City of Rockingham

MINUTES

Planning Services
Standing Committee Meeting

Held on

Monday 20 June 2011

4:00pm

Council Boardroom
Council Administration Building
Civic Boulevard, Rockingham
City of Rockingham  
Planning Services Standing Committee Meeting  
4:00pm Monday 20 June 2011  

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### Minutes

#### 1. Declaration of Opening

The Chairman declared the Planning Services Standing Committee Meeting open at 4.00pm and welcomed all present.

#### 2. Record of Attendance/ Apologies/ Approved Leave of Absence

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<thead>
<tr>
<th>2.1 Councillors</th>
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<tr>
<td>Cr Richard Smith</td>
<td>Chairperson</td>
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<td>Cr Brian Warner</td>
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<td>Cr Ann Prince</td>
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<td>Cr Leigh Liley</td>
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<th>2.2 Executive</th>
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<tr>
<td>Mr Andrew Hammond</td>
<td>Chief Executive Officer</td>
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<tr>
<td>Mr Robert Jeans</td>
<td>Director, Planning &amp; Development Services</td>
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<tr>
<td>Mr Brett Ashby</td>
<td>A/Manager, Strategic Planning &amp; Environment</td>
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<tr>
<td>Mr Richard Rodgers</td>
<td>Manager, Building Services (until 4.12pm)</td>
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<tr>
<td>Mr Mike Ross</td>
<td>Manager, Statutory Planning</td>
</tr>
<tr>
<td>Mr Rod Fielding</td>
<td>Manager Health Services (until 4.12pm)</td>
</tr>
<tr>
<td>Ms Melinda Wellburn</td>
<td>Secretary to Director, Planning &amp; Development Services</td>
</tr>
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</table>

| Members of the Public: | 1 |
| Press:                 | 1 |

| 2.3 Apologies:         | Cr Les Dodd |

| 2.4 Approved Leave of Absence: |         |
### 3. Responses to Previous Public Questions Taken on Notice

Nil

### 4. Public Question Time

**Mr Peter Crowe, No.333 Eighty Road, Baldivis** asked the following questions with respect to Item SP-029/11.

1. **If the vegetation screening outlined in the Special Conditions fails to conceal the antennae, will it be removed?**
   
   Mr Ross advised that if vegetation screening failed this would be a development compliance matter for the City to pursue under Town Planning Scheme No.2.

2. **Would the Amendment be approved if the antennae was erected in the front yard so that it was completely visible, as it is from my front yard?**
   
   Mr Ross advised that he is not in a position to advise if the antennae would be approved in the front yard, because the proposal was to keep the antennae in the rear yard.

### 5. Confirmation of Minutes of the Previous Planning Services Standing Committee Meeting

*Moved Cr Warner, seconded Cr Prince:*

That Council confirm the Minutes of the Planning Services Standing Committee Meeting held on 16 May 2011, as a true and accurate record.

Committee Voting - 4/0

### 6. Matters Arising from the Previous Planning Services Standing Committee Meeting Minutes

Nil.

### 7. Announcement by the Presiding Person without Discussion

The Chairman announced to all present that decisions made at Committees of Council are recommendations only and may be adopted in full, amended or deferred when presented for consideration at the next Council meeting.

### 8. Declarations of Members and Officers Interests

Nil.

### 9. Petitions/Deputations/Presentations/Submissions

**9.1 Presentation**

5.00pm

Ms Ainslie De Vos, Mr Lyle Banks and 2 Representative for Mineral Resources, Fremantle Ports attended the meeting to provide a briefing on new export proposals for Fremantle Ports' Kwinana Bulk Terminal and associated infrastructure upgrading.

### 10. Matters for which the Meeting may be Closed

Nil
11. **Bulletin Items**

**Planning Services Information Bulletin - June 2011**

**Health Services**
- 1. Health Services Team Overview
- 2. Human Resource update
- 3. Project Status Reports
  - 3.1 FoodSafe
  - 3.2 Industrial Audits
  - 3.3 Community Health & Wellbeing Plan
  - 3.4 Health Promotion
  - 3.5 North Rockingham Industrial Noise
  - 3.6 Ocean Water Sampling
- 4. Information items
  - 4.1 Mosquito-Borne Disease Notifications - May 2011
  - 4.2 Food Recalls - May 2011
  - 4.3 Statistical Health Information - May 2011
    - 4.3.1 Food Premises Inspections
    - 4.3.2 Public Building Inspections
    - 4.3.3 Outdoor Public Event Approvals - May 2011
    - 4.3.4 After Hours Noise & Smoke Nuisance Complaint Service
    - 4.3.4 Complaint - Information
    - 4.3.5 Building Plan Assessments
    - 4.3.6 Septic Tank Applications
    - 4.3.7 Demolitions
    - 4.3.8 Swimming Pool Sampling
    - 4.3.9 Rabbit Processing
    - 4.3.10 Hairdressing & Skin Penetration Premises
    - 4.3.11 Family Day Care

**Building Services**
- 1. Building Services Team Overview
- 2. Human Resource update
- 3. Project Status Reports
- 4. Information items
  - 4.1 Prosecutions and Notices
  - 4.2 Private Swimming Pool and Spa Inspection Program
  - 4.3 Monthly Building Licence Approvals - (All Building Types)
  - 4.4 Certificates of Classification
  - 4.5 Demolition Licence
  - 4.6 Annual Sign Licence
  - 4.7 Permanent Sign Licence
  - 4.8 Strata Title Certificate
  - 4.9 Building Approval Certificates for Unauthorised Building Works
  - 4.10 Monthly Caravan Park Site Approvals

**Strategic Planning and Environment**
- 1. Strategic Planning and Environment Team Overview
- 2. Human Resource update
- 3. Project Status Reports
  - 3.1 Policy Manual Review (LUP/1265)
  - 3.2 Local Planning Strategy (LUP/1352)
  - 3.3 Visual Landscape Study (LUP/1419)
  - 3.4 Dixon Road Area Assistance Grant (LUP/516)
  - 3.5 Developer Contribution Scheme (LUP/909)
| 3.6 | Local Biodiversity Strategy Review (EVM/22) |
| 3.7 | Karnup District Water Management Strategy (EVM/136) |
| 3.9 | Lake Richmond Water Quality Studies and Integrated Catchment Management Plan (EVM/135) |
| 3.10 | Water Campaign (EVM/56-02) |

4. Information items

4.1 Rockingham Industrial Zone Strategic Environmental Assessment (LUP/1399)

**Statutory Planning**

1. Statutory Planning Team Overview
2. Human Resource update
3. Project Status Reports
   - 3.1 eDA (Planning Products via the Web)
4. Information items
   - 4.1 Land Use - Planning Enforcement
   - 4.2 Proposed Telecommunications Facility - Lot 6009 (No.14) Clarkshill Road, Secret Harbour
   - 4.3 Subdivision/Development Approvals and Refusals by the WAPC
   - 4.4 Notifications & Gazettals
   - 4.5 Subdivision Clearances
   - 4.6 Subdivision Survey Approvals
   - 4.7 Delegated Development Approvals
   - 4.8 Delegated Development Refusals
   - 4.9 Delegated Building Envelope Variations
   - 4.10 Subdivision/Amalgamation Supported
   - 4.11 Subdivision/Amalgamation Refused

**Director Planning and Development**

1. Director Planning and Development Team Overview
2. Human Resource update
3. Project Status Reports
   - 3.1 Administration Building Refurbishment/Fitout
   - 3.2 Rockingham Strategic Metropolitan Centre - Infrastructure Development Strategy
   - 3.3 Rockingham Primary Centre Infrastructure - Business Case
   - 3.4 Smart Village 1 Masterplan
4. Information items

**Committee Recommendation:**

That Councillors acknowledge having read the Planning Services Information Bulletin - June 2011 and the contents be accepted.

Committee Voting – 4/0

12. **Agenda Items**

4.12pm - Mr Richard Rodgers, Manager, Building Services and Mr Rod Fielding, Manager, Health Services left the Planning Services Standing Committee meeting.
### Purpose of Report

To consider the draft Terms of Reference and Memorandum of Understanding relating to the Cockburn Sound Coastal Alliance ('the Alliance').

### Background

In March 2008, a Report to the Planning Services Committee sought to identify that the anticipated impacts of climate change could severely effect the City's operations across all areas of activity and that it was necessary to systematically respond to the risks to ameliorate their impacts.
In April 2011 a Position Paper on the City’s Climate Change Response was presented to Council outlining current activities on climate change, including:

- Climate Change Risk Management and Adaptation Action Plan - SMRC;
- Peron Naturaliste Partnership;
- Cockburn Sound Coastal Alliance; and
- Local Climate Change Adaptation Study Briefs.

It should be noted that climate change impacts are more than just coastal impacts resulting from rising sea levels and increased storm events; it also includes matters such as health issues associated with increased severer temperatures, increased bushfire risks and managing reduced water availability. In this regard, the Climate Change Risk Management and Adaptation Action Plan prepared for the SMRC identified the following major potential impacts:

- Reduced water availability for watering park areas;
- Reduced water available for natural wetlands;
- Increased potential for bush fires, impacting on public safety, ecosystems and public administration;
- Impacts on public health (heat stress, increased mosquito activity etc);
- Inundation of low lying areas, impacting on ecosystems and infrastructure; and
- Damage to infrastructure and environment resulting from increased severity and frequency of storm events.

In order to consider appropriate adaptation actions, guidance is required to better understand the impacts of climate change. The necessary funds and staff resources to conduct these processes, however, are prohibitive to most local authorities.

The most effective way for local government to progress the matter of climate change adaptation is through partnerships or collaborations with other Councils, to enable the pooling of resources and the sharing of knowledge. Access to government funding, primarily from the Federal Government, is often more readily made available to groups of Councils, given the perceived wider benefit of the funding.

With respect to the coastal impacts of climate change (particularly relating to sea level rise and storm events), the City has already made moves to proceed in collaboration with other local governments through its involvement in the Peron Naturaliste Partnership, and now the Cockburn Sound Coastal Alliance.

3. Details

As reported in April 2011, the City of Cockburn is leading a process to have a coastal vulnerability assessment undertaken for the Cockburn Sound coast between Fremantle and Cape Peron. The City of Rockingham, Town of Kwinana, City of Fremantle and Department of Defence (Stirling Naval Base) are partners to the Alliance.

A Study Brief to conduct the coastal vulnerability assessment has been prepared, and an application submitted for Commonwealth Government funding.

A draft Memorandum of Understanding (‘MOU’) has now been prepared to formalise the formation of the Alliance. The MOU describes that the broad scope of the Alliance shall be to:-

(a) Build and share knowledge within the member organisations, and to external parties including the community, pertaining to the vulnerability of Cockburn Sound and Owen Anchorage coastal zone to the effects of climate change, including sea level rise;

(b) Assist in the development of strategies of benefit to the member organisations and their constituents to aide them in addressing the identified vulnerabilities of Cockburn Sound and Owen Anchorage coastal zone to the effects of climate change;

(c) Enter into partnerships and agreements with other parties in pursuit of the aims in (a) and (b) above.
The expectations of each member Council are:-

(a) If a Participant Financial Member, provide a financial contribution appropriate to its share of any expense incurred by agreement of the group, reflective in part on the benefits that each party receives from the committed expense;

(b) Provide ‘in kind’ support through provision of venues, administrative support or the like, as agreed by the member and the group as a whole;

(c) Openly share knowledge and information amongst the group and with any consultants or other party contracted by the group to assist with the outcomes of the group;

(d) Maintain confidentiality on matters being dealt with by the CSCA as appropriate for probity, protection of other parties’ interests; and

(e) Support and promote the activities of the CSCA within their respective organisations, in external forums and to the community at large.

The MOU is not legally binding and the City will need to agree to any costs associated with the activities of the Alliance.

4. Implications to Consider

a. Consultation with the Community
   Nil

b. Consultation with Government Agencies
   Nil

c. Strategic Community Plan
   This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-

   **Aspiration 9:** ‘Planning systems, infrastructure standards and community awareness programs that serve to acknowledge and mitigate the impacts of climate change.’

d. Policy
   Nil (at this stage).

e. Financial
   The Strategic Planning and Environment Team Plan 2011/12 has identified the allocation of funds for the City’s Climate Change Response, including $150,000 in 2011/12 and $50,000 in the 2012/13.

   The specific cost of the City's contribution towards the coastal vulnerability assessment through the Cockburn Sound Coastal Alliance has yet to be determined, and any commitment by the City to the project will need to be considered against the City's allocated budget. It is considered likely, however, that the City's involvement in the Alliance is the most cost effective approach to obtaining a coastal vulnerability assessment for the City's northern coastline, and will present best value.

   Climate Change adaptation will incur considerable costs to the Council. The extent of the costs will be defined when the Climate Change Response Plan or the specific climate change adaptation processes are further resolved. There are numerous government funding opportunities to assist in climate change adaptation which the City, via the partnerships it has formed, will seek to leverage.

f. Legal and Statutory
   The Memorandum of Understanding is intended as a non-legally binding document, and contains provisions confirming its status as such.
5. Comments

The City has recently entered into a partnership (the 'Peron Naturaliste Partnership') with local governments from Rockingham to Busselton which facilitate the collective preparation of a coastal vulnerability assessment. The partnership was seen as an extremely effective and legitimate vehicle for undertaking the work required, and for attracting Government funding.

Similar assessment and management is required for the City's northern coastline and it is considered that participation in the Alliance will provide the most cost effective approach, and assist in attracting Government funding for the work.

Accordingly, it is recommended that the City formalise its participation in the Alliance by endorsing the Memorandum for Understanding.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council DIRECT the Chief Executive Officer to endorse the Memorandum of Understanding for the Cockburn Sound Coastal Alliance.

8. Committee Recommendation

That Council ENDORSE the Memorandum of Understanding for the Cockburn Sound Coastal Alliance.

Committee Voting – 4/0

9. The Committee’s Reason for Varying the Officer’s Recommendation

As Council is endorsing the Memorandum of Understanding, direction to the Chief Executive Officer is not required.

10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
### Planning Services
#### Strategic Planning & Environment Services

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<td>File No:</td>
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<td>LUP/1351-02</td>
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<tr>
<td>Proponent/s:</td>
<td></td>
<td>Department of Planning</td>
</tr>
<tr>
<td>Author:</td>
<td></td>
<td>Mrs Jocelyn Ullman, A/Co-ordinator Strategic Planning</td>
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<tr>
<td>Other Contributors:</td>
<td></td>
<td>Mr Brett Ashby, A/Manager Strategic Planning &amp; Environment</td>
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<td>Date of Committee Meeting:</td>
<td></td>
<td>20th June 2011</td>
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<tr>
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<td>Attachments:</td>
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<td>6. Visual Landscape Study – Executive Summary</td>
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### 1. Purpose of Report

To inform the Council of planning investigations undertaken to date on the proposed Karnup Train Station and surrounding land and to establish the City's position with respect to the ongoing Transit Oriented Development (TOD) planning for the Station Precinct.
2. **Background**

The proposed Karnup Station is located north of the intersection of Mandurah and Paganoni Roads, immediately east of Mandurah Road. The railway rises at this point to cross over Paganoni Road and the two lines have been separated to receive the platform.

The Mandurah railway line (which opened in 2007) has experienced very high patronage levels and in 2008 was operating at close to 95% of its forecasted demand. The two stations south of Rockingham (Warnbro and Mandurah) are handling particularly high passenger numbers and, consequently, the park and ride facilities at both stations have exceeded capacity.

In order to relieve some of the pressures on the Warnbro and Mandurah stations, the Public Transport Authority (PTA) commenced assessing a business case for the construction of Karnup Station, generally in accordance with the South West Metropolitan Railway Master Plan.
3. Details

A number of workshops and extensive investigations have been carried out on the Karnup Station and its surrounding land. This work is summarised below:

Karnup Station Status Workshop – September to December 2008

In December 2008, the PTA commissioned a Workshop and Report to detail all known structure planning activity and developer intentions for the land surrounding the Karnup station, and provide analysis of structural matters affecting the development of a TOD at the proposed station.

Transit Oriented Development (TOD) has been defined as:

“a mixed-use residential or commercial area designed to maximize access to public transport, and often incorporates features to encourage transit ridership. A TOD neighborhood typically has a center with a transit station or stop (train station, metro station, tram stop, or bus stop), surrounded by relatively high-density development with progressively lower-density development spreading outwards from the center. TODs generally are located within a radius of 400 to 800 m from a transit stop, as this is considered to be an appropriate scale for pedestrians.”

The Workshop established that there is widespread stakeholder support for the development of a TOD at Karnup, however, the site is currently constrained by a number of physical and environmental barriers and planning controls.

Proposed Karnup Station Detailed Design Workshop – March 2009

In March 2009, the PTA engaged Planning Consultants, Taylor Burrell Barnett, to facilitate a Design Workshop that built on the outcomes of the preliminary design workshop and subsequent report for the Karnup Station held in late 2008. The objective of the Design Workshop was to resolve the key design issues for the site, including passenger platform alignment, bus and private vehicle movement, main street alignment, built form, land use mix and staging.

The outcomes of the Design Workshop were to guide the long term development strategy for the TOD and assist with development of a business case for the delivery of Stage One – Park and Ride facility in accordance with the South West Metropolitan Railway Master Plan.

Commitment is still to be given to the construction of the Station through the State government budget.

Metropolitan Region Scheme Amendment – November 2009

In October 2009, the Western Australian Planning Commission (WAPC) sought comments from the City regarding an application seeking approval to amend the Metropolitan Region Scheme (MRS) by rezoning land in Sawley Close, Golden Bay from ‘Rural’ to ‘Urban’. This land is partly owned by Cape Bouvard Investments and is partly within the 800m walkable catchment to the Karnup station.

At its ordinary Meeting of 24th November 2009, Council resolved to not support the application for following reasons:

“(i) Rezoning of the subject land to facilitate urban development is inconsistent with the recommendations of the City of Rockingham Planning Policy No. 5.2 – Rural Land Strategy which identifies the area for ‘Special Rural’ and ‘Special Residential’ subdivision in order to maintain the rural view shed along Mandurah Road and natural landscape features of the dune system.

(ii) The proposed MRS amendment is premature and consideration of the proposal should be deferred until such time as Directions 2031 and the draft Southern Metropolitan and Peel Sub-Regional Structure Plan is finalised and the status and meaning of ‘Urban Investigation Area’ is clarified.”

Draft Outline Concept Plan – October 2009

In October 2009, Taylor Burrell Barnett, on behalf of Cape Bouvard Investments, presented a draft Outline Concept Plan to the WAPC for discussion for a TOD at Karnup Station (see Attachment 1 – draft Outline Concept Plan).
In November 2010, the City commissioned Mackay Urbandesign to assist the City of Rockingham in reviewing the Taylor Burrell Barnett draft Outline Concept Plan and aid in preparing a suite of principles to guide planning and urban design in the vicinity of the Karnup Station.

