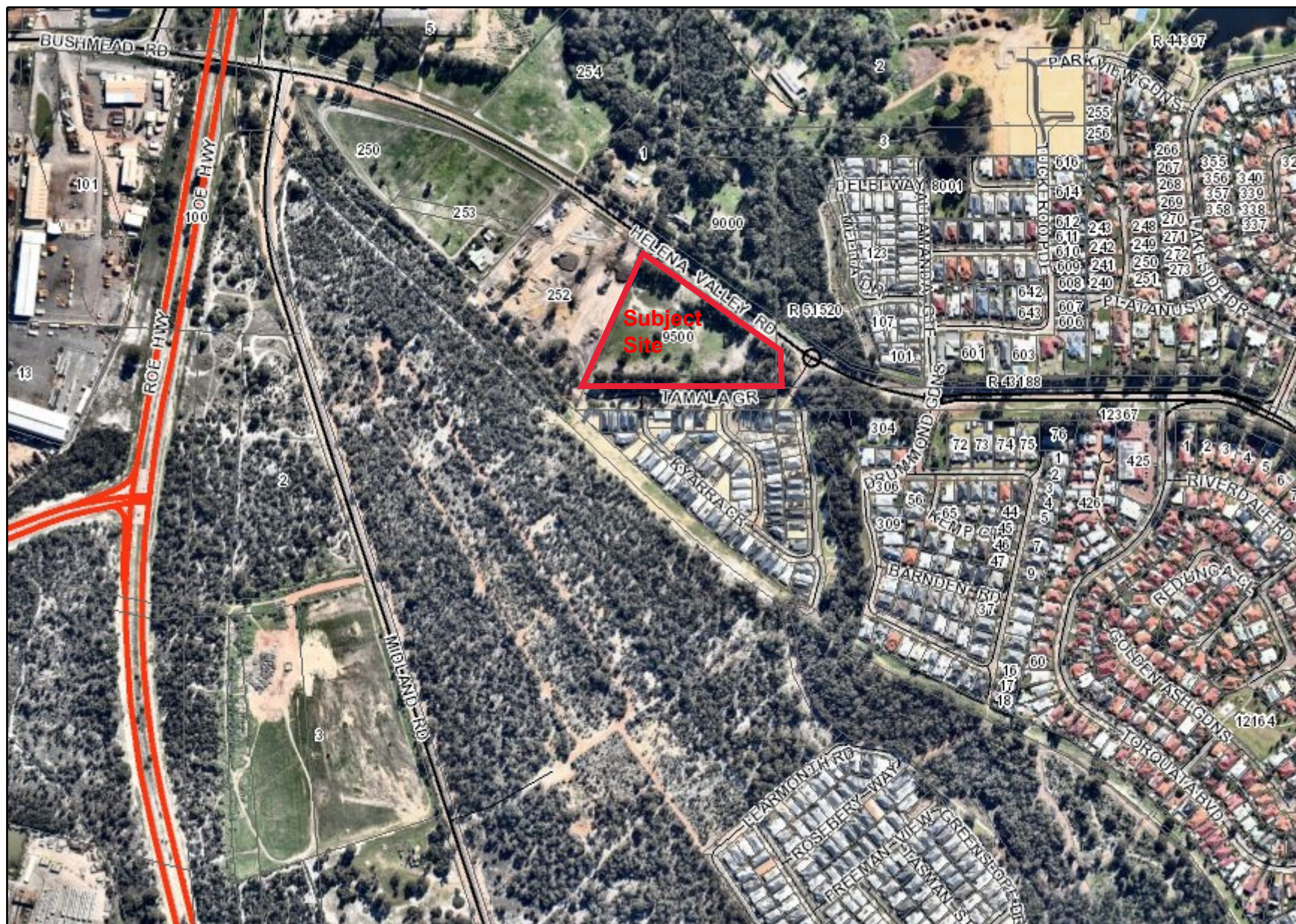
☐ Cadastre (View 1)

Roads

National Highway

Main

Minor



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.

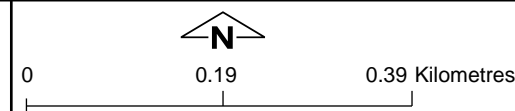
* This map is not intended for measurement purposes.