On 20th January 2010, the City provided preliminary comments on the draft Outline Concept Plan that can be broadly categorised into the following range of issues:

* the broad intent of a TOD development;
* the size and location of the proposed activity centre;
* the locations and extent of different residential densities and other land uses;
* the arrangement of the movement network; and
* the current status of the City’s position in relation to landscape protection.

Karnup TOD Urban Design Investigations Scenarios – July 2010

Following the City’s preliminary response to Taylor Burrell Barnett, to achieve an effective TOD outcome, with the assistance of Mackay Urbandesign, the City developed up to 25 overarching planning and urban design principles that relate to three possible development scenarios for the land surrounding the Karnup station. A copy of the Report is included as Attachment 2 – Karnup TOD Urban Design Investigations Scenarios, prepared by Mackay Urbandesign.

The three possible development scenarios (outlined below) demonstrate how the planning principles could be applied to deliver an improved TOD concept, subject to varying degrees of environmental conservation. The three scenarios considered a bias towards delivering a walk-on catchment to the railway system, a bias towards landscape protection and a scenario midway between.

A summary of the land uses for each scenario is provided below:

**Scenario 1** - The developable area within a reasonable 1km walking distance of the proposed Karnup Station is maximised to increase, as much as possible, the opportunity for people to live (and work) in an environment where they are far less dependant on car ownership.
Whilst the environmentally sensitive area to the north of the Precinct is retained, the reserve to the south and the high ground to the west are designated for development given their proximity to the station.

A copy of Scenario 1 is included below and also as Attachment 3.

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<tr>
<td>Dwellings within 800m of station</td>
<td>2,950</td>
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<tr>
<td>Residents within 800m of station</td>
<td>6,490</td>
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<tr>
<td>Retail floorspace within the precinct</td>
<td>12,000m²</td>
</tr>
<tr>
<td>Other commercial floorspace within the precinct</td>
<td>29,500m²</td>
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**Scenario 2** - The extent of the developable area remains largely similar to the extent in Scenario 1 to make a significant contribution towards walk-on patronage of the rail system, however, the higher ground to the west of the Precinct is only partially developed. The pockets of development placed in the dunal system are intended to provide sufficient yield to justify the new street connections to the local centre and station from the development to the west of the station precinct, whilst at the same time, retaining enough of the original dunal landscape to provide a backdrop to the remainder of the TOD precinct.

A copy of Scenario 2 is included below and also as Attachment 4.
Scenario 3 - The extent of the developable areas is defined by a desire to retain all areas of land within the TOD precinct that have any environmental merit, regardless of any consideration of the benefits associated with the reduced car use resulting from TOD. This Scenario also assumes that local environmental considerations are placed before any social and economic benefits of reduced car-dependence, and the provision of more local services that would be derived from a larger population base.

A consequence of this Scenario is that the local centre may be better located on the eastern side of the railway because of the reduced population on the west side and the inability to directly feed the centre with streets leading from the existing/future development area further to the west.

A copy of Scenario 3 is included below and also as Attachment 5.
Dwellings within 800m of station | 1,850
Residents within 800m of station | 4,070
Retail floorspace within the precinct | 6,675m²
Other commercial floorspace within the precinct | 26,950m²

The scenarios prepared by Mackay Urban Design were produced for internal discussion purposes only and are not a reflection of the City's position on the development of a TOD for Karnup Station.

Draft Visual Landscape Study – Singleton, Golden Bay and Secret Harbour

Given that the City's Rural Land Strategy is being challenged through the proposed TOD and MRS Amendment requests, the City commissioned AECOM to undertake a Visual Landscape Study (VLS) of the area zoned 'Rural' under the MRS between Singleton, Golden Bay and Secret Harbour, on the western side of Mandurah Road.

The intent of the VLS is to evaluate the natural landscape features and visual amenity of the land. The work undertaken to date includes the following:

* the identification of nine Landscape Character Units;
* a Visual Analysis that has identified 22 representative viewpoints; and
* comprehensive community consultation including a community drop-in day to determine how the community views and experiences the landscape in the area and what it values about it. The draft VLS was also advertised for a month. 115 submissions were received.
In regard to the findings relating specifically to the area that could potentially be affected by the Karnup TOD, the draft VLS contains the following information:-

* "the subject land falls largely within Landscape Character Unit 4 (LCU4). LCU4 is split into two sub units LCU4a and LCU4b. The key landscape and visual characters of LCU 4 are:
  * Concentration of mature Tuart, Cottesloe and Karrakatta trees, which provide a leafy character and contribute (naturalistic) vistas from Mandurah Road;
  * The well maintained rural residential character in LCU4a, evoking a “sense of civic pride” and “sense of place”;
  * Highly visible from key vantage points including Viewpoint B: Mandurah Hill."

* the draft VLS has identified that some parts of LCU4 “has some capacity to absorb additional development without further adverse impacts on character. This is providing the development is undertaken in a sensitive manner, where by existing Tuart vegetation is maintained (as far as possible) and development kept below the height of the tree canopy.”

The Executive Summary of the draft VLS is included as Attachment 6.

It is anticipated that a final draft of the VLS will be received mid-June. The VLS will further inform the City’s position on the proposed Karnup TOD.

Karnup Urban TOD Steering Committee – December 2010

In late 2010, a Steering Committee was formed by the Department of Planning to progress planning for an Urban TOD at Karnup Station.

The purpose and intent of the Steering Committee is to:

* Jointly plan the Karnup Urban TOD;
* Collaboration of major stakeholders (government and private landowners), with Department of Housing as a key immediate and future stakeholder;
* Facilitate a design based workshop;
* Develop a land use planning framework within 6 months; and
* Make representation to Local, State and Federal Government.

This Committee consists of representatives from the City of Rockingham, WAPC, Department of Planning, Department of Transport, Department of Housing, Taylor Burrell Barnett (facilitating on behalf of the Department of Planning) and representatives of large private landholders within 800m of the Karnup Station. The Steering Committee has had two meetings leading up to a design workshop held in May 2011, as discussed below.

Design Workshop – May 2011

A design workshop was held on 5th April 2011, as a collaboration of public and private stakeholders with a common interest in the planning, design and implementation of a TOD at Karnup Station.

The following stakeholders and experts were invited to give presentations at the workshop:

* Gary Prattley – Chairman, Western Australian Planning Commission
* Bill Burrell – Director, Taylor Burrell Barnett
* Bob Jeans – Director of Planning and Development Services, City of Rockingham
* Brian Haratsis – Economist and Managing Director, Macropian
* Mike Cullen – Principle, Urbacity
* Jonathan Riley – Principle, Riley Consulting

Four options where developed at the workshop, based on the following scenarios:

* Destination Station (Blue Sky) – Focus on employment generation, but push the envelope and think long range;
* Origin Station (Blue Sky) – Primarily residential with retail and mixed use, but push the envelope on density and development and think long range;
* Origin Station (Realistic) – Primarily residential, with retail and mixed use, but be realistic/conservative about staging, density and development; and
* Destination Station (Realistic) – Focus on employment generation, but be realistic on delivery and staging of development.

The outcomes of the Workshop are a number of proposed recommendations for consideration by the Steering Committee, as follows:

1. **Convene a Steering Committee meeting in June 2011 to discuss the outcomes of the workshop and agree the key principles to underpin a consolidated plan.**
2. **Present a list of questions for consideration by the Steering Committee in order to assist in the identification of the key principles of the consolidated plan, including:**
   a. What is the target density?
   b. What is the target jobs?
   c. Is it an origin station, destination station or mixed-use station?
   d. What are the key land use elements to achieve?
      i. Local centre scale retail?
      ii. Educational uses?
      iii. Affordable housing?
      iv. Mixed use?
   e. Should development embrace both sides of Mandurah Road, with development integrated through:
      i. A bridge (‘flyover’) over Dampier Drive?
      ii. A pedestrian bridge over Mandurah Road?
   f. Should we identify a primary catchment and a wider catchment (800m and greater?)
   g. Should the station be delivered early through Stage 1 Park and Ride facility?
   h. Should the Bus Depot be located at Karnup or elsewhere (Stakehill Station)?
   i. Is car and bus transfer at the station integral to the successful delivery of an Urban TOD at Karnup?
   j. Is it important to retain aspects of the landform and landscape as a backdrop to residential and retail/commercial development?
3. **Facilitate a Memorandum of Understanding (MoU) being entered into between the major stakeholders (City of Rockingham, Public Transport Authority, Western Australian Planning Commission and Department of Housing) for an ‘early station delivery model’, whereby all parties use their best endeavours to achieve a government commitment to funding and timing by 2013 and commencement of works on the ground in 2015. This would be based on the parties adopting a statement for Karnup along the following lines:**
   “Karnup station can deliver a transformation land use for the Golden Bay area and Keralup which is essential for the delivery of affordable housing in this locality.”
4. **WAPC to confirm its intent to recognise the urban development potential of land within the Karnup TOD catchment through the inclusion of the land as ‘Future Urban TOD’ in the Outer Metropolitan Perth and Peel Sub Regional Strategy and Structure Plan underway for this region, and subsequent rezoning to ‘Urban’ in the Metropolitan Region Scheme.**
5. **Prepare a consolidated plan for the Karnup Urban TOD with the use of 3D graphics for presentation to the relevant Ministers.**
6. **Prepare a Local Structure Plan for the Karnup Urban TOD to facilitate consideration for rezoning to “Urban Development” in the City’s Local Planning Scheme.**
4. Implications to Consider

a. Consultation with the Community

As there are no formal proposals over the land (yet), community consultation has not been undertaken in relation to the Karnup Station or surrounding land.

It should be noted, however, that the draft VLS has undergone community consultation including a community drop-in day in February 2011 that included the opportunity for the community to provide feedback in the form of a questionnaire. 115 questionnaires were received with overwhelming support for the retention of the dunal system along Mandurah Road.

Given the significant interest in the draft VLS and the importance of the dunal system to the community, community engagement is considered essential once a formal proposal has been lodged.

b. Consultation with Government Agencies

The Karnup Station is a government funded project and therefore a number of Government Agencies are, and will continue to be, involved in the project.

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations contained in the Community Plan 2011:-

**Aspiration 6:** Civic buildings, public places and transport infrastructure of contemporary design, constructed and maintained using best practice principles.

**Aspiration 8:** Transport systems that facilitate better use of public transport and promote non-car alternatives.

d. Policy

Planning Policy 5.2 - Rural Land Strategy

The land directly to the west of Mandurah Road is identified as Planning Unit No.3 under Council's Rural Land Strategy. The primary objective for Planning Unit No.3 is to encourage 'Special Rural/Special Residential' development which is compatible with the land capability of the Quindalup dune system and that subdivision and development accords with landscape protection criteria for Mandurah Road.

The 'Special Rural' and 'Special Residential' zoning of the Golden Bay Precinct serves as a transition between the existing and future urban land to the north and west and Mandurah Road to the east.

In terms of land capability, the Rural Land Strategy recommends lot sizes ranging between 1ha (Larkhill/Golden Bay) and 2ha (Singleton).

A 40m landscape buffer strip implemented via setback control has been established along Mandurah Road to enhance the viewshed. Lot densities adjacent to Mandurah Road are required to be lower to maintain the rural viewshed.

A TOD at Karnup Station does not meet the objectives of the or requirements of Planning Policy 5.2 – Rural Land Strategy.

e. Financial

There are no financial implications for this project at this stage. Funding of workshops and reports is currently being met by State agencies.

f. Legal and Statutory

Nil
5. Comments

City Officers have been involved and provided input into numerous workshops and reports on the Karnup Station and its surrounding land. Officers will continue to be involved in the TOD planning investigations for the area.

Given the impact that the Karnup Station and proposed TOD would have on the surrounding land, particularly the dune system along the western side of Mandurah Road, it is critical that decisions on the Karnup Station and development of the surrounding land be made following consideration of the VLS.

This is reinforced by the City’s current policy position under Planning Policy 5.2 – Rural Land Strategy that identifies the area for ‘Special Rural’ and ‘Special Residential’ subdivision, in order to maintain the rural viewshed along Mandurah Road and natural landscape features of the dunal system.

With specific regard to the proposed recommendations to the Steering Committee (as contained in the latest Design Workshop Outcomes Report), it is recommended that the City advise the Steering Committee that it will consider entering into a Memorandum of Understanding to achieve a government commitment to funding and timing for the construction of the Karnup station. Whilst the City is willing to continue in the planning investigations for the Karnup TOD, it is not in a position at this stage to agree on potential land-uses and density surrounding the Station or within the TOD Station catchment.

It is also recognised that community engagement will play an important part in the consideration of proposals for the Karnup Station and its surrounding land.

The VLS will also inform City Officers in considering any proposals over the land.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council:-

1. SUPPORT the Western Australian Planning Commission sponsored Transit Oriented Development (TOD) planning investigations for the Karnup Station and surrounding land, including consideration of a Memorandum of Understanding to achieve government commitments for the funding and early construction of the Karnup Station.

2. DEFER its final position on the potential development of the surrounding land for TOD land-uses until the City has finalised its Visual Landscape Study. In this regard, the development of a TOD to the west of Mandurah Road is contrary to the City's current Planning Policy 5.2 - Rural Land Strategy.

8. Committee Recommendation

That Council:-

1. SUPPORT the Western Australian Planning Commission sponsored Transit Oriented Development (TOD) planning investigations for the Karnup Station and surrounding land, including consideration of a Memorandum of Understanding to achieve government commitments for the funding and early construction of the Karnup Station.

2. DEFER its final position on the potential development of the surrounding land for TOD land-uses until the City has finalised its Visual Landscape Study. In this regard, the development of a TOD to the west of Mandurah Road is contrary to the City's current Planning Policy 5.2 - Rural Land Strategy.

Committee Voting – 4/0
9. The Committee’s Reason for Varying the Officer’s Recommendation
Not applicable.

10. Implications of the Changes to the Officer’s Recommendation
Not applicable.
### Statutory Planning

#### Planning Services

**Statutory Planning Services**

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-026/11 Proposed Home Business (Dental Surgery)</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>28/6274</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Ms C Pinzana De La Torre</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Co-ordinator, Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager, Statutory Planning</td>
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<tr>
<td>Date of Committee Meeting:</td>
<td>20th June 2011</td>
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<td>Previously before Council:</td>
<td></td>
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<td>Disclosure of Interest:</td>
<td></td>
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<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Quasi Judicial</td>
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<tr>
<td>Site:</td>
<td>Lot 854 (No.11) Coates Avenue, Baldivis</td>
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<td>Lot Area:</td>
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<td>Submissions</td>
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<tr>
<td>Maps/Diagrams:</td>
<td></td>
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</table>
1. **Purpose of Report**

To consider an application seeking planning approval for the operation of a Home Business (Dental Surgery) at Lot 854 (No.11) Coates Avenue, Baldivis.

2. **Background**

Nil

3. **Details**

An application has been received to establish a Home Business (Dental Surgery) at Lot 854 (No.11) Coates Avenue, Baldivis. The applicant currently lives at the property and proposes to operate the Home Business (Dental Surgery), with one staff member (Assistant Nurse).

The proposed hours of operation are Monday to Friday, 9:00am to 6:00pm and Saturday 9:00am to 1:00pm. One client per hour is proposed on an appointment only basis. The proposed business will operate from the master bedroom and bathroom of the existing dwelling. While the main bedroom is proposed to be used for the Home Business the applicant will be using one of the other four bedrooms within the house to sleep. All carparking will be contained upon the existing driveway.

4. **Implications to Consider**

a. **Consultation with the Community**

In accordance with Planning Policy 3.3.10 – Home Occupations & Home Businesses, the application was referred to thirteen owners for comment for a period of 14 days. At the close of the advertising period, two submissions were received from the adjoining owners at No.13 Coates Avenue and from No.15 Coates Avenue.

Both submissions objected to the proposal for the following reasons:-

(i) Carparking;

(ii) Residential Character;

(iii) Number of Clients;

(iv) Crime;

(v) No Community Benefit;

(vi) Commercial Competition; and
(vii) Developer Covenants.

b. **Consultation with Government Agencies**
   Nil

c. **Strategic**
   Community Plan
   The item addresses the Community’s vision for the future and specifically the following Aspirations contained in the Community Plan 2011:-

   **Aspiration 11:** Planning for population growth to ensure that future development and land-uses contribute to a sustainable city that provides for a genuinely desirable lifestyle.

d. **Policy**
   Planning Policy 3.3.10 – Home Occupations & Home Businesses.

e. **Financial**
   Nil

f. **Legal and Statutory**
   Nil

5. **Comments**

The proposed Home Business (Dental Surgery) complies with the requirements of Planning Policy No. 3.3.10 - Home Occupations and Home Businesses ('the Policy'). The proposal is compliant with all of the requirements of the Policy.

Officer comments in regard to points raised in the submissions are as follows:-

(i) **Carparking**
   Concerns were raised regarding the availability of carparking, especially if the anticipated clientele of one person per hour is exceeded. The applicant has stated that a maximum of two carparking bays will be needed at any one time. This carparking will cater for one staff member and one client. There is adequate carparking space for two cars within the garage and two cars within the driveway to cater for staff and clients. A condition of Planning Approval can be included, limiting the maximum number of clients. This will ensure all vehicles are parking on the subject site. The increase in traffic volume in Coates Avenue and resultant impact on neighbouring properties would be minimal.

(ii) **Residential Character**
   The submissioners consider that the proposed business is inconsistent with the predominantly residential nature of the area. An objective of the Policy is to provide for economic growth and employment opportunities by facilitating home based businesses in the Residential zones. The operation of the proposed Home Business will be limited to inside the dwelling and the nature of the business is not noisy. The applicant will not be erecting an advertising sign, but has advised that should a sign be required, it will comply with the requirements of the Policy.

(iii) **Number of Clients**
   Concern was raised that the number of clients attending the premises would exceed the one client per hour proposed. To address this concern, a condition can be included on the Planning Approval that restricts the number of clients to one per hour, together with a 15 minute interval between clients.

(iv) **Crime**
   Concern was raised that the proposed business will attract crime to the area, due to the association of drugs with Dental Surgeries. There is no evidence to support the assertions that the business will attract crime. The residential appearance of the existing dwelling is retained.
(v) No Community Benefit

It was noted that the proposed business is similar to other businesses located in the vicinity of the subject site, and thus the business does not add value to the community. The City officers consider that the proposed business does add value to the community, by improving medical services.

(vi) Commercial Competition

Concern was noted that the proposed business would create competition with the nearby Baldivis Shopping Centre, where a Medical Centre has been approved. This objection is not a valid planning consideration. The Policy provides the opportunity for home businesses to be established within the Residential zone, regardless of the existence of the Baldivis Shopping Centre.

(vii) Developer Covenants

Concern is raised that the proposed home business is not consistent with covenants for Settlers Hills which promotes the estate as a residential area. Restrictive Covenants imposed by developers are a matter between the developers and purchasers only. Restrictive Covenants are not enforced by the City and are not relevant to the assessment of home business applications under TPS2.

6. Voting Requirements

Simple Majority.

7. Officer Recommendation

That Council **APPROVE** application 20.2011.89 seeking Planning Approval for a Home Business (Dental Surgery) at Lot 854 (No.11) Coates Avenue, Baldivis, subject to the following conditions:-

2. A maximum of one client per hour is permitted to attend the premises in accordance with the applicant's submission.

8. Committee Recommendation

That Council **APPROVE** application 20.2011.89 seeking Planning Approval for a Home Business (Dental Surgery) at Lot 854 (No.11) Coates Avenue, Baldivis, subject to the following conditions:-

1. All materials and/or equipment used in relation to the Home Business must be stored within the residence, shed and/or rear yard, behind property fences, at all times.
2. Clients must not be permitted to attend the premises except by appointment and, with an interval of at least 10 minutes between clients.
3. Not more than two people are to be employed in connection with the Home Business who are not members of the occupier's household, at any time.
4. The display or retail sale of goods must not be carried out from the premises.
5. A maximum of one client per hour is permitted to attend the premises in accordance with the applicant's submission.

And the following Footnote:-

1. The development should comply with Planning Policy 3.3.10 - *Home Occupations and Home Businesses*, Planning Policy 3.3.13 - *Parking of Commercial Vehicles in a Residential Zone*, a copy of which is attached to this approval.

Committee Voting – 3/1

(Cr Richard Smith voted Against)
<table>
<thead>
<tr>
<th>9.</th>
<th><strong>The Committee’s Reason for Varying the Officer’s Recommendation</strong></th>
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<tbody>
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<td>The conditions are reproduced in full to enable better understanding of the conditions being applied by the City.</td>
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<thead>
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<th>10.</th>
<th><strong>Implications of the Changes to the Officer’s Recommendation</strong></th>
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## Planning Services
### Statutory Planning Services

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<tr>
<th><strong>Reference No &amp; Subject:</strong></th>
<th><strong>SP-027/11 Proposed Five Grouped Dwellings</strong></th>
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<tr>
<td><strong>File No:</strong></td>
<td>28/4775</td>
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<tr>
<td><strong>Proponent/s:</strong></td>
<td>Mr &amp; Mrs D’Alessio &amp; Mr &amp; Mrs Costa</td>
</tr>
<tr>
<td><strong>Author:</strong></td>
<td>Miss Donna Shaw, Planning Officer</td>
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<td><strong>Disclosure of Interest:</strong></td>
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<td><strong>Nature of Council’s Role in this Matter:</strong></td>
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<tr>
<td><strong>Site:</strong></td>
<td>Lot 1 (No.30) Parkin &amp; Fletcher Streets, Rockingham</td>
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<tr>
<td><strong>Lot Area:</strong></td>
<td>1,113m²</td>
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<td><strong>Maps/Diagrams:</strong></td>
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**Objection received**

**Subject Site**

**Notified**

**Fletcher Street**

**Parkin Street**
1. **Purpose of Report**

To consider an application seeking planning approval for five grouped dwellings at Lot 1 (No.30) Parkin Street, Rockingham.

2. **Background**

Nil

3. **Details**

An application has been received to develop five grouped dwellings at Lot 1 (No.30) Parkin Street, Rockingham.

Five two storey grouped dwellings are proposed:-

- Two of the units facing Fletcher Street;
- One unit located in the middle of the site with access obtained through a common property access leg from Fletcher Street; and
- Two units accessed directly from Parkin Street.

4. **Implications to Consider**

a. **Consultation with the Community**

The application was referred to two adjacent landowners for comment for a period of 14 days. At the close of the advertising period, one submission was received objecting to the proposal from the owner and resident of Lot 91 (No.32) Parkin Street. A copy of this submission is attached. The submitter raised the following concerns:-

   (i) Boundary Fence;
   (ii) Access to submitter's land for construction;
   (iii) Overshadowing;
   (iv) Number of dwellings proposed; and
   (v) Overlooking.

b. **Consultation with Government Agencies**

Nil

c. **Strategic**

**Community Plan**

This item addresses the Community’s Vision for the future and specifically the following Aspiration contained in the Community Plan 2011:-

**Aspiration 11:** Planning for population growth to ensure that future development and land-uses contribute to a sustainable city that provides for a genuinely desirable lifestyle

d. **Policy**

Nil

e. **Financial**

Nil

f. **Legal and Statutory**

Nil
5. Comments

The applicant seeks approval for building setback variations to the Acceptable Development Criteria of the Residential Design Codes (R-Codes). The proposed variations are as follows:

- A 990mm setback is proposed to the western boundary from the lower floor of unit 5. The R-Codes require a setback of 1m under the R-Codes.
- A 1.017m setback is proposed to the eastern boundary from the lower floor of unit 1. A 1.5m setback is required under the R-Codes.
- A 1.2m setback is proposed to the western boundary from the upper floor of unit 5. The R-Codes require a setback of 1.5m.
- A 1.4m setback is proposed to the eastern boundary from the upper floor of unit 1. A 1.9m setback is required under the R-Codes.

These setback variations are all considered to be minor and will have minimal impact on the amenity of adjacent properties. Larger internal spaces of the units are achieved through the setback variations, is beneficial to future occupants of the units.

The main concerns raised in the submission relate to the variations proposed to unit 5, as this unit is proposed in a location that is directly adjacent to the submissioner's property. The objections that were raised in the submission and associated Officer comments are as follows:

(i) Boundary Fence

The submissioner believes that a portion of boundary fence will be removed to build the boundary wall of unit 5. The applicant does not have to remove the boundary fence to build the boundary wall of unit 5. A condition can be placed on the Planning Approval to ensure the boundary wall must be wholly contained within the subject site.

(ii) Access to submissioner's land for construction.

The submissioner is concerned that access will be required to their land for the removal of the boundary fence and construction of the common property wall. Whilst it is common to remove boundary fences to make the construction process easier, as mentioned above, it is not necessary to remove the boundary fence and construction is possible without entering the submissioner's private property. The applicant will be advised that the adjoining owner has refused consent to gain access through the neighbouring property at (No.32 Parkin Street) for construction purposes is not permitted.

(iii) Overshadowing

The submissioner is concerned that a two storey unit will impact upon the courtyard area provided on the adjoining land. The overshadowing plan provided as part of the application shows that no overshadowing will occur to Lot 91 (No.32) Parkin Street and thus the submissioner's courtyard will not be affected. The submissioner's courtyard is also situated on the opposite side of the proposed development.

(iv) Number of dwellings proposed

The submissioner noted that the subject site was originally subdivided into four separate blocks, whilst the development proposal seeks to create five residences on the site. The development of five residences was considered excessive. There are no previous subdivision approvals for the subject site. The proposed lot sizes satisfies the R-Code minimum and average site area requirements (200m² and 220m²) and thus the five lots proposed are acceptable.

(v) Overlooking

The submissioner believes that proposed unit 3 has a second storey window that will look directly into the open space area for the submissioner's unit, and therefore has objected. The window from Bedroom One is the only upper floor window facing Lot 91 (No.32) Parkin Street from Unit 3, and it has a setback of 5.2m from the boundary. The visual privacy criteria of the R-Codes require a setback of 4.5m in the case of bedrooms. A greater setback than what is required under the R-Codes is proposed.
6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council APPROVE application 20.2011.28 seeking Planning Approval for five grouped dwellings at Lot 1 (No.30) Parkin Street, Rockingham subject to:-

1. Standard Conditions: D7, D11, D23, D37 and D52 (eastern, Unit 1)
2. The balcony on unit 1 must be screened to the eastern boundary to a height of 1.65m as marked in RED on the approved plans.
3. The western boundary wall for unit 5 must be wholly contained within the subject site and must not result in the removal or damage of the boundary fence with Lot 91 (No.32) Parkin Street.
5. Footnote: The applicant is advised that the owner of Lot 91 (No.32) Parkin Street, Rockingham has refused to grant access through their land, for the construction of the development and the removal of the western boundary fencing.

8. **Committee Recommendation**

That Council APPROVE application 20.2011.28 seeking Planning Approval for five grouped dwellings at Lot 1 (No.30) Parkin Street, Rockingham subject to the following conditions:-

1. Earthworks and batters must be stabilised to prevent sand blowing and dust nuisance, for the duration of development.
2. A Landscaping Plan must be prepared and include the following detail, to the satisfaction of the City, prior to the issue of a Building Licence:
   (i) The location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;
   (ii) And lawns to be established;
   (iii) Any natural landscape areas to be retained;
   (iv) Those area to be reticulated or irrigated; and
   (v) Verge treatments.
3. The development must be connected to Water Corporation sewer mains prior to the occupation of the development, and must remain connected at all times.
4. The standard of finish to the wall(s) built up boundaries must be to the satisfaction of the adjoining owner(s) or, in the case of a dispute, to the satisfaction of the City.
5. The eastern side of the balcony to unit 1, marked in red on the approval plans, must be designed with permanent vertical screening to a minimum height of 1.6 metres above floor level, prior to the issue of a Building Licence.
6. The balcony on unit 1 must be screened to the eastern boundary to a height of 1.65m as marked in RED on the approved plans.
7. The western boundary wall for unit 5 must be wholly contained within the subject site and must not result in the removal or damage of the boundary fence with Lot 91 (No.32) Parkin Street.

And the following Footnotes:-

1. With respect to Condition No.2, the applicant and owner should liaise with the City’s Park Services to confirm requirements for landscaping plans.
2. The applicant is advised that the owner of Lot 91 (No.32) Parkin Street, Rockingham has refused to grant access through their land, for the construction of the development and the removal of the western boundary fencing.

Committee Voting - 4/0

9. **The Committee’s Reason for Varying the Officer’s Recommendation**

The conditions are reproduced in full to enable better understanding of the conditions being applied by the City.

10. **Implications of the Changes to the Officer’s Recommendation**

Not applicable.
1. Purpose of Report

To consider the adoption of amended Policy No.3.3.5, Child Care Premises ("the Policy"), to reflect the Food Act 2008 and clarify exemption requirements.

2. Background

In July 2010, Council resolved to modify the Policy for consistency with Planning Bulletin No.72 - Child Care premises. The modified Child Care Policy clarified that ‘Family Day Care Centres’ are child care services provided at a place where the person providing the service lives and are exempt from Planning Approval under clause 6.1.2(j) of Town Planning Scheme No.2.

In March 2011, Council considered a proposal to amend the Policy for consistency with the new Food Act 2008. Council subsequently resolved to advertise the proposal in accordance with Section 8.9 of Town Planning Scheme No.2.
3. **Details**

The Policy and its appendices are proposed to be amended for consistency with the new Food Act 2008 and to make minor text changes. The modification to the Policy will clarify that the exemption from the requirement for Planning Approval does not absolve the applicant from compliance with other legislation, particularly the registration of a Food Premises with the City's Health Services. Appendix 2 has been inserted which includes an Application for a Registration of Food Premises.

4. **Implications to Consider**

   a. **Consultation with the Community**

      The proposal was advertised in the following manner:

      (i) A Notice was published in the Sound Telegraph Newspaper for two consecutive weeks from the 13th May 2011;

      (ii) A Notice, an Explanatory Report and copies of the proposed Planning Policy were posted on the Council's Website for the entire advertising period;

      At the conclusion of the advertising period on the 3rd June 2011, no submissions had been received.

   b. **Consultation with Government agencies**

      Consultation with Government agencies is not required.

   c. **Strategic**

      **Community Plan**

      This item addresses the Community's Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-

      **Aspiration 11:** Planning for population growth to ensure that future development and land-uses contribute to a sustainable city that provides for a genuinely desirable lifestyle.

   d. **Policy**

      Planning Procedure 1.3, *Community Consultation* guided the public consultation associated with the draft Policy.

   e. **Financial**

      Nil

   f. **Legal and Statutory**

      Section 8.9 of Town Planning Scheme No.2 applies to amendments to a Planning Policy.

5. **Comments**

The proposed changes are necessary to reflect the Food Act 2008 and to clarify Family Child Care Centres requires registration as a Food Premises, even though Planning Approval is not required.

As the proposed changes are necessary to comply with the Food Act 2008 and no objections were received, it is recommended that Council adopt the amended Policy.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council *ADOPT* the amended Planning Policy 3.3.5, *Child Care Premises*, pursuant to clause 8.9.5(b) of Town Planning Scheme No.2 as follows:-
PLANNING POLICY 3.3.5
CHILD CARE PREMISES

Red and underlined font means text proposed to be added
Red and strikethrough font means text proposed to be deleted

1. Introduction
A Child Care Premises is used to provide a child care service within the meaning of the Child Care Services Act 2007, but does not include a Family Day Care Centre.

Note 1: This Planning Policy does not apply to ‘Family Day Care Centres’, which are child care services provided at a place where the person providing the service lives and none of the children to whom the service is provided live, in accordance with the Child Care Services Act 2007. Family Day Care Centres are exempt from Planning Approval under clause 6.1.2(j) of Town Planning Scheme No.2. The planning approval of the Council is not required for a ‘Family Day Care Centre’. Refer to clause 6.1.2(j) of Town Planning Scheme No.2.

Note 2: An Application for a Certificate of Registration of a Food Premises is required to be submitted to the City’s Health Services for the Family Day Care Centre to be considered lawful. The food preparation area is required to comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standards Code. Refer to Appendix 2 for the necessary application form.

There is a growing demand for Child Care Premises in all parts of the City and the 'Council' expects that demand to continue, given the current and expected urban development within the City.

The purpose of this Planning Policy is to set out the objectives and policy provisions which the Council shall have due regard to in the assessment and determination of applications for planning approval for the establishment of Child Care Premises.

In this regard, no person shall commence or carry out any development of a Child Care Premises without first having applied for and obtained the planning approval of the Council, pursuant to the provisions of Part 6 of Town Planning Scheme No.2.

2. Policy Application
In Town Planning Scheme No.2, the Zoning Table (Table No.1) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones.

The permissibility of the Child Care Premises use in Town Planning Scheme No.2 can be summarised as follows:-

(a) The use is not permitted in the City Centre, Waterfront Village, Baldivis Town Centre, Commercial, Service Commercial, Light Industry, Rural and Community Purposes zones unless the Council has exercised its discretion by granting planning approval;

(b) The use is not permitted in the Residential and Development zones unless the Council has exercised its discretion by granting planning approval, following a process of community consultation in accordance with clause 6.3.3 of the Scheme;

(c) The use is not permitted in the Special Commercial, Port Kennedy Business Enterprise, General Industry, Special Industry, Special Rural and Special Residential zones.

This Planning Policy should be read in conjunction with Planning Procedure 1.3 - Community Consultation, the Child Care Services Act 2007 and WAPC Planning Bulletin 72/2009 - Child Care Centres.
3. Policy Objectives

The objectives of this Planning Policy are as follows:-

(a) To promote the orderly and proper development of land by making suitable provisions relating to the location and design of Child Care Premises;

(b) To secure the amenity of the locality by ensuring that Child Care Premises are consistent with the scale and character of the immediate area; and

(c) To ensure that appropriate and flexible child care facilities are provided to accommodate the needs of the children and their carers.

(d) To consider the health and safety of children attending the Child Care Premises within the confines of the planning system.

4. Policy Statement

4.1 Location of Child Care Premises

It is important that Child Care Premises are appropriately located to meet the needs of children and their families. It is also important in limiting the impact a Child Care Premises may have on surrounding activities and vice versa. This may be achieved by locating Child Care Premises on sites that are:-

(a) Distributed strategically to provide the maximum benefit to the community it serves;

(b) Within easy walking distance or part of appropriate commercial, recreation or community nodes and education facilities;

(c) Located in areas where adjoining uses are compatible with a Child Care Premises (includes considering all permissible uses under the zoning of adjoining properties);

(d) Serviced by public transport (where available);

(e) Considered suitable from a traffic engineering/safety point of view; and

(f) Of sufficient size and dimension to accommodate the development without affecting the amenity of the area.

Child Care Premises generally would not be suitable where:

(g) Soil contamination exceeds the levels regarded by the Department of Environment and Conservation and the Department of Health as suitable for standard residential land uses with accessible soils as published in guideline ‘Assessment Levels for Soil, Sediment and Water’ (Department of Environment, November 2003);

(h) Groundwater is to be abstracted for the irrigation of gardens and play area within the Child Care Premises and groundwater contamination exceeds 10 x Australian drinking water criteria in accordance with the ‘Contaminated Sites Reporting Guideline for Chemicals in Groundwater’ (Department of Health 2006);

(i) The service provided by the Centre will have a demonstrable adverse impact on the existing or planned level of Child Care Premises enjoyed by the local community;

(j) Access is from a major road or in close proximity to a major intersection where there may be safety concerns;

(k) Access is from a local access street which may impact on the amenity of the area due to traffic and parking;

(l) The current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on site;

(m) Noise produced by roads, railways and aircraft are likely to have an adverse impact on the site; and/or

(n) The site is in a heavy industry area or in the buffer area of a heavy industry area.
4.2 Site Characteristics

Sites selected for Child Care Premises should be of sufficient size and suitable shape to accommodate the development, including all buildings and structures, parking for staff and parents, outdoor play areas and landscaping, as determined by the City.

As a general rule, sites in a residential area should be of regular shape and greater than 1000m² in size. A maximum site coverage of 50% will apply to any proposal to prevent the over-development of any lot.

The topography of the site should be considered, as steep slopes may affect access to the facility, noise transfer and methods of noise mitigation.

Sites selected for Child Care Premises should also be assessed to determine their potential for soil and groundwater contamination. Section 6 of the Department of Environment and Conservation's 'Contaminated Sites and the Land Use Planning Process' (April 2006) guideline sets out a useful methodology to assist local governments in carrying out such assessments.

4.3 Carparking

An application for planning approval shall make provision for parking bays in accordance with the standards and requirements of Clause 4.15 and Table Nos.2 and 3 of Town Planning Scheme No.2.

In Table No.3 (recommended carparking standards/allowances within the City Centre Zone and Baldivis Town Centre Zone), one carparking bay per staff member plus an adequate number of drop off bays (at the discretion of the Council) is required.

In Table No.2 (dealing with all other zones, except the Waterfront Village Zone), one carparking bay for each employee and one carparking bay for every eight children is required.

In the Waterfront Village Zone, the Council shall determine the number of carparking bays to be provided having regard to:

(a) The nature of the proposed development;
(b) The number of employees likely to be employed on the site;
(c) The anticipated demand for parking; and
(d) The orderly and proper planning of the locality.

Parking areas should be located in front of the building. If this is not possible, parking areas should be clearly visible and easily accessible from the entry to the site.

In addition, landscaping may be required on-site to screen car parking areas from the street and the Child Care Premises from adjoining residences in order to maintain the amenity of the locality.

4.4 Traffic Impacts

A traffic impact statement/assessment will be required where, in the opinion of the Manager, Statutory Planning, a proposed Child Care Premises has the potential to impact on the functionality and amenity of an area and may create or exacerbate unsafe conditions for children and families using the premises, or for pedestrians or road users.

This statement/assessment should address:

(a) The site characteristics and surrounding area;
(b) The proposal and its expected trip generation;
(c) Parking requirements, including the design of parking areas, and any pick-up and drop-off facilities;
(d) Existing traffic conditions and any future changes expected to the traffic conditions;
(e) Current road safety conditions, including a crash history in the locality; and
(f) The expected impact of the proposed development on the existing and future traffic conditions.
4.5  Noise Impacts

A noise impact assessment may be required for the development of a Child Care Premises. The objectives should be to limit the noise impact of the Child Care Premises on adjacent properties, and also limit any noise impact from external sources on the Child Care Premises.

This may be achieved either by physical separation, design and layout of the premises or by implementing noise-mitigation measures, such as acoustic treatments to buildings.

Although each application will need to be assessed on its individual merits, the following basic principles apply:-

(a) Where a Child Care Premises is located adjacent to a noise sensitive use, such as houses, retirement villages and nursing homes, the noise-generating activities of the Child Care Premises, such as the outdoor play areas, parking areas and any plant equipment, are to be located away from the noise sensitive use;

(b) Where, due to design limitations or safety considerations, noise-generating activities such as outdoor play areas are located close to noise-sensitive uses, appropriate noise mitigation is to be undertaken; and

(c) The design and construction of buildings may include noise-mitigation measures to reduce impact from external sources and to achieve accepted indoor noise limits.

4.6  Design Considerations

The appearance of a Child Care Premises must be consistent with the scale and character of the locality. In this regard, where the development is located in a residential area, the built-form should lend itself to domestic (residential) architecture.

Setbacks to side and rear boundaries and the orientation of openings to indoor play areas should minimise any impact on adjoining properties.

Outdoor play areas are to be located so as to limit their impact on the amenity of adjoining properties, whilst taking advantage of a passive solar orientation wherever possible. Measures should be taken to ensure that play areas are large enough and of such dimensions to be useful as play areas, and side setback and leftover building areas are not desirable for the purpose.

Where a play area is located in the front setback area, fencing of the area should be of predominantly open construction to provide a safe playing area without closing the site in, casting shadows on the play area, or adversely affecting the residential streetscape.

Landscaping will be required along the frontage of the development to a standard equal to that required or provided for on adjacent properties. Landscaping should not include potentially hazardous heights and potentially toxic plants.

4.7  Hours of Operation

For Child Care Premises in Residential areas, hours of operation will be restricted to 7.00am to 7.00pm, unless otherwise agreed to by the Council.

4.8  Advertising Signs

Any proposed advertising sign must accord with the provisions of clause 5.3 of Town Planning Scheme No 2. Furthermore, a Sign Licence application is required to be submitted to the Building Department, pursuant to the Council's Signs, Hoardings and Bill Posting Local-Law.

4.9  Need for Child Care Premises

Where, in the opinion of the Manager, Statutory Planning, a proposed Child Care Premises may have an adverse impact on the level of service to the community by similar existing or approved facilities, the proponent will be required to provide further information in regard to the level existing services in the locality, proximity to other Child Care Premises, population catchments for the proposed Child Care Premises and the number of primary schools and kindergartens in the locality, in relation to the development of the proposed new facility.
4.10 Building Approval

Where a Child Care Premises requires the construction of a new building or modifications to an existing building, a Building Licence will be required from the Council (in addition to a Planning Approval).

4.11 Health Approval

Where a Child Care Premises requires the construction of a new building or modifications to an existing building, a Form 2 - Maximum Accommodation Certificate will be required from the Council (in addition to a Planning Approval). Refer to Appendix 1 for the necessary application form.

In addition, an Application for a Certificate of Registration of a Food Premises must also be submitted. The food preparation area is required to comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standards Code. Refer to Appendix 2 for the necessary application form.

4.12 Consultation

All applications for planning approval for the establishment of Child Care Premises in the Residential and Development zones will be the subject of a process of community consultation in accordance with clause 6.3.3 of Town Planning Scheme No.2 and Planning Procedure No.1.3 - Community Consultation. Where the location of a Child Care Premises was pre-determined in a structure plan, or similar wide-ranging site assessment completed prior to any residential development in the vicinity, comprehensive consultation may not be necessary.

Unless otherwise determined by the Manager, Statutory Planning, applications for planning approval for the establishment of Child Care Premises in the City Centre, Waterfront Village, Baldivis Town Centre, Commercial, Service Commercial, Light Industry, Rural and Community Purposes zones will be the subject of a process of community consultation in accordance with clause 6.3.3 of the Scheme and Planning Procedure No.1.3 - Community Consultation.

4.13 Other Considerations

4.13.1 Consultations with State Government Agencies

Applicants for approval to establish a Child Care Premises are encouraged to discuss their proposal with the Department of Communities and the Child Care Licensing and Standards Unit which assesses and processes licence applications, provides information to help service providers understand and comply with the regulations, monitors child care services to ensure compliance with the regulations and responds to concerns and complaints of non-compliance with the regulations.

The Department's Children's Services Officers provide support and advice to licensees and prospective licensees about setting up a service and applying for a licence.

The licence to operate a Child Care Premises, issued under the regulations (Child Care Services Act 2007) limits the number of children the Centre can accommodate.

4.13.2 Commonwealth Department for Families, Housing, Community Services and Indigenous Affairs

This Department provides support for child care services, including:-
- Helping families with the cost of child care (Child Care Benefit);
- Policy advice, research and service management related to providing children's services;
- Helping services provide quality care under the Child Care Support Program;
- Quality assurance, training and support services to improve the quality of children's care;
- Funding, training and support products and services to promote equity of access; and
- Funded child care places and operational support for child care services (Community Support payments) and (Family Day Care Start Up Payment).

Notwithstanding any comments received through consultations referred to in this Part, applications for planning approval will to be determined on their individual merits by the Council, whether or not assistance is granted.
4.13.3 Site Contamination

The commencement of the Contaminated Sites Act 2003 on 1st December 2006 has created new statutory obligations for land users and has highlighted the importance of preventing the development of child care services on land that is unsuitable for this land use because of soil and groundwater contamination at or near the site.

Proposals for the development of a Child Care Premises must:-

- Exercise duty of care to ensure that the site is suitable for use as a child care service;
- Seek and consider any information held by the Department of Environment and Conservation about the contamination status of the site; and
- Seek and consider any other information about the contamination status of the site, irrespective of whether or not it has been reported to Department of Environment and Conservation under the Contaminated Sites Act 2003

5. Application Procedure

Applications for planning approval for the establishment of Child Care Premises shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:-

(a) A written submission describing the proposal, which should include confirmation that the requirements of this Planning Policy can be achieved. Such a submission to also outline the number of children proposed, age group breakdown, days and hours of operation and staff requirements;
(b) A location plan depicting surrounding lots and road layout;
(c) A detailed site plan to a scale sufficient to identify clearly the boundaries and all proposed structures, external play areas, landscaping, refuse storage area, car parking, pedestrian and vehicle access ways, crossover/s and kerb locations, verge width and associated road infrastructure (e.g. light poles, traffic islands) for the full road reserve width for all roads abutting the application site;
(d) Floor plans and elevations to all sides of the proposed building to a minimum scale of 1:100;
(e) A traffic impact statement/assessment and noise impact assessment, if required;
(f) A Signage Strategy to generally describe and illustrate the number, location, dimensions and content of all signs, and sign structures to be erected;
(g) Any specialist studies that the Council may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies;
(h) If the site has been used for a potentially contaminating activity, the information listed in section 6 of the Department of Environment and Conservation’s ‘Contaminated Sites and Land Use Planning Process’ (available on the DEC website at www.dec.wa.gov.au);
(i) Such plans and other information that the Council may reasonably require to enable the application to be determined. Refer to clause 6.2.2 of Town Planning Scheme No.2; and
(j) The payment of an Administration Fee as detailed in the Council’s Planning Information Bulletin No.2.2 - Scale of Fees for Planning Services.

6. Authority

This Planning Policy has been adopted by the Council under clause 8.9 of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

7. Interpretations

For the purposes of this Planning Policy, the following terms shall have the same meaning as in Town Planning Scheme No.2:-
Council means the Council of the City of Rockingham.

8. Delegation

All applications for planning approval for the establishment of Child Care Premises in the Residential and Development zones will be referred to the Council for determination.

Subject to no substantiated objections being received following community consultation, other applications for planning approval which comply in all respects with the objectives and provisions of this Planning Policy will be determined under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 - Delegated Authority.

In the event that substantiated objections are received following community consultation, the application for planning approval will be referred to the Council for determination.

9. Adoption

This Planning Policy was originally adopted by the Council at its ordinary Meeting held on the 27th May 2008.

10. Amendment

This Planning Policy was amended by the Council at its ordinary Meeting held on the 28th June 2011.

11. Revocation

This Planning Policy supersedes the Council's Statement of Planning Policy No.2.6 - Child Care Centres.

Appendices

1. Form 2 - Application for Certificate of Approval

2. Application for a Certificate of Registration of a Food Premises

Note: The appendices do not form part of this Planning Policy and have been included for information purposes only.
FORM 2
HEALTH ACT 1911
(Reg. 5)
HEALTH (PUBLIC BUILDINGS) REGULATIONS 1992

APPLICATION FOR CERTIFICATE OF APPROVAL

I being the owner/agent hereby apply for a Certificate of Approval in respect of:

PREMISES DETAILS:

Name of: ________________________________________________________________

Location No: ___________________________________________________________

Street: _________________________________________________________________

Town/Suburb: ___________________________________________________________

Nearest Cross Street: ____________________________________________________

Construction/extension/alteration of which was completed on:

____________________________________________________________________

____________________________________________________________________

In accord with your approval given on:

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 18 JULY 2011

SIGNED: 

OWNER/AGENT: 

ADDRESS: 

TELEPHONE: 

FAX: 

__________________________________________

PRESIDING MEMBER
FOOD ACT 2008

APPLICATION FOR A REGISTRATION OF FOOD PREMISES

To: The Chief Executive Officer
City of Rockingham
PO Box 2142
ROCKINGHAM DC WA 6967

(Name and residential address to be in full and in block letters).

I

of

Full Name
Residential Address

Apply for registration of the premises described below as a:-

- High Risk Food Premises
- Medium Risk Food Premises
- Low Risk Food Premises
- Very Low Risk Food Premises
- Food Vehicle

Tick whichever is applicable

<table>
<thead>
<tr>
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<th>Annual Food Premises Fees</th>
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<tr>
<td>High Risk</td>
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</tr>
<tr>
<td>Medium Risk</td>
<td>$200.00</td>
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<tr>
<td>Low Risk</td>
<td>$75.00</td>
</tr>
<tr>
<td>Very Low Risk</td>
<td>Nil</td>
</tr>
<tr>
<td>Food Vehicle</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

Name of Premises

Address of Premises

Phone: __________________ Mobile: __________________ Fax: ____________
The Premises is a new food business?  Yes [ ]  No [ ]

The Premises is an established food business?  Yes [ ]  No [ ]

- Previous Premises name

Dated this day of 20

__________________________
Signature of Applicant

REGISTRATION APPLICATION FEE
= $30.00
Payment (payable to City of Rockingham) to be included with this Application

NB  An Invoice will be forwarded to you regarding your Annual Food Premises Fee.

8. Committee Recommendation

That Council ADOPT the amended Planning Policy 3.3.5, Child Care Premises, pursuant to clause 8.9.5(b) of Town Planning Scheme No.2 as follows:-

PLANNING POLICY 3.3.5
CHILD CARE PREMISES

Red and underlined font means text proposed to be added
Red and strikethrough font means text proposed to be deleted

1. Introduction
A Child Care Premises is used to provide a child care service within the meaning of the Child Care Services Act 2007, but does not include a Family Day Care Centre.

Note 1: This Planning Policy does not apply to 'Family Day Care Centres', which are child care services provided at a place where the person providing the service lives and none of the children to whom the service is provided live, in accordance with the Child Care Services Act 2007. Family Day Care Centres are exempt from Planning Approval under clause 6.1.2(i) of Town Planning Scheme No.2. The planning approval of the Council is not required for a 'Family Day Care Centre'. Refer to clause 6.1.2(j) of Town Planning Scheme No.2.

Note 2: An Application for a Certificate of Registration of a Food Premises is required to be submitted to the City’s Health Services for the Family Day Care Centre to be considered lawful. The food preparation area is required to comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standards Code. Refer to Appendix 2 for the necessary application form.
There is a growing demand for Child Care Premises in all parts of the City and the 'Council' expects that demand to continue, given the current and expected urban development within the City.

The purpose of this Planning Policy is to set out the objectives and policy provisions which the Council shall have due regard to in the assessment and determination of applications for planning approval for the establishment of Child Care Premises.

In this regard, no person shall commence or carry out any development of a Child Care Premises without first having applied for and obtained the planning approval of the Council, pursuant to the provisions of Part 6 of Town Planning Scheme No.2.

2. **Policy Application**

In Town Planning Scheme No.2, the Zoning Table (Table No.1) indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme Area in the various zones.

The permissibility of the Child Care Premises use in Town Planning Scheme No.2 can be summarised as follows:-

(a) The use is not permitted in the City Centre, Waterfront Village, Baldivis Town Centre, Commercial, Service Commercial, Light Industry, Rural and Community Purposes zones unless the Council has exercised its discretion by granting planning approval;

(b) The use is not permitted in the Residential and Development zones unless the Council has exercised its discretion by granting planning approval, following a process of community consultation in accordance with clause 6.3.3 of the Scheme;

(c) The use is not permitted in the Special Commercial, Port Kennedy Business Enterprise, General Industry, Special Industry, Special Rural and Special Residential zones.

This Planning Policy should be read in conjunction with Planning Procedure 1.3 - Community Consultation, the Child Care Services Act 2007 and WAPC Planning Bulletin 72/2009 - Child Care Centres.

3. **Policy Objectives**

The objectives of this Planning Policy are as follows:-

(a) To promote the orderly and proper development of land by making suitable provisions relating to the location and design of Child Care Premises;

(b) To secure the amenity of the locality by ensuring that Child Care Premises are consistent with the scale and character of the immediate area; and

(c) To ensure that appropriate and flexible child care facilities are provided to accommodate the needs of the children and their carers.

(d) To consider the health and safety of children attending the Child Care Premises within the confines of the planning system.

4. **Policy Statement**

4.1 **Location of Child Care Premises**

It is important that Child Care Premises are appropriately located to meet the needs of children and their families. It is also important in limiting the impact a Child Care Premises may have on surrounding activities and vice versa. This may be achieved by locating Child Care Premises on sites that are:-

(a) Distributed strategically to provide the maximum benefit to the community it serves;
within easy walking distance or part of appropriate commercial, recreation or community nodes and education facilities;

(c) located in areas where adjoining uses are compatible with a Child Care Premises (includes considering all permissible uses under the zoning of adjoining properties);

(d) serviced by public transport (where available);

(e) considered suitable from a traffic engineering/safety point of view; and

(f) of sufficient size and dimension to accommodate the development without affecting the amenity of the area.

Child Care Premises generally would not be suitable where:

(g) soil contamination exceeds the levels regarded by the Department of Environment and Conservation and the Department of Health as suitable for standard residential land uses with accessible soils as published in guideline ‘Assessment Levels for Soil, Sediment and Water’ (Department of Environment, November 2003);

(h) groundwater is to be abstracted for the irrigation of gardens and play area within the Child Care Premises and groundwater contamination exceeds 10 x Australian drinking water criteria in accordance with the ‘Contaminated Sites Reporting Guideline for Chemicals in Groundwater’ (Department of Health 2006);

(i) the service provided by the Centre will have a demonstrable adverse impact on the existing or planned level of Child Care Premises enjoyed by the local community;

(j) access is from a major road or in close proximity to a major intersection where there may be safety concerns;

(k) access is from a local access street which may impact on the amenity of the area due to traffic and parking;

(l) the current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on site;

(m) noise produced by roads, railways and aircraft are likely to have an adverse impact on the site; and/or

(n) the site is in a heavy industry area or in the buffer area of a heavy industry area.

4.2 Site Characteristics

Sites selected for Child Care Premises should be of sufficient size and suitable shape to accommodate the development, including all buildings and structures, parking for staff and parents, outdoor play areas and landscaping, as determined by the City.

As a general rule, sites in a residential area should be of regular shape and greater than 1000m² in size. A maximum site coverage of 50% will apply to any proposal to prevent the over-development of any lot.

The topography of the site should be considered, as steep slopes may affect access to the facility, noise transfer and methods of noise mitigation.

Sites selected for Child Care Premises should also be assessed to determine their potential for soil and groundwater contamination. Section 6 of the Department of Environment and Conservation’s ‘Contaminated Sites and the Land Use Planning Process’ (April 2006) guideline sets out a useful methodology to assist local governments in carrying out such assessments.

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An application for planning approval shall make provision for parking bays in accordance with the standards and requirements of Clause 4.15 and Table Nos.2 and 3 of Town Planning Scheme No.2.

In Table No.3 (recommended carparking standards/allowances within the City Centre Zone and Baldivis Town Centre Zone), one carparking bay per staff member plus an adequate number of drop off bays (at the discretion of the Council) is required.
In Table No.2 (dealing with all other zones, except the Waterfront Village Zone), one carparking bay for each employee and one carparking bay for every eight children is required.

In the Waterfront Village Zone, the Council shall determine the number of carparking bays to be provided having regard to:-

(a) The nature of the proposed development;
(b) The number of employees likely to be employed on the site;
(c) The anticipated demand for parking; and
(d) The orderly and proper planning of the locality.

Parking areas should be located in front of the building. If this is not possible, parking areas should be clearly visible and easily accessible from the entry to the site.

In addition, landscaping may be required on-site to screen car parking areas from the street and the Child Care Premises from adjoining residences in order to maintain the amenity of the locality.

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A traffic impact statement/assessment will be required where, in the opinion of the Manager, Statutory Planning, a proposed Child Care Premises has the potential to impact on the functionality and amenity of an area and may create or exacerbate unsafe conditions for children and families using the premises, or for pedestrians or road users.

This statement/assessment should address:-

(a) The site characteristics and surrounding area;
(b) The proposal and its expected trip generation;
(c) Parking requirements, including the design of parking areas, and any pick-up and drop-off facilities;
(d) Existing traffic conditions and any future changes expected to the traffic conditions;
(e) Current road safety conditions, including a crash history in the locality; and
(f) The expected impact of the proposed development on the existing and future traffic conditions.

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A noise impact assessment may be required for the development of a Child Care Premises. The objectives should be to limit the noise impact of the Child Care Premises on adjacent properties, and also limit any noise impact from external sources on the Child Care Premises.

This may be achieved either by physical separation, design and layout of the premises or by implementing noise-mitigation measures, such as acoustic treatments to buildings.

Although each application will need to be assessed on its individual merits, the following basic principles apply:-

(a) Where a Child Care Premises is located adjacent to a noise sensitive use, such as houses, retirement villages and nursing homes, the noise-generating activities of the Child Care Premises, such as the outdoor play areas, parking areas and any plant equipment, are to be located away from the noise sensitive use;
(b) Where, due to design limitations or safety considerations, noise-generating activities such as outdoor play areas are located close to noise-sensitive uses, appropriate noise mitigation is to be undertaken; and
(c) The design and construction of buildings may include noise-mitigation measures to reduce impact from external sources and to achieve accepted indoor noise limits.
4.6 Design Considerations

The appearance of a Child Care Premises must be consistent with the scale and character of the locality. In this regard, where the development is located in a residential area, the built-form should lend itself to domestic (residential) architecture.

Setbacks to side and rear boundaries and the orientation of openings to indoor play areas should minimise any impact on adjoining properties.

Outdoor play areas are to be located so as to limit their impact on the amenity of adjoining properties, whilst taking advantage of a passive solar orientation wherever possible. Measures should be taken to ensure that play areas are large enough and of such dimensions to be useful as play areas, and side setback and leftover building areas are not desirable for the purpose.

Where a play area is located in the front setback area, fencing of the area should be of predominantly open construction to provide a safe playing area without closing the site in, casting shadows on the play area, or adversely affecting the residential streetscape.

Landscaping will be required along the frontage of the development to a standard equal to that required or provided for on adjacent properties. Landscaping should not include potentially hazardous heights and potentially toxic plants.

4.7 Hours of Operation

For Child Care Premises in Residential areas, hours of operation will be restricted to 7.00am to 7.00pm, unless otherwise agreed to by the Council.

4.8 Advertising Signs

Any proposed advertising sign must accord with the provisions of clause 5.3 of Town Planning Scheme No 2. Furthermore, a Sign Licence application is required to be submitted to the Building Department, pursuant to the Council's Signs, Hoardings and Bill Posting Local-Law.

4.9 Need for Child Care Premises

Where, in the opinion of the Manager, Statutory Planning, a proposed Child Care Premises may have an adverse impact on the level of service to the community by similar existing or approved facilities, the proponent will be required to provide further information in regard to the level existing services in the locality, proximity to other Child Care Premises, population catchments for the proposed Child Care Premises and the number of primary schools and kindergartens in the locality, in relation to the development of the proposed new facility.

4.10 Building Approval

Where a Child Care Premises requires the construction of a new building or modifications to an existing building, a Building Licence will be required from the Council (in addition to a Planning Approval).

4.11 Health Approval

Where a Child Care Premises requires the construction of a new building or modifications to an existing building, a Form 2 4 - Maximum Accommodation Certificate will be required from the Council (in addition to a Planning Approval). Refer to Appendix 1 for the necessary application form.

In addition, an Application for a Certificate of Registration of a Food Premises must also be submitted. The food preparation area is required to comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standards Code. Refer to Appendix 2 for the necessary application form.

4.12 Consultation

All applications for planning approval for the establishment of Child Care Premises in the Residential and Development zones will be the subject of a process of community consultation in accordance with clause 6.3.3 of Town Planning Scheme No.2 and Planning Procedure No.1.3 - Community Consultation. Where the location of a Child Care Premises was pre-determined in a structure plan, or similar wide-ranging site assessment completed prior to any residential development in the vicinity, comprehensive consultation may not be necessary.
Unless otherwise determined by the Manager, Statutory Planning, applications for planning approval for the establishment of Child Care Premises in the City Centre, Waterfront Village, Baldivis Town Centre, Commercial, Service Commercial, Light Industry, Rural and Community Purposes zones will be the subject of a process of community consultation in accordance with clause 6.3.3 of the Scheme and Planning Procedure No.1.3 - Community Consultation.

4.13 Other Considerations

4.13.1 Consultations with State Government Agencies

Applicants for approval to establish a Child Care Premises are encouraged to discuss their proposal with the Department of Communities and the Child Care Licensing and Standards Unit which assesses and processes licence applications, provides information to help service providers understand and comply with the regulations, monitors child care services to ensure compliance with the regulations and responds to concerns and complaints of non-compliance with the regulations.

The Department’s Children’s Services Officers provide support and advice to licensees and prospective licensees about setting up a service and applying for a licence.

The licence to operate a Child Care Premises, issued under the regulations (Child Care Services Act 2007) limits the number of children the Centre can accommodate.

4.13.2 Commonwealth Department for Families, Housing, Community Services and Indigenous Affairs

This Department provides support for child care services, including:
- Helping families with the cost of child care (Child Care Benefit);
- Policy advice, research and service management related to providing children’s services;
- Helping services provide quality care under the Child Care Support Program;
- Quality assurance, training and support services to improve the quality of children’s care;
- Funding, training and support products and services to promote equity of access; and
- Funded child care places and operational support for child care services (Community Support payments) and (Family Day Care Start Up Payment).

Notwithstanding any comments received through consultations referred to in this Part, applications for planning approval will to be determined on their individual merits by the Council, whether or not assistance is granted.

4.13.3 Site Contamination

The commencement of the Contaminated Sites Act 2003 on 1st December 2006 has created new statutory obligations for land users and has highlighted the importance of preventing the development of child care services on land that is unsuitable for this land use because of soil and groundwater contamination at or near the site.

Proposals for the development of a Child Care Premises must:
- Exercise duty of care to ensure that the site is suitable for use as a child care service;
- Seek and consider any information held by the Department of Environment and Conservation about the contamination status of the site; and
- Seek and consider any other information about the contamination status of the site, irrespective of whether or not it has been reported to Department of Environment and Conservation under the Contaminated Sites Act 2003.

5. Application Procedure

Applications for planning approval for the establishment of Child Care Premises shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:
(a) A written submission describing the proposal, which should include confirmation that the requirements of this Planning Policy can be achieved. Such a submission to also outline the number of children proposed, age group breakdown, days and hours of operation and staff requirements;

(b) A location plan depicting surrounding lots and road layout;

(c) A detailed site plan to a scale sufficient to identify clearly the boundaries and all proposed structures, external play areas, landscaping, refuse storage area, car parking, pedestrian and vehicle access ways, crossover/s and kerb locations, verge width and associated road infrastructure (e.g. light poles, traffic islands) for the full road reserve width for all roads abutting the application site;

(d) Floor plans and elevations to all sides of the proposed building to a minimum scale of 1:100;

(e) A traffic impact statement/assessment and noise impact assessment, if required;

(f) A Signage Strategy to generally describe and illustrate the number, location, dimensions and content of all signs, and sign structures to be erected;

(g) Any specialist studies that the Council may require the applicant to undertake in support of the application such as traffic, heritage, environmental, engineering or urban design studies;

(h) If the site has been used for a potentially contaminating activity, the information listed in section 6 of the Department of Environment and Conservation’s ‘Contaminated Sites and Land Use Planning Process’ (available on the DEC website at www.dec.wa.gov.au);

(i) Such plans and other information that the Council may reasonably require to enable the application to be determined. Refer to clause 6.2.2 of Town Planning Scheme No.2; and

(j) The payment of an Administration Fee as detailed in the Council’s Planning Information Bulletin No.2.2 - Scale of Fees for Planning Services.

6. Authority

This Planning Policy has been adopted by the Council under clause 8.9 of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

7. Interpretations

For the purposes of this Planning Policy, the following terms shall have the same meaning as in Town Planning Scheme No.2:-

Council means the Council of the City of Rockingham.

8. Delegation

All applications for planning approval for the establishment of Child Care Premises in the Residential and Development zones will be referred to the Council for determination.

Subject to no substantiated objections being received following community consultation, other applications for planning approval which comply in all respects with the objectives and provisions of this Planning Policy will be determined under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 – Delegated Authority.

In the event that substantiated objections are received following community consultation, the application for planning approval will be referred to the Council for determination.

9. Adoption

This Planning Policy was originally adopted by the Council at its ordinary Meeting held on the 27th May 2008.

10. Amendment

This Planning Policy was amended by the Council at its ordinary Meeting held on the 28th June 2011.
11. Revocation

This Planning Policy supersedes the Council’s Statement of Planning Policy No.2.6 - Child Care Centres.

Appendices

1. Form 2 - Application for Certificate of Approval

2. Application for a Certificate of Registration of a Food Premises

Note: The appendices do not form part of this Planning Policy and have been included for information purposes only.
# Appendix 1

**FORM 2**

**HEALTH ACT 1911**

(Reg. 5)

**HEALTH (PUBLIC BUILDINGS) REGULATIONS 1992**

**APPLICATION FOR CERTIFICATE OF APPROVAL**

I being the owner/agent hereby apply for a Certificate of Approval in respect of:

<table>
<thead>
<tr>
<th>PREMISES DETAILS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of:</td>
</tr>
<tr>
<td>Location No:</td>
</tr>
<tr>
<td>Street:</td>
</tr>
<tr>
<td>Town/Suburb:</td>
</tr>
<tr>
<td>Nearest Cross Street:</td>
</tr>
<tr>
<td>Construction/extension/alteration of which was completed on:</td>
</tr>
</tbody>
</table>

In accord with your approval given on:

---
FOOD ACT 2008

APPLICATION FOR A REGISTRATION OF FOOD PREMISES

To: The Chief Executive Officer
City of Rockingham
PO Box 2142
ROCKINGHAM DC WA 6967

(Name and residential address to be in full and in block letters).

I
of

Apply for registration of the premises described below as a:-

- High Risk Food Premises
- Medium Risk Food Premises
- Low Risk Food Premises
- Very Low Risk Food Premises
- Food Vehicle

Tick whichever is applicable

<table>
<thead>
<tr>
<th></th>
<th>ANNUAL FOOD PREMISES FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Risk</td>
<td>$400.00</td>
</tr>
<tr>
<td>Medium Risk</td>
<td>$200.00</td>
</tr>
<tr>
<td>Low Risk</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Very Low Risk</td>
<td>Nil</td>
</tr>
<tr>
<td>Food Vehicle</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

Name of Premises __________________________________________________________

Address of Premises _______________________________________________________

Phone: ___________________ Mobile: ___________________ Fax: ___________________
The Premises is a **new** food business?  
Yes ☐ No ☐

The Premises is an **established** food business?  
Yes ☐ No ☐

- Previous Premises name

Dated this day of 20

__________________________  __________________________  __________

**REGISTRATION APPLICATION FEE**

= $30.00

*Payment (payable to City of Rockingham) to be included with this Application*

**NB**  *An Invoice will be forwarded to you regarding your Annual Food Premises Fee.*

Committee Voting – 4/0

**9. The Committee’s Reason for Varying the Officer’s Recommendation**

Not applicable.

**10. Implications of the Changes to the Officer’s Recommendation**

Not applicable.
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-029/11 Proposed Amendment No.99 to Town Planning Scheme No.2 – Radio Antennae (Final Adoption)</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/1453</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Mr Sparkes</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr John-Paul MacDonagh, Planning Officer</td>
</tr>
</tbody>
</table>
| Other Contributors:    | Mr Dave Waller, Co-ordinator, Statutory Planning  
|                        | Mr Mike Ross, Manager, Statutory Planning                                                       |
| Date of Committee Meeting: | 20th June 2011                                                                                   |
| Previously before Council: | SP-001/11 (February 2011), PD 59/6/10 (June 2010)                                                       |
| Disclosure of Interest: | Legislative                                                                                      |
| Nature of Council’s Role in this Matter: | Lot 48 (No.335) Eighty Road, Baldivis – ‘Woodleigh Grove’ Estate |
| Site:                  | Lot Area: 2,340m²                                                                                 |
| LA Zoning:             |                                                                                                 |
| MRS Zoning:            |                                                                                                 |
| Attachments:           | Maps/Diagrams:                                                                                  |
1. **Purpose of Report**

To consider granting Final Approval to Scheme Amendment No.99, following the readvertising of the proposal for an Additional Use (‘A29’) - ‘Communications Antennae - Commercial’ for Lot 48 (No.335) Eighty Road, Baldivis, at the request of the Western Australian Planning Commission.

2. **Background**

In October 2009, the City received a complaint from an adjacent property owner regarding a 18m high antennae being erected on the subject land.

The City investigated the matter and determined that the antenna was classified as 'Communications Antennae - Commercial', which is not permitted within the 'Special Residential' zone. The City advised the owner on 15th February 2010 that the antennae was unauthorised and was required to be removed.

The owner subsequently submitted a request for Council to initiate an Amendment to TPS2 to allow the antennae to remain. In June 2010, the Council initiated a Scheme Amendment No.99 to include Additional Use (‘A29’) - ‘Communications Antennae - Commercial’ for the subject land, which included a special condition that restricts the antennae to a maximum height of 18 metres.

Following the advertising of the proposal three submissions had been received, one of which raised no objections to the proposal. Two submissioners objected to the proposed Scheme Amendment for the following reasons:-

- Reduced property values;
- Health risks;
- Electrical interference;
- Visual amenity impacts;
- Not an incidental use;
- Precedent; and
- Structural stability.

In February 2011 the Council adopted Scheme Amendment No.99, subject to including Special Condition No.2, which states:

“2. The planting of screening vegetation to minimise the visual impact of the antennae from adjoining properties.”
The inclusion of the Special Condition No.2 was in response to submissions received objecting to the visual impact of the structure.”

On 8th April 2011, the Western Australian Planning Commission requested the City to readvertise the Scheme Amendment for a period of 21 days, due to a minor shortfall (three days) in the required 42 day advertising period.

3. **Details**

At the conclusion of the extended advertising period, three submissions were received. A submitter from Chandler Ramble objected to the proposed Scheme Amendment, another submitter supported the proposal and Western Power raised no objections.

The submission in objection to the Scheme Amendment raised the following concerns:-
- Potentially affects all “Special Residential” zones if allowed (i.e. precedent); and
- Aerial fails to comply with the ‘Domestic – Communications Antennae’ definition in TPS2.

A plan illustrating the location of the submitters is included below.

![Aerial Photograph shows the location of Submitters](image)

4. **Implications to Consider**

a. **Consultation with the Community**

The Scheme Amendment was readvertised for a period of 21 days, with the advertising period closing on the 31st May 2011. The City notified eleven landowners of the proposed Scheme Amendment and invited public submissions.

A public notice was placed in the Weekend Courier newspaper on the 6th May 2011. Copies of documents explaining the Scheme Amendment were also made available for inspection at the Council Administration Offices and placed on the City’s website.

b. **Consultation with Government Agencies**

The Scheme Amendment was referred to the Environmental Protection Authority for assessment under the Environmental Protection Act 1986. In August 2010, the EPA advised that the Amendment should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986.

The following Government Agencies were also consulted:-
- Telstra;
- Western Power; and
c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspiration contained in the Community Plan 2011:-

Aspiration 11: Planning for population growth to ensure that future development and land-uses contribute to a sustainable City that provided for a genuinely desirable lifestyle.

d. Policy

Nil

e. Financial

Nil

f. Legal and Statutory

In accordance with the Town Planning Regulations 1967, the Council is required to consider all submissions made within 42 days of the publication of the advertisement and submit to the Western Australian Planning Commission, for recommendation to the Minister for Planning, its decision to proceed or not to proceed with the Amendment.

5. Comments

The following comments are provided in response to the concerns raised by the submissioner:-

Potentially affects all “Special Residential” zones if allowed (i.e. precedent)

A precedent will not occur if the Scheme Amendment is supported because it is limited to the subject property only. The Scheme Amendment must be considered on planning merit.

Aerial fails to comply with the ‘Domestic – Communications Antennae’ definition in TPS2

The interpretation of ‘Communications Antennae – Domestic’ under Town Planning Scheme No.2 means:

“any mast, antennae, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communications where such device is consistent with the predominant style of other such devices in the locality, and provided that neither its vertical nor horizontal dimensions exceed two metres.”

A Communications Antennae – Domestic is applicable to the installation of external fixtures such as television aerials, satellite dishes and the alike. Due to the height of the antennae erected it is classed as a ‘Communications Antennae’ – ‘Commercial’, which is currently not permitted within the ‘Special Residential’ zone.

The interpretation of ‘Communications Antennae – Commercial’ under TPS2 means:

“any mast, antennae, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communication where its vertical or horizontal dimensions exceed two metres but does not include telecommunications infrastructure.”

A Scheme Amendment to permit the additional use of ‘Communications Antennae – Commercial’ is considered appropriate allow the continuation of a domestic hobby.
6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council:-

1. **ADOPT** Amendment No.99 to Town Planning Scheme No.2, which seeks to insert a new Additional Use No.29 into Schedule No.2 for Final Approval subject to the following modifications as highlighted in bold:-

   (i) Amending the Scheme Text by inserting new Additional Use No.29 into Schedule No.2 as follows:-

<table>
<thead>
<tr>
<th>No.</th>
<th>Site Description</th>
<th>Additional Use</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>Lot 48 (No.335) Eighty Road, Baldivis</td>
<td>Communications Antennae - Commercial</td>
<td>1. The antennae is to have a maximum height of 18 metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. The planting of screening vegetation to minimise the visual impact of the antennae from adjoining properties.</td>
</tr>
</tbody>
</table>

   (ii) Modifying the Scheme Maps to show a broken black border around Lot 48 (No.335) Eighty Road, Baldivis and an identification number of ‘A29’.

2. **ADOPT** the Recommendations contained within the Schedule of Submissions as follows:-
CITY OF ROCKINGHAM  
AMENDMENT NO.99 TO TOWN PLANNING SCHEME NO.2  
SCHEDULE OF SUBMISSIONS

<table>
<thead>
<tr>
<th>SUBMISSION</th>
<th>COMMENT</th>
<th>RECOMMENDATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No.1 - Mr Iain Elliott, 5 Chandler Ramble, Baldivis WA 6171</strong></td>
<td>The Scheme Amendment must be considered on planning merit. The antennae is a hobby related to the residential enjoyment of the property. The antennae does not comply the interpretation of ‘Communications Antennae – Domestic’. A Scheme Amendment to permit the additional use of ‘Communications Antennae – Commercial’ is considered appropriate to permit the pursuit of the hobby. The Scheme Amendment is restricted to the subject property and does not extend to other properties within the ‘Special Residential’ zone.</td>
<td>That the submission be dismissed.</td>
</tr>
</tbody>
</table>

No further changes to the Scheme Amendment are recommended, except for the inclusion of Special Condition No.2 which was included at the ordinary Meeting of Council on 22nd February 2011.
<table>
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<tr>
<th>SUBMISSION</th>
<th>COMMENT</th>
<th>RECOMMENDATION</th>
</tr>
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<tbody>
<tr>
<td><strong>No.2 - Western Power - Locked Bag 2520, Perth WA 6001</strong></td>
<td>That the submission be noted</td>
<td>That the submission be noted.</td>
</tr>
<tr>
<td>Western Power wishes to advise the following in respect to the above mentioned proposal. 1. To the best of my knowledge, there are no objections to the changes you propose to carry out for the above-mentioned project. <strong>Please note:</strong> Perth One Call Service (Freecall 1100 or visit dialbeforeyoudig.com.au) must be contacted and location details (of Western Power underground cabling) obtained prior to any excavation commencing. Work Safe requirements must also be observed when excavation work is being undertaken in the vicinity of any Western Power assets. <strong>Western Power is obliged to point out that any change to the existing (power) system; if required, is the responsibility of the individual developer.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>No.3 - Mr Keith and Mrs Sandra Robinson, 5 Basile Street, Baldivis WA 6171</strong></td>
<td>That the submission be noted</td>
<td>That the submission be noted.</td>
</tr>
<tr>
<td>We Keith and Sandra Robinson “support” the received proposal for the said Antenna on Lot 48 Eight Road, Baldivis. We have no objections and understand as subject matter experts in regards to Antenna’s and frequency management through ACA the implications of allowing Mr J Sparkes to retain the Antenna as currently exists.</td>
<td></td>
<td></td>
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8. **Committee Recommendation**

That Council:-

1. **ADOPT** Amendment No.99 to Town Planning Scheme No.2, which seeks to insert a new Additional Use No.29 into Schedule No.2 for Final Approval subject to the following modifications as highlighted in bold:-

   (i) Amending the Scheme Text by inserting new Additional Use No.29 into Schedule No.2 as follows:-

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<td>1. The antennae is to have a maximum height of 18 metres 2. The planting of screening vegetation to minimise the visual impact of the antennae from adjoining properties.</td>
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</table>

   (iii) Modifying the Scheme Maps to show a broken black border around Lot 48 (No.335) Eighty Road, Baldivis and an identification number of ‘A29’.

2. **ADOPT** the Recommendations contained within the Schedule of Submissions as follows:-
The Scheme Amendment must be considered on planning merit.

The antennae is a hobby related to the residential enjoyment of the property. The antennae does not comply the interpretation of "Communications Antennae - Domestic". A Scheme Amendment to permit the additional use of "Communications Antennae - Commercial" is considered appropriate to permit the pursuit of the hobby.

The Scheme Amendment is restricted to the subject property and does not extend to other properties within the "Special Residential" zone.

No further changes to the Scheme Amendment are recommended, except for the inclusion of Special Condition No.2 which was included at the ordinary Meeting of Council on 22nd February 2011.

That the submission be dismissed.
<table>
<thead>
<tr>
<th>Submission</th>
<th>Comment</th>
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<td></td>
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<tr>
<td>Work Safe requirements must also be observed when excavation work is being undertaken in the vicinity of any Western Power assets.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Western Power is obliged to point out that any change to the existing (power) system; if required, is the responsibility of the individual developer.</td>
<td></td>
<td></td>
</tr>
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**No.3 – Mr Keith and Mrs Sandra Robinson, 5 Basile Street, Baldivis WA 6171**

We Keith and Sandra Robinson “support” the received proposal for the said Antenna on Lot 48 Eight Road, Baldivis.

We have no objections and understand as subject matter experts in regards to Antenna's and frequency management through ACA the implications of allowing Mr J. Sparkes to retain the Antenna as currently exists.

That the submission be noted

**Committee Voting – 3/1**

(Cr Ann Prince voted Against)
9. The Committee’s Reason for Varying the Officer’s Recommendation

Not applicable.

10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
# Planning Services

## Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-030/11 Western Trade Coast Industries Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/407</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Western Trade Coast Industries Committee</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Mike Ross, Manager, Statutory Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Bob Jeans, Director, Planning &amp; Development Services</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>20th June 2011</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Advocacy</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td></td>
</tr>
<tr>
<td>Site:</td>
<td></td>
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<tr>
<td>Lot Area:</td>
<td></td>
</tr>
<tr>
<td>LA Zoning:</td>
<td></td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td></td>
</tr>
<tr>
<td>Attachments:</td>
<td>- Western Trade Coast Map</td>
</tr>
<tr>
<td></td>
<td>- Sound Telegraph Article, 1st June 2011</td>
</tr>
<tr>
<td></td>
<td>- Government Media Statement, 24th May 2011</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
</tr>
</tbody>
</table>

## 1. Purpose of Report

To consider nominating the Director, Planning and Development to represent the City of Rockingham on the recently established ‘Western Trade Coast Industries Committee’ (WTCIC).

## 2. Background

Up until mid-2010, State Government planning agencies responsible for the Kwinana Industrial Area (KIA) co-ordinated their actions primarily through the Kwinana Industries Co-ordinating Committee (KICC).
KICC was established in the mid-1980's by the then Minister for Resources Development to facilitate the development of resource processing projects in the KIA.

At the time, the Government acknowledged that the KIA had a considerable area of unallocated industrial land and faced a number of complex planning challenges including effective land and infrastructure planning, efficient integration of developments such as the Kwinana Quay, Fremantle Outer Harbour and Latitude 32.

In July 2008, the KICC held a Strategic Planning Workshop to:-
- refocus on challenges facing the KIA.
- establish an Action Plan.
- review the KICC's scope.
- review agency representation.

The State Government disbanded the KICC circa mid 2010. The Department of State Development (DSD) advised the City at that time that the decision of the State Government was (in part) due to the rationalisation of various boards and committees within the State.

In closing down the KICC, the DSD advised that the Premier had (in 2009) approved the preparation of a governance model for the Western Trade Coast, including a Vision and Action Plan.

In October 2010, Landcorp forwarded for City comments a proposed governance structure, draft Terms of Reference and draft Action Plan for the proposed Western Trade Coast Industries Council.

Landcorp proposed that the Council would be chaired by the Rockingham Kwinana Planning and Development Taskforce Chairman (Hon Phil Edman, MLC), with executive support to be provided by the Rockingham Kwinana Development Office.

On the 21st October 2010, City Officers provided a detailed response on the proposed governance arrangements, draft Terms of Reference and draft Action Plan.

3. Details

The State Government has recently announced the establishment of the WTCIC. Premier Colin Barnett MLA has appointed Hon Phil Edman MLC as the Chairman and Mr Chris Oughton, Director of the Kwinana Industries Council as the Deputy Chair.

The Western Trade Coast includes:
- Kwinana Industrial Area (Town of Kwinana);
- Latitude 32 (City of Cockburn & Town of Kwinana);
- Australian Marine Complex (City of Cockburn);
- Rockingham Industrial Zone (joins the southern end of Kwinana Industrial Area) (City of Rockingham); and
- Outer Harbour (future port proposals at Kwinana) (Town of Kwinana).

The attached map shows the location of the Western Trade Coast.

The Government considers that the Western Trade Coast is the most important strategic industrial region in the Perth Metropolitan Area. It is also claimed that the WTC will play a critical role in helping the region reach its full potential and could see an estimated additional $2 billion per annum and a further 1600 jobs generated.

The City of Rockingham was identified in the WTCIC Terms of Reference as one of the members of the new Committee.

The Committee’s Terms of Reference and draft Action Plan, as endorsed by the Government, are as follows. These outline the Government’s expectations of the Committee.
Western Trade Coast Industries Committee - Draft Terms of Reference

Vision
The Western Trade Coast is an essential, sustainable and strategic (heavy, general and special) industrial region, supported by industry, community and Government.

Western Trade Coast Objectives
- Sets the standard for similar development across Australia.
- Highly regarded and respected by all levels of Government and industry within the area.
- Is designed and constructed to the best practicable standards.
- Co-ordinates resources and investment from all levels of Government industry within the area.
- Successfully integrates with areas outside its boundaries.
- Creates significant employment and economic development opportunities.
- Recognised as the premier industrial area in the State.
- Strives towards BATNEEC (Best Available Technology Not Entailing Excessive Cost).
- Demonstrates alignment with other planning and land use including transportation initiatives in the surrounding areas.
- Develops increased synergies within the core area.
- Generates access to additional funding.
- Accepted definition and protection to minimise negative impact of incompatible land use encroachments into the Core and infrastructure corridors.

Purpose
The purpose of the WTCIC is to coordinate action to achieve the above vision and objectives by:
1. Coordinating and prioritising across-Government planning and actions within the WTC;
2. Refining and driving the delivery of the WTC Action Plan; and
3. Providing advice and recommendations to the Government regarding the development of the WTC.

Membership
- WTCIC Chair (Hon Phil Edman MLC, Chairman of the Rockingham Kwinana Planning and Development Taskforce)
- Kwinana Industries Council (Deputy Chair)
- Executive Support (RKDO)
- Local Government Authorities
- Landcorp
- Fremantle Ports
- Department of Planning
- Department of State Development
- Department of Commerce
- Department of Environment
- Department of Transport
- Two Industry representatives
Other agencies are able to be invited to participate as required.

Reporting
The WTCIC will report to the Industrial Land Supply Taskforce (ILS), which subsequently reports to the Premier and Cabinet when required.

Functions
The functions of the committee are to:
- Agree an interagency action plan for the WTC.
- Implement the endorsed WTC Action Plan.
- Provide leadership and policy direction for the development of the WTC area.
- Provide advice and recommendations to the ILS Taskforce.
- Provide direction on the marketing and promotion of the WTC to a national and international audience.
- Manage a communication strategy to the public and private sectors.
- Establish and champion strategic relationships with current and potential industry stakeholders.
- Investigate options for providing certainty for the WTC.
- Other tasks as directed by the Government.

**Western Trade Coast Industries Committee - Draft Action Plan**

<table>
<thead>
<tr>
<th>Outcome area</th>
<th>Actions</th>
<th>Tasks</th>
</tr>
</thead>
</table>
| **1. Governance** | Develop a detailed work program | • Prepare a Five Year Business Plan, based on this action plan.  
• Prepare projects plans for key outcomes in the business plan.  
• Establish inter-agency MoU’s as required to facilitate the delivery of the business plan. |
| | Drive delivery of the work program | • Ensure the work program is endorsed by the ILS Taskforce.  
• Manage the delivery of the program on behalf of the ILS Taskforce.  
• Provide regular progress reports, against KPI’s, to the ILS Taskforce. |
| | Review governance arrangements | • Establish protocols amongst agencies for relationship management and business development.  
• Review governance structure and processes after a period of 12 months and thereafter every five years. |
| **2. Land use planning** | Promote a coordinated approach to planning | • Finalise the Kwinana Air Quality buffer and recognise this as the basis of the WTC boundary.  
• Provide recognition of the WTC through a consolidated SPP and inclusion in the MRS.  
• Establish a Development Assessment Panel for the Western Trade Coast (as proposed in Approval and Related Reforms (No.4) (Planning) Bill 2009).  
• Develop consistent approaches to planning across the three Local Governments (Cockburn, Kwinana, and Rockingham).  
• Promote consistency between the MRS, LGA, TPS and the Latitude 32 master plan. |
| | Support expansion the Australian marine Complex (AMC) | • Progress land use investigations for the expansion recommendations in AMC land use and infrastructure master plan.  
• Ensure Latitude 32 structure plan can accommodate possible expansion of the AMC. |
| | Support the development of freight transport | • Ensure integration with the recommendations of the Port Optimisation Planning Group, when released.  
• Restrict residential encroachment on transport corridors. |
| | Facilitate the development of new Industrial Areas | • Progress the development of the Rockingham Industrial zone by finalising the Strategic Environmental Assessment and drive the development of the estate.  
• Support the development of Latitude 32 by building a case for further Government investment in the provision of services, transport infrastructure and land assembly.  
• Progress the development of the Medina research station for industrial purposes. |
| | Promote improvements to public amenity in the region | • Coordinate increased public transport access.  
• Provide opportunities for the development of amenity for industry employees, subject to the limitations resulting from industrial risk. |
### 3. Infrastructure

<table>
<thead>
<tr>
<th>Actions</th>
<th>Tasks</th>
</tr>
</thead>
</table>
| Facilitate delivery of:  
  - Rowley and Anketell Roads  
  - Fremantle-Rockingham Controlled Access Highway  
  - Kwinana Intermodal Terminal  
  - Trunk Infrastructure |  
  - Ensure each project has an appropriate business case and implementation plan.  
  - Secure funding and delivery commitments.  
  - Work with Water Corp to ensure the timely delivery of the East Rockingham Waste Water Treatment Plant. |
| Support continued development of AMC |  
  - Support the delivery of the AMC land use and infrastructure master plan recommendations.  
  - Support the expansion of AMC facilities. |
| Ensure integration with:  
  - James Point Port  
  - Kwinana Quay |  
  - Ensure integration with the recommendations of the Port Optimisation Group, when released.  
  - Ensure on-shore transport infrastructure links with each proposal.  
  - Coordinate road and rail access to James Point.  
  - Coordinate rails access/upgrading to Bulk Handling terminal and Bulk Handling Jetty. |
| Facilitate improved water, power and sewerage services |  
  - Review current and future demands in collaboration with industry.  
  - Develop plan for delivery of and investment in essential services.  
  - Work with industry to ensure maximum efficiency in resource use.  
  - Promote the development of sustainable and innovative ways to provide essential services. |

### 4. Industry Clustering

<table>
<thead>
<tr>
<th>Actions</th>
<th>Tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identify economic development opportunities.</td>
<td></td>
</tr>
</tbody>
</table>
  - Build economic database for the WTC.  
  - Undertake economic modelling to identify clustering opportunities. |
| Promote Industrial Clustering |  
  - Encourage synergy partners to co-locate.  
  - Foster relationship building and synergies amongst potential partners.  
  - Encourage relationship building between industry and research institutions. |

### 5. Marketing

<table>
<thead>
<tr>
<th>Actions</th>
<th>Tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop WTC marketing strategy</td>
<td></td>
</tr>
</tbody>
</table>
  - Undertake a marketing needs analysis.  
  - Identify trade and investment opportunities.  
  - Develop investment attraction package, marketing mechanisms and materials. |
| Coordinate marketing activities across Government |  
  - Coordinate the marketing of the WTC as a single industrial location.  
  - Facilitate recognition of the WTC as entity by State Government agencies and LGA’s.  
  - Ensure WTC represented in appropriate trade delegations and investment promotions. |

According to advice received from the Chairman of the WTCIC, the Council’s strong support and commitment will be essential if the objectives of the Committee are to be achieved.

The first meeting was held on Monday, 13th June 2011.

### 4. Implications to Consider

<table>
<thead>
<tr>
<th>a. Consultation with the Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
</tr>
</tbody>
</table>
b. Consultation with Government Agencies
The City provided input to Landcorp on the proposed governance arrangements for the Western Trades Coast Committee, prior to the submission to the Government.

c. Strategic
Community Plan
This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:

**Aspiration 11:** Planning for population growth to ensure that future development and land-uses contribute to a sustainable City that provides for a genuinely desirable lifestyle.

d. Policy
Nil

e. Financial
Nil

f. Legal and Statutory
Nil

### 5. Comments

Following the assessment of the Cabinet endorsed draft Terms of Reference and Action Plan as forwarded by the Chairman of the WTCIC, it has been established that none of the City’s requested changes were included in the final draft Terms of Reference and Action Plan.

The assessment has shown that:

**Proposed Governance Structure**

The Hon Phil Edman MLC has been appointed as the Chairman of the WTCIC, which conflicts with the City’s advice that the appointment of a Political Chair to the Committee appears to be at odds with the structure of other Industrial Land Supply Taskforce Committees.

**Terms of Reference**

The City identified the Vision statement “supported by industry, community and government” is unsupported by the Terms of Reference as it does not include ‘community’ anywhere. The Community is not represented in the membership arrangements. Local Government involvement is not a measure of community support. Only the underlined word “well” supported by industry, community and government was deleted.

**Western Trade Coast Objectives**

Objective 2 seeks to have the WTC ‘highly regarded and respected’. The City recommended that this action can only be achieved ‘through demonstrated actions’ and for this to be added at the end of this Objective, but it was not.

Objective 5 has been modified but not in accordance with the City recommendation as follows:

“5. Demonstrates how industrial development within the WTC integrates with the neighbouring communities.”

The WTC objective instead states:

“5. Successfully integrates with areas outside its boundaries.”

Objective 8 has not been modified to delete reference to BATNEEC (Best Available Technology Not Entailing Excessive Cost), as recommended by the City. It was recommended by the City that BATNEEC be replaced with BPEMP (Best Practicable Environmental Management Measures) for consistency with WAPC SPP No.4.1 – State Industrial Buffer Policy.
Objective 11 refers to generating access to additional funding but the City’s questions as to where this funding is generated from remain unanswered.

Objective 12 has not been modified in accordance with the City suggested changes as follows:

“12. Manages growth to achieve compatible land use integration.”

The WTC objective is as follows:

“12. Accepted definition and protection buffer to minimise negative impact of incompatible land use encroachment into the Core and infrastructure corridors”

Purpose

The purpose of the WTCIC was not amended to explain how community aspirations and involvement would be addressed to help achieve the Vision and Objectives, as per the City’s comments.

Membership

The involvement of Landcorp as a landowner with industrial land development interests has not been clarified, which was requested by the City.

The appointment of the two industry representatives has not been identified and appointment is not detailed, which was requested by the City.

How the proposed membership of the WTCIC reflects the Vision and the community is left unexplained.

How the WTCIC is going to operate in a way that is “well supported” by the community when industry has two representatives and the community has no representatives is not explained.

Reporting

The WTCIC will report to the Industrial Land Supply Taskforce, which subsequently reports to the Premier and Cabinet when required, has been adjusted in accordance with the City’s minor change.

Functions

The City’s comments on WTCIC functions were not included, as follows:

- The functions of the WTC should be expanded to ensure community expectations are addressed and that industrial development does not result in unacceptable impacts on the adjacent communities.

- The WTCIC should also ensure that industry properly consults with surrounding communities.

- Function 9 is very general. Given the representation of the Committee, it is difficult to commit to such an ‘open ended’ function.

WTC – draft Action Plans

The following comments raised by the City were not addressed in the WTC Draft Action Plans:

- It was strongly recommended that the Draft Action Plan designate responsibility under each Action so it is clear what Actions are the responsibility of State Government, Local Government or Industry or any combination of those three.

- The Action Plan should be reviewed annually and this should be reflected in the Terms of Reference, but it is not.

- Finalising the Kwinana Air Quality Buffer must be based on an integrated land use and scientific approach. Extending the role of the ‘air quality buffer’ to include other pollutant factors, should only be considered after full public consultation.

- The relevance of a consolidated SPP and inclusion in the MRS is not clear. What would be achieved by the WTC being recognised through a consolidated SPP and inclusion within the MRS? This question is left unanswered.
- The City strongly opposed the establishment of a Development Assessment Panel for the Western Trade Coast, as there is no demonstrated improvement over the current planning system. The Terms of Reference still include the establishment of a Development Assessment Panel.

- Consistent approaches to the planning application process have already been implemented by the City of Rockingham and the Town of Kwinana. In response to a submission from the KIC, both the City of Rockingham and Town of Kwinana Town Planning Schemes were amended to incorporate ‘Industrial Outline Development Plans’.

- The City has explained that it will not commit to supporting the recommendations of the Port Optimisation Planning Group, as the report has not yet been released. Despite the City’s concerns, the Action Plan still includes ‘integration with the recommendations of the Port Optimisation Planning Group’.

- The City was concerned that the Action Plan restricts residential development encroachment on transport corridors, which does not properly reflect the Objectives of State Planning Policy 5.4 – Road and Rail Transport Noise and Freight considerations in land use planning. The aim of this Policy is to promote a system in which sustainable land use and transport are mutually compatible. The approach for noise sensitive development includes a noise assessment and a range of possible noise management and mitigation measures. The Action Plan remains unchanged and still restricts residential development encroachment on transport corridors.

- Progressing the development of the Rockingham Industrial Zone by finalising the SEA and to drive the development of the estate, is linked to the preparation of a Structure Plan by Landcorp. The Structure Plan will establish land use patterns and to provide a framework for the subdivision and development of the land. This will be subject to City of Rockingham approval, which may include a public consultation phase.

- The City’s questions regarding public transport remain unanswered. The City advised that co-ordinating increased public transport access is laudable, however, it was noted that most shift workers travel by car, in favour of public transport. How it was intended to increase the frequency and patronage of public transport, remains unanswered.

- The legislative and strategic context for the WTCIC by referring to the governing legislation to establish the Committee was not included in the Terms of Reference, despite the City’s request.

- It was also noted there are no Actions relating to community involvement or to encourage dialogue with surrounding communities. This was considered a deficiency.

 Representation on WTCIC

The WTCIC Chairman, Hon Phil Edman, MLC requested that Council nominate the City’s Chief Executive Officer as the City’s representative on the WTCIC. In view of the Terms of Reference and Action Plan raising various town planning matters, it is recommended that Council nominate the Director, Planning and Development as the City’s representative on the new Committee.

It is also recommended that the Manager, Strategic Planning and Environment be nominated as a proxy for the City.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council NOMINATE the Director, Planning and Development Services as the City’s representative on the Western Trade Coast Industries Committee (WTCIC) and the Manager, Strategic Planning & Environment as proxy.
8. **Committee Recommendation**

That Council:

1. **NOMINATE** the Director, Planning and Development Services as the City's representative on the Western Trade Coast Industries Committee (WTCIC) and the Manager, Strategic Planning & Environment as proxy.

2. **REQUEST** two community representatives be appointed on the WTCIC.

   Committee Voting - 4/0

9. **The Committee’s Reason for Varying the Officer’s Recommendation**

The Committee considered it essential that the WTCIC contained appropriate community representation.

10. **Implications of the Changes to the Officer’s Recommendation**

Not applicable.
# Planning Services
## Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>Future Alignment Options - Fremantle Rockingham Highway</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/1373 &amp; LUP/418</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Department of Transport &amp; Department of Planning</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Mike Ross, Manager, Statutory Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr R M Jeans, Director, Planning and Development Services</td>
</tr>
<tr>
<td></td>
<td>Mr Dave Waller, Co-ordinator, Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>20th June 2011</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td>April 2011 (SP-017/11)</td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Advocacy</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td></td>
</tr>
</tbody>
</table>

| Site:                  |                                                        |
| Lot Area:              |                                                        |
| LA Zoning:             |                                                        |
| MRS Zoning:            |                                                        |
| Attachments:           | Leda Nature Reserve and Bush Forever Sites             |
| Maps/Diagrams:        |                                                        |

## 1. Purpose of Report

To consider the alternative alignment options for the future Fremantle Rockingham Highway (‘FRH’) as detailed in the ‘Mandurah Road Infrastructure Corridor Planning Report’, prepared on behalf of the Department of Planning.

## 2. Background

The FRH is a planned Primary Regional Road (‘PRR’) reservation connecting Fremantle and Rockingham. The deletion of the Fremantle Eastern Bypass in 2004 had created pressure on the surrounding road network system.
In 2002, the State Government’s Sustainable Transport Committee (‘STC’) endorsed a proposal to realign the future FRH to follow the Dixon Road alignment as part of a major road network. The original intention was for the FRH to continue westward to Rockingham, however, the construction of the Perth to Mandurah Railway in the original reservation has meant that this option is no longer viable.

The Department of Planning considered the construction of Mundijong Road between Dixon Road and the Kwinana Freeway, as a high priority and a good opportunity to review how the FRH might join Mandurah Road/Mundijong Road to enable access to the Kwinana Freeway.

In June 2009, the Department of Planning sought comments from the City on the alignment proposals prepared by the Department for the FRH, for the section between Anketell Road and Mundijong Road in the Kwinana and Rockingham area. The Department of Planning considers that the FRH should join Mandurah Road/Mundijong Road.

In August 2009, the City advised the Department of Planning that upon review of the eight alignment options for the FRH, the City’s preference was for two options that realign the FRH Primary Regional Reservation west towards the existing railway reserve, as these would protect Leda Nature Reserve. This would also place the FRH further west of residents living within the Kwinana locality of Leda and form a formal edge to the East Rockingham Industrial Area.

The City also expressed support to the FRH providing a direct route through to the Mandurah/Mundijong Road extension and then linking the Kwinana Freeway. The City also advised the FRH road design must allow a suitable grade separated interchange with Dixon Road, to ensure a convenient and direct access from motorists travelling in both directions of the future FRH and Dixon Road (to link with the Rockingham Strategic Metropolitan Centre).

The existing FRH road reservation has been reserved through northern part of Bush Forever Protection Area 349, south of Thomas Road, as shown by the ‘green colour’ on the Metropolitan Region Scheme Map below.

[Diagram of Metropolitan Region Scheme Zoning]

Existing Metropolitan Region Scheme Zoning (centre - future alignment of Fremantle Rockingham Highway section from Thomas Road to Dixon Road]
In April 2011, the Council considered Water Corporation’s request for a 30m wide service corridor easement within Reserve 18452 managed by the City of Rockingham, for the laying of future infrastructure to service the proposed ERWWTP.

The Water Corporation request was also related to the Department of Planning report titled ‘Mandurah Road Infrastructure Corridor – Planning Report’, which is the subject of this report.

### 3. Details

The Department of Planning has forwarded a copy of the report titled "Mandurah Road Infrastructure Corridor – Planning Report" dated 16 February 2011, to the City for information. The report assists in the planning of Mandurah Road as an infrastructure corridor; including allowances for existing and future road, rail and utility services. The report considers the future requirements to upgrade Mandurah Road to a dual carriageway road and accommodating the services for the future East Rockingham Waste Water Treatment Plant (ERWWTP).

The alignment options for the FRH are described as follows:-

**Option A**

(Existing & Extended): Retain Mandurah Road as a 4 lane road with FRH (PRR) as a 6 lane road within the existing FRH MRS road reservation and extend through the Leda Nature Reserve to connect directly to Mundijong Road and therefore bypassing Mandurah Road.

**Option B**

(Realignment): FRH (PRR) as a 6 lane road and relocate westwards from the existing MRS road reservation alignment to connect to Mandurah Road north of Dixon Road/Gilmore Avenue.

The report recommends that the existing Mandurah Road Metropolitan Region Scheme (MRS) road reservation be extended to allow for the carriageways, intersections, drainage basins and principal shared path associated with the Mandurah Road Infrastructure corridor, to cater for both initial and ultimate requirements. This allows for the flexibility of developing the FRH on either the MRS alignment or the alternative alignment option.

The WAPC Infrastructure Co-ordinating Committee (ICC) considered the report on 14 April 2010 and resolved as follows:

1. "notes that preliminary analysis indicates that the preferred option for the Mandurah Road Infrastructure Corridor Alignment is for Mandurah Road to remain on the existing alignment with an additional corridor for future Water Corporation services. This is subject to sensitivity testing, further analysis and consultation with key stakeholders. The Fremantle Rockingham Highway (FRH) remains on the MRS Primary Regional Road reservation.”

2. "subject to the outcomes of the sensitivity analysis, recommends that the Department of Transport in conjunction with other relevant agencies, prepares plans for extending the current FRH reservation south to Mundijong Road through the Leda Nature Reserve with a view to initiating an MRS amendment to ensure its capacity for delivery, given the potential environmental impacts.”

Accordingly, the ICC has supported the FRH to remain on the MRS Primary Regional Road reservation, but this involves clearing directly through a portion of the Leda Nature Reserve, which is also reserved as Parks and Recreation under the MRS and is identified as a Bush Forever Site. With regards to the Leda Nature Reserve and Bush Forever Sites, Option A fragments these areas the greatest and therefore represents a more significant impact than Option B, as noted in the Desktop Environmental and Heritage Constraints Assessment, which was included in the Final Report.
4. Implications to Consider

a. Consultation with the Community

Nil
b. **Consultation with Government Agencies**

City Officers were consulted by the Department of Planning on the preparation of alignment options for the FRH, which produced the ‘Mandurah Road Infrastructure Corridor Planning Report’. The City was not given the opportunity to comment on the draft Final Report, on Options A or B.

c. **Strategic Community Plan**

This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-

**Aspiration 11:** Planning for population growth to ensure that future development and land uses contribute to a sustainable city that provides for a genuinely desirable lifestyle.

d. **Policy**

Nil

e. **Financial**

Nil

f. **Legal and Statutory**

The proposed Fremantle Rockingham Highway (FRH) is a Primary Regional Road (PRR) in the Metropolitan Region Scheme. Any changes to the existing FRH reservation will require an amendment to the Metropolitan Region Scheme, which must be advertised for public comment.

5. **Comments**

The existing PRR reservation for the FRH, for the area under consideration, extends from Anketell Road in the north, crosses Thomas Road and passes into the Leda Reserve. It then crosses Wellard Road and continues through the Leda Reserve to join the existing Gilmore Avenue and Mandurah Road.

The City supports the Option B (FRH) alignment for the following reasons:

(a) Option A does not provide a convenient and direct access from motorists travelling in both directions of the future FRH to directly access the Rockingham Strategic Metropolitan Centre via Dixon Road.

(b) The corridor alignment proposed as part of Option A will involve clearing directly through a portion of the Leda Nature Reserve. Conversely, Scenario B is proposed to avoid this reserve. Option A also fragments the Leda Nature Reserve and the Bush Forever Sites the greatest and therefore represents a more significant impact than Option B. The City supports the Scenario B option for the Fremantle Rockingham Highway (Primary Regional Road) as a six lane road and relocated westwards from the existing Metropolitan Region Scheme road reservation alignment to connect to Mandurah Toad north of Dixon Road/Gilmore Avenue.

**Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council:-

1. **SUPPORT** Option B alignment for the following reasons:-
(i) Option B provides a more convenient and direct access from motorists travelling in both directions of the future Fremantle Rockingham Highway to access the Rockingham Primary Regional Centre via Dixon Road.

(ii) The corridor alignment proposed as part of Option A will involve clearing directly through a portion of the Leda Nature Reserve. Conversely, Scenario B is proposed to avoid this reserve. Option A also fragments the Leda Nature Reserve and the Bush Forever Sites the greatest and therefore represents a more significant impact than Option B.

2. **OBJECT** to the Option A alignment, as it will involve clearing directly through a portion of the Leda Nature Reserve. Conversely, Scenario B is proposed to avoid this reserve. Option A also fragments the Leda Nature Reserve and the Bush Forever Sites the greatest and therefore represents a more significant impact than Option B.

3. **EXPRESS** its disappointment that the WAPC did not allow the City the opportunity to comment on the draft Final Report titled ‘Mandurah Road Infrastructure Corridor Planning Report’ before it was considered by the Infrastructure Coordinating Committee of the Western Australian Planning Commission.

4. **DIRECT** the Chief Executive Officer to write to the WAPC explaining Council’s position.

### 8. Committee Recommendation

That Council:-

1. **SUPPORT** Option B alignment for the following reasons:-

   (i) Option B provides a more convenient and direct access from motorists travelling in both directions of the future Fremantle Rockingham Highway to access the Rockingham Primary Regional Centre via Dixon Road.

   (ii) The corridor alignment proposed as part of Option A will involve clearing directly through a portion of the Leda Nature Reserve. Conversely, Scenario B is proposed to avoid this reserve. Option A also fragments the Leda Nature Reserve and the Bush Forever Sites the greatest and therefore represents a more significant impact than Option B.

2. **OBJECT** to the Option A alignment, as it will involve clearing directly through a portion of the Leda Nature Reserve. Conversely, Scenario B is proposed to avoid this reserve. Option A also fragments the Leda Nature Reserve and the Bush Forever Sites the greatest and therefore represents a more significant impact than Option B.

3. **EXPRESS** its disappointment that the WAPC did not allow the City the opportunity to comment on the draft Final Report titled ‘Mandurah Road Infrastructure Corridor Planning Report’ before it was considered by the Infrastructure Coordinating Committee of the Western Australian Planning Commission.

4. **DIRECT** the Chief Executive Officer to write to the WAPC explaining Council’s position.

 Committee Voting – 4/0

### 9. The Committee’s Reason for Varying the Officer’s Recommendation

Not applicable.

### 10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
Planning Services
Statutory Planning Services

Reference No & Subject: SP-032/11 Proposed Amendments to Heritage List
File No: LUP/641-02
Proponent/s: Mr Ross Underwood, Senior Planning Officer
Author: Mr Mike Ross, Manager, Statutory Planning
Other Contributors: Mr Dave Waller, Co-ordinator Statutory Planning
Date of Committee Meeting: 20th June 2011
Disclosure of Interest: Legislative
Site: (i) Lot 26 (No.63) Esplanade, Rockingham
(ii) Reserve 23952, Lot 1346 (No.342) Baldivis Road, Baldivis
(iii) Reserve 27687, Lot 1209 Crocker Street, Rockingham
Lot Area: (i) 526m², (ii) 13.7828ha, (iii) 4.465ha
LA Zoning: (i) Residential (R40), (ii) Public Open Space, (iii) Light Industry
MRS Zoning: (i) Urban, (ii) Urban, (iii) Industry
Attachments: Maps/Diagrams:

1. Purpose of Report
To consider amending the Heritage List, pursuant to Town Planning Scheme No.2.

2. Background
The City's Heritage List was originally compiled in March 2008, with thirty seven places. In December 2010, fifteen new places were entered onto the List and one place deleted. In April 2011, one additional place was entered onto the List and the details of one entry modified.
3. **Details**

Three changes are proposed to the Heritage List:

1. Remove Place 085 - Residence, 63 Esplanade from the List. The place was entered in December 2010; however, the place had been demolished and the officer's report recommended that the place not be included on the Heritage List. The removal of the entry will reconcile this discrepancy.

2. Modify the details of Place 002 - Baldivis Primary School to change the owner details to the City of Rockingham and the address details as Reserve 23952, Lot 1376 (No.342) Baldivis Road, Baldivis. In December 2010, Council changed the owner and address details of the place in the Municipal Heritage Inventory, the modification of the Heritage List will complete the process.

3. Remove Place 017 - Elanora from the Heritage List, to reflect Council's decision in April 2011, to approve the dismantling of Elanora.

4. **Implications to Consider**

   a. **Consultation with the Community**

      The owner and occupier of Place 085 - Residence, No.63 Esplanade was notified of the proposal to delete the entry from the Heritage List on 5th May 2011, and was invited to comment on the proposal by 27th May 2011. No comments were received.

   b. **Consultation with Government Agencies**

      The Department of Education was notified of the proposal to modify the address and owner details of Place 002 - Baldivis Primary School on the Heritage List on 22nd January 2010, and was invited to comment on the proposal by 8th March 2010. No comments were received.

   c. **Strategic**

      **Community Plan**

      This item addresses the Community's Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:

      **Aspiration 15. Governance systems that ensure decision making and resource allocation is accountable, participative and legally and ethically compliant.**

   d. **Policy**

      Planning Policy 3.1.7, *Heritage Conservation and Development Policy* provides that the Heritage List may be amended under certain circumstances, including the demolition or destruction of a place, or where a review of the Municipal Heritage Inventory supports it. The proposed amendments are consistent with the intent of this Policy.

   e. **Financial**

      Nil

   f. **Legal and Statutory**

      Clause 5.4.2 of Town Planning Scheme No.2 applies to the establishment and maintenance of a Heritage List. Where entries of places are to be modified or deleted, the City is to notify the owner and occupier of the place and provide them with a copy of the description proposed to be used and the reasons for the proposed entry, and invite submission on the proposal within 21 days of the day the notice is served.

      Comments were sought from the owners of No.63 Esplanade and the Baldivis Primary School. Elanora and Baldivis Primary School are on land managed by the City.
The Council must consider any submissions received and resolve to enter a place (or modify or delete the entry) or reject the proposal.

Where a place is included on the Heritage List, the City is to give notice of the inclusion to the Western Australian Planning Commission, Heritage Council of WA and owners and occupiers of the place.

5. **Comments**

The proposed modifications to the Heritage List reconcile the recent changes to the Municipal Heritage Inventory, as well as Council’s decision to dismantle Elanora. It is recommended that the proposed modifications to the Heritage List be adopted.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council:-

1. **REMOVE** the entries of Place 085 - Residence - No.63 Esplanade and Place 017 - Elanora from the Heritage List, pursuant to clause 5.4.2 of Town Planning Scheme No.2.

2. **MODIFY** the entry of Place 002 - Baldivis Primary School on the Heritage List by changing the address to 'Reserve 23952, Lot 1376 (No.342) Baldivis Road, Baldivis' and changing the owner to 'City of Rockingham'.

8. **Committee Recommendation**

That Council:-

1. **REMOVE** the entries of Place 085 - Residence - No.63 Esplanade and Place 017 - Elanora from the Heritage List, pursuant to clause 5.4.2 of Town Planning Scheme No.2.

2. **MODIFY** the entry of Place 002 - Baldivis Primary School on the Heritage List by changing the address to 'Reserve 23952, Lot 1376 (No.342) Baldivis Road, Baldivis' and changing the owner to 'City of Rockingham'.

   Committee Voting – 3/1
   (Cr Ann Prince voted Against)

9. **The Committee’s Reason for Varying the Officer’s Recommendation**

Not applicable.

10. **Implications of the Changes to the Officer’s Recommendation**

Not applicable.
1. **Purpose of Report**

To consider the City's position on the review of the *Heritage of Western Australia Act 1990* ("Act").

2. **Background**

a. **The Act**

The objects of the Act, with due regard to the rights of property ownership, are:

(a) to identify, conserve and where appropriate enhance those places within Western Australia which are of significance to the cultural heritage;
b. **Heritage Council of Western Australia**

The Heritage Council of Western Australia ("Heritage Council") is made up of a Chair and eight other Councillors, whose primary role is to advise the Minister for Heritage on heritage issues. The purpose of the Heritage Council is to:

- advise the Minister on matters relating to places that may have cultural heritage significance;
- advise the Minister in relation to the Register and to maintain the Register;
- negotiate Heritage Agreements;
- provide, or facilitate the provision of financial or technical assistance or other conservation incentives;
- prevent, or endeavour to prevent the destruction of, or deterioration or damage to places that have or may have cultural heritage significance or special interest;
- undertake or arrange the recording, conservation and presentation of heritage places and places of special interest;
- encourage public interest and understanding through promotion, research and investigation of the State’s cultural heritage; and
- promote or provide education or training on heritage related matters.

The Heritage Council has a board of nine members comprising:

- a Chairperson;
- a nominee of the National Trust of Australia (WA);
- a person appointed to represent the interests of local government;
- a person appointed to represent the interests of owners;
- a person appointed to represent professional organisations having relevant professional skills; and
- Four other persons.

The Heritage Council Board oversees the operations of the Office of Heritage, which supports its functions and carries out day-to-day activities associated with the administration of the Act.

c. **Entering a place on the Register**

The Register of Heritage Places ("Register") is a list of places, which may include a group of places (historic precincts) that have:

- been assessed to have cultural heritage significance;
- or possess special interest related to or associated with the cultural heritage; and
- are of value for the present community and future generations; and
- the protection afforded by the Act is appropriate.

A ‘place’ means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes:

- an area of land situate below low water mark on the sea shore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;
- any works or buildings situated there, their contents relevant to the purposes of the Act and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and
- as much of the land beneath the place as is required for the purposes of its conservation.

Any person or organisation can refer a place to the Heritage Council for possible entry in the Register. Following the completion of a detailed heritage assessment against the criteria outlined in S.47 of the Act and, in consultation with owners and other stakeholders, the Heritage Council will decide whether or not to recommend the place for entry in the Register to the Minister for Heritage. The Minister makes the final decision on whether a place is entered in the Register.

There are now more than 1,300 places in the Register, both publicly and privately owned. These include buildings and other man-made structures, ruins and archaeological sites, parks and gardens, and other culturally significant places.

Under the Act, the entry of a place in the Register is a two-stage process. Initially, the Minister may direct that a place be entered on an interim basis if the Heritage Council determines that it meets the criteria specified in s.47 of the Act. Following interim entry in the Register, a place can then be entered on a permanent basis. Before this can happen, the Act requires that the owner be consulted and public submissions accepted for a period of at least 6 weeks. The Minister can then decide whether to enter the place in the Register.

The Act does not allow a place to be entered on a permanent basis in the first instance, even when all stakeholders agree at the outset that the place should be in the Register. Even in this situation, interim registration must precede permanent registration and both registrations involve the complete consultation process.

d. Development framework

The Act requires a decision-making authority, being such as a local government or a State agency, that is contemplating an “action” (being a planning application, a building licence application, a public works project or some regulatory measure) that may affect a Registered place, to refer the proposed action to Heritage Council for “advice”.

The decision-making authority cannot make a decision until it has received Heritage Council’s advice, and its decision must be “consistent with” the advice received, unless there is “no feasible and prudent alternative”.

Whilst the Act’s referral requirements are comprehensive, there are no criteria by which Heritage Council is to decide whether or not to support a given proposal, although principles of administrative law suggest that the Heritage Council’s advice on referrals should be confined to furthering the objects of the Heritage Act.

There are also no time limits within which the Heritage Council’s advice is to be rendered on a referral. In practice, most referrals are handled within three weeks of receipt, provided all necessary supporting information accompanies the referral. More complex projects can take longer.

The Act does not allow for granting exemptions from the referral requirement. These could be used, for example, to recognise those places where there are other established statutory arrangements that protect the cultural heritage of the place.

The Act does provide an exemption from referral for alterations to a church for purposes “which are of a liturgical nature”. This is taken to mean that additions or alterations made to a church to allow more congregation seating or to reconfigure the interior do not require referral to the Council.

There are currently 5 places within the City of Rockingham that are entered on the Register, these being:
e. Conservation incentives

The Act provides a number of incentives for owners of Registered places. Besides empowering HCWA to provide grants and loans to assist with the conservation of heritage places, the Act also allows the owner of a State Registered place to request remission of certain rates and taxes to offset the cost of carrying out conservation works.

In addition, the owner of commercial property that is the subject of a Heritage Agreement may request the Valuer General to revalue the property to take into account the terms and obligations contained in the Heritage Agreement.

The rate remission provision is, however, difficult to administer because the relevant taxing authority has the final say as to whether or not the remission will be granted. As a result, remissions are rarely granted. It is common in other Australian States to allow for revaluation of any State Registered place, and not just those that are subject to a Heritage Agreement.

f. Maintaining heritage places

Demolition by Neglect

There is nothing in the Act that requires an owner to carry out maintenance or repairs to a Registered place. Under the current Act, it is completely legal for an owner to allow a Registered place to crumble into disrepair, so long as the owner does nothing to speed the process along. This is often referred to as ‘demolition by neglect’.

‘Repair Orders’ are present in heritage legislation in five Australian States, which allow the heritage authority, usually the Minister, to compel an owner to repair and maintain a Registered place. Questions arise as to what it means to ‘repair’ a place under such an order, or should the extent of repair be left to the decision of the appropriate authority under the heritage legislation.

Enforcement

The Act specifically makes it an offence to “damage or despoil” a place entered in the Register. The Act includes various other features, such as inspectors, to assist the enforcement of the Act.

g. Local heritage

The Act requires all local governments in Western Australia to “compile and maintain an inventory of buildings within its district, which in its opinion are, or may become, of cultural heritage significance”. These are often referred to as Municipal Inventories, or Municipal Heritage Inventories.

There are no mandatory standards for the criteria to be used in compiling inventories, which results in wide disparities between local governments in assessing places of potential heritage significance.

The Act does not specify the purpose of the inventory and does not offer any statutory protection to the places included in them. In practice, they have been used to provide the Heritage Council with a list of places to consider for possible entry in the Register, although this has been discontinued.
The Heritage Council's view is that the inventories can and should be used to assist local governments in compiling a ‘Heritage List’ for inclusion in the Local Planning Scheme under the Planning and Development Act 2005, which gives statutory protection to these places. Some local governments have adopted this approach and decided to make their inventory the Heritage List.

Whilst most local governments have compiled an inventory, many took years to do so even though the Act mandated that this be completed within four years of its commencement (i.e. by February 1995), and be updated annually and reviewed every four years. The Act includes no provisions to compel local governments to complete their inventories.

Given that local government's identification and management of local heritage places is authorised in the State's planning legislation, the question arises whether there remains any purpose for inventories, particularly since HCWA no longer looks to them for candidate sites for the Register.

On the other hand, nothing in WA's current planning legislation compels local governments to identify and protect local heritage; it merely empowers them to do so. Given that about 90% of the State's built heritage is of local significance and not included in the Register, the lack of any requirement for local governments to at least identify local heritage within their districts could be a serious gap in the State's heritage protection scheme.

h. State government heritage asset management

About one third of all places in the Register are wholly or partially owned by the State. Although the Act is framed to actively support the registration of state-owned heritage places, State government agencies have no statutory obligation to identify, protect or conserve their heritage assets.

i. Other areas of possible heritage protection

Archaeological sites

The Act recognises that archaeological sites, deposits, features and relics are part of what comprises the definition of ‘place’ and thus they can and do meet the criteria for entry in the Register.

Moveable heritage

The Act does not extend protection to 'moveable heritage', such as steam locomotives, early aircraft, ships, machinery, etc. Other states, notably New South Wales and Victoria, allow items such as these to be included in their heritage registers.

3. Details

In April 2011, the Hon. John Castrilli MLA, Minister for Local Government; Heritage; Citizenship and Multicultural Interests launched the State Cultural Heritage Policy - the first heritage policy formally adopted by the Western Australian Government. The policy outlines objectives in four key areas; to recognise, protect, promote and partner, and sets out a number of strategies under each theme.

Under the Policy to recognise, a key objective is to:

"Ensure that Heritage legislation is open, transparent, simple to operate and understand, and able to reflect best practice in the recognition and protection of heritage places."

Recognising that there are many individuals and organisations that have an interest in heritage and the effect of the State’s heritage legislation, the Heritage Council of Western Australia ("Heritage Council") proposes a consultative approach to the development of a new Heritage Act.

The launch of a consultation paper (available on the Heritage Council's website) marks the start of Phase 1 of the review process, which involves canvassing the views of Western Australians on the effectiveness of current legislation, and what a contemporary Heritage Act should look like.
In Phase 2, feedback from this process will be analysed and policy positions developed and incorporated into a further discussion paper, which will be published for public comment.

Following this second round of public consultation, State Government approval will be sought for the preparation of an Exposure Draft Bill, also referred to as a Green Bill. The Green Bill, which sets out what a new Act may look like, will be published for public comment.

The Heritage Council’s consultation paper sets out 20 issues which it is seeking the views and ideas of interested persons and organisations. The various consultation issues, and implications to the City, are set out in the Comments section below.

4. Implications to Consider

a. Consultation with the Community
Consultation is being undertaken by the Heritage Council.

b. Consultation with Government Agencies
Consultation is being undertaken by the Heritage Council.

c. Strategic Community Plan
This project addresses the Community's Vision for the future and specifically the following Aspirations contained in the Community Plan March 2011:

*Aspiration 15: Governance systems that ensure decision making and resource allocation is accountable, participative and legally and ethically compliant*

d. Policy
Nil

e. Financial
Nil

f. Legal and Statutory
The Act includes various responsibilities for the City, including the requirement to prepare an inventory of heritage places (the 'Municipal Heritage Inventory'), to refer all applications for planning approvals and building licences on land affected by places that have been entered on the Register of Heritage Places to the Heritage Council, and to comply with other directives of the Heritage Council.

5. Comments

The proposed responses to the consultation issues set out by the Heritage Council on the review of the Act are as follows:

1. What should be the ‘objects’ of a contemporary Heritage Act?
As the 'objects' of the Act only guides the provisions of the Act, there is little direct implication for the City. The current objectives of the Act are supported.

2. How effective has the Heritage Council been in the delivery of its functions under the Act? What improvements could be made?
City officers liaise with the Office of Heritage, which the Heritage Council has delegated responsibility to deal with the majority of matters that interest the City. The Office of Heritage has been effective in the delivery of its functions under the Act.

3. What changes to the functions of the Heritage Council would you recommend?
The function of the Heritage Council has no implications to the City.
4. **What knowledge and expertise should Heritage Councillors have?**

The knowledge and expertise of the Heritage Council has no implications to the City.

5. **What interests, if any, should be represented on the Heritage Council?**

The Heritage Council's Board includes a person appointed to represent the interests of local government (this person is not from the City of Rockingham). The interests of local government should continue to be represented on the Heritage Council.

6. **What should be the criteria against which a place is assessed for entry in the Register?**

As the appropriateness for assessing proposals for development of a place that has been entered onto the Register is the responsibility of the Heritage Council, there is little implication for the City.

7. **What makes a place of ‘State significance’ - how can this best be defined?**

The City, through the preparation and review of its Municipal Heritage Inventory, considers places for nomination onto the State Register of Heritage Places. Should ‘state significance’ be defined, the classification of places under the Municipal Heritage Inventory can be reconsidered in the next review of the Inventory.

8. **What should the steps be to nominate, assess, enter, amend or remove a place in the Register?**

Under the Act, places can be entered on the Register on an interim basis affording that place protection under the Act while the Heritage Council determines whether or not the entry should remain in the Register on a permanent basis. Notwithstanding the process set out in the Act, the Office of Heritage uses s.10(1) of the Act (which requires public authorities assist with the carrying out of functions of the Heritage Council) to protect places that have been nominated for entry but have not been entered on the Register on an interim basis by requesting the City refer all proposals to development to it. Administratively, such instructions may be difficult to monitor by the City given there are no timeframes associated with requests for assistance, and the City could unwittingly approve development without reference to the Heritage Council's request for assistance.

The process for nomination of a place for entry on the Register should be more clearly defined to highlight the Heritage Council's responsibilities following the receipt of a nomination, and to prevent s10(1) of the Act being used to afford nominated places quasi-protection.

9. **What steps in the registration process should be subject to time limits?**

Timeframes should be given for commencing the assessment of places that have been nominated for inclusion on the Register of Heritage Places.

Timeframes should also be given to the Minister's decision on whether or not an entry should be made under s.49(1) of the Act.

10. **What role should the Minister have in entering or removing places from the Register?**

The Minister's involvement in entering or removing places from the Register does not have any implications for the City.
11. **What sort of things or actions that may affect a registered place should be referred to the Heritage Council?**

Clause 6.1.2 of the City's *Town Planning Scheme No.2* exempts development from requiring planning approval where it involves "the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building" and "the demolition of any building or structure" except where the building is located in a place that has been entered in the Register under the Act or subject to an order under Part 6 of the Act. Referrals for such applications are required under the Act.

Building and Demolition Licences are also subject to referral under the *Local Government (Miscellaneous Provisions) Act 1960*.

Works undertaken by the City, including works to modify a public thoroughfare, drainage works, landscaping works and any other works, are subject to referral where the works are likely to 'adversely affect' a registered place under s.11(1) of the Act. The Act does not refer to works on land adjoining a registered place or define what works might 'adversely' affect a place, and such detail should be included in the Act.

Advertisements and signs are not subject to referrals under section 5.3 of *Town Planning Scheme No.2* or the City's *By-law Relating to Signs, Hoardings and Bill Posting*. Given signs and advertisements could impact on the cultural heritage significance of a place, they should be included in any requirement for referral under the Act.

The Act should also consider to what extent that development outside of the 'curtilage' (the registered boundary of the listed place) should be referred to the Heritage Council. It is the current practice of the Office of Heritage that development on land adjoining a place that is entered on the Register should be referred to the Heritage Council; however, this requirement is not often understood.

12. **What should be the criteria against which to evaluate a development proposal?**

As the criteria for assessing proposals are best determined by the Heritage Council, there are no implications to the City.

13. **What sort of things or actions that may affect a registered place should be exempted from referral to the Heritage Council?**

The City issues licences, permits and approvals for other uses of land including traders licences, outdoor eating licences, outdoor events licences to name a few; these generally permit the use of land that does not physically alter a place that shouldn't require referral to the Heritage Council.

14. **Under what conditions could a place, organisation or entity be exempted from the development referral process?**

It is considered that all organisations should be treated equally in their responsibilities to under the Act.

15. **What are the considerations for establishing time limits within which referrals are processed?**

In considering applications for planning approval, there are a number of timeframes which are to be complied with. They include:

- Section 6.10 of *Town Planning Scheme No.2* - an application for planning approval is deemed refused after 60 days of receipt of the application, or in the case of an application which is subject to advertising under clause 6.3.3, 90 days, or within such further timeframe as agreed to in writing between the applicant and the City.
- Clause 29(3) of the *Metropolitan Region Scheme* requires the Western Australian Planning Commission to make recommendations for consideration within 42 days of the date of receipt of the application by the local authority.
For applications made within an Interim Development Order area or Planning Control Area, the Planning and Development Act 2005 prescribes a period of 60 days after referring the application to the Heritage Council.

In terms of referral response times for referring authorities (i.e. the Heritage Council), Schedule 1 of the Western Australian Planning Commission's Instrument of Delegation - Powers of Local Government (MRS) (gazetted on 13th August 2010) requires that "where an application is referred by the local government to a public authority for comment and recommendation, the public authority shall provide comment and recommendation, if any, within 30 days of receipt of that application."

With respect to Building Licence applications, where a person has submitted specifications to the City and the City has not notified the applicant whether or not it has approved the plans within 60 days (for places entered on the Register), the applicant may write to the City requesting a decision to be made within 14 days.

There are no statutory timeframes associated with Demolition Licences.

The Environmental Protection Act 1986 contains timeframes for applications referred to the Environmental Protection Authority (“EPA”) for assessment. Under s.39A(3), the EPA is required to determine whether or not it is going to assess the proposal. Under s.38A(1), the EPA may also consider that it does not have enough information to decide whether or not to assess the proposal and ‘stop the clock’ on response timeframes under s.38A(2).

Having regard to the above, 30 days is considered to be a reasonable and is consistent with the timeframes afforded to other authorities under the Western Australian Planning Commission's Instrument of Delegation.

16. **What other financial or non-financial incentives would be appropriate for owners of State-registered places?**

Under s.6.47 of the Local Government Act 1997, the City may resolve to waive a rate or service charge; the Heritage of Western Australia Act 1990 allows the Heritage Council to recommend the remission of rates. There is currently no obligation for the City to accept a recommendation for rates remission. Given the small number of places on the Register in the City, rates remission is not likely to significantly impact on the City's income, however, is not something that it has previously considered. Any potential losses should be offset by legislation for any rates remission should provide for local governments to make a claim for reimbursement in a similar manner to that prescribed in Division 6 of the Rates and Charges (Rebates and Deferments) Act 1992.

The Act currently allows for the Heritage Council to request the Valuer General to revalue the property to take into account obligations under a Heritage Agreement; this does not directly impact the City although it may indirectly lower the City's income as a result of lowered property values.

*Town Planning Scheme No.2* allows the City to vary any site or development standard to facilitate the conservation of a heritage place, and Planning Policy 3.1.7, Heritage Conservation and Development allows for the waiving planning services fees and building licence fees for conservation works. Given such incentives already exist for heritage places in the City, there is not considered to be any need to include such incentives in the Act.

17. **Should heritage legislation include a provision for a Repair Order?**

The making of repair orders would help to ensure that heritage places are adequately maintained such that they do not fall into disrepair. Repair orders are therefore supported.
18. **If so, under what circumstances should a Repair Order be available?**

For repair orders to be effective, they should be able to be issued whenever a heritage place is damaged or begins to fall into disrepair. The building should, at the least, be fit for occupation and so part the definition of "neglected building" under s.407 of the Local Government (Miscellaneous Provisions) Act 1960 could be used as a basis for requiring a building to be repaired (i.e. "a building which is ruinous, or so dilapidated as to be unfit for use or occupation").

The provisions of s.408(a) of the Local Government (Miscellaneous Provisions) Act 1960 could be used as a basis for legislation allowing the Heritage Council to issue a repair order.

19. **What limits should there be on the extent of the repairs that can be ordered?**

The timeframes under s.408 of the Local Government (Miscellaneous Provisions) Act 1960 should be used as the basis for determining the timeframes for a repair order under heritage legislation. S.408 provides that if a notice is not complied with within 14 days, a second notice is to be given requiring compliance within 35 days. Where this notice is not complied with, the City may apply to the Magistrates Court to compel the owner to comply with the notice.

20. **What would be appropriate penalties for failing to comply with a Repair Order?**

To compel an owner to repair a heritage place, there must be a sufficient penalty for failing to comply with a repair order, and the existing penalties under the Act could be used as a basis for determining the penalty amount.

21. **What should be the purpose of local heritage inventories?**

The City prepared a Municipal Heritage Inventory in 1995, which was reviewed in 1998, 2008 and 2010. The Act does not give any purpose to the inventory, and it is acknowledged that statutory protection is provided separately under local planning schemes. If the Act is not intended to give purpose to an inventory, the requirements to prepare an inventory should be removed from the Act, and guidelines instead included in subsidiary legislation (like a state planning policy).

22. **What should be the Heritage Council's role in local heritage?**

The Heritage Council should provide guidance to local governments on best practice for dealing with local heritage issues. This has already occurred to some extent with the adoption of State Planning Policy 3.5, Historic Heritage Conservation. The Heritage Council has also prepared model policies on heritage places and heritage areas, which was used by the City as the basis for the preparation of its Planning Policy 3.1.7, Heritage Conservation and Development. It is expected that the Heritage Council will continue to provide