Map was produced using DPLH's InQuiry.

Attachment 1: Location Plan

DPLH BUSINESS USE ONLY

Internal Spatial Viewer



1: 9,028
at A4

Projection: WGS 1984 Web Mercator Auxiliary Sphere

Date produced: 18-Aug-2022

PROVISIONS
This Local Development Plan ('LDP') applies to Part Lot 205 Helena Valley Road, Helena Valley (WAPC 160322).

Unless otherwise provided for below, the provisions of the Shire of Mundaring Local Planning Scheme No. 4, the State Planning Policy 7.3 Residential Design Codes ('R-Codes') and the Helena Valley - Local Structure Plan No. 76 apply. A Residential Density Code of R30 applies to lots contained within this Local Development Plan (LDP).

The following standards are deemed to represent variations to the R-Codes and constitute Deemed-to-Comply requirements pursuant to the R-Codes and do not require consultation with the adjoining landowners.

Development which meets the Deemed-to-Comply provisions of this LDP does not require a Development Application, as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

GENERAL

1. The requirements of R30 development set out in the R-Codes apply to this development, unless otherwise varied by the Shire of Mundaring Local Planning Framework.
2. Variations to the requirements of this LDP may be approved by the Shire of Mundaring at its discretion.
3. Where there is an inconsistency between the requirements of this LDP and another planning instrument, the provisions of this LDP prevail.

BUILT FORM

4. Dwellings located on corner lots (including those with direct frontage to Public Open Space) are to address both the primary and secondary frontage. The entrance to the dwellings may be provided at either the primary or secondary street, provided the dwelling appropriately addresses both frontages with articulated building facades and major openings to provide passive surveillance.
5. A portico, verandah, unenclosed balcony or associated columns/ piers may project into the front setback area to a maximum of 1.5m.

OPEN SPACE AND OUTDOOR LIVING

6. For Lots 211, 212 and 213, outdoor living areas shall be provided as per the locations shown on this LDP.
7. The main outdoor living area is to be situated where mandated and accessed from a major opening to a habitable room.
8. A minimum open space requirement of 40% applies to all lots contained within this LDP.

GARAGE AND ACCESS

9. Garages are to be located in accordance with the nominated location on the plan, setback a minimum of 4.5m from the primary street and (where applicable) 1.5m from the secondary street.

UNIFORM FENCING

10. Visually permeable, uniform fencing is to be constructed by the developer along the boundary of Lots 211, 212 and 213.
11. Where uniform fencing has been installed by the developer, modifications to fences are not permitted.

APPROVAL
This Local Development Plan has been approved by the Western Australian Planning Commission, pursuant to Schedule 2, Part 6, Clause 52 (1a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Signature _____ Date _____



REPORT TO	Statutory Planning Committee		
Meeting date	13 September 2022	File number	TPS/2717
Subject	City of Busselton - Local Planning Scheme No. 21, Amendment 40		
KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE			
<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>			
In consideration of this proposal, Department of Planning, Lands and Heritage has identified the following key matters for consideration by the Statutory Planning Committee:			
<ul style="list-style-type: none">Whether the proposed amendment is consistent with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (as amended).Whether an alternate definition of Bulky Goods Showroom should be supported.Whether the proposed land use permissibility's are appropriate.			



REPORT TO	Statutory Planning Committee		
Meeting date	13 September 2022	File number	TPS/2742
Subject	Shire of Carnarvon - Local Planning Scheme No.13, Amendment No.1 - For Final Determination		
KEY MATTERS IDENTIFIED BY THE DEPARTMENT OF PLANNING, LANDS AND HERITAGE			
<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>			
Amendment No. 1 seeks to introduce 'Holiday Accommodation' on Lot 308 Banksia Drive and provide options to assist in resolving long term workforce accommodation issues in Coral Bay. These options include introducing 'Workforce Accommodation' as an incidental 'I' use on tourism zoned land within Coral Bay and introducing a new Special Control Area 11 over part of Lot 308 to protect existing and proposed workforce accommodation.			
The key matter for consideration by the Statutory Planning Committee is the application of the policy framework for Coral Bay to this amendment.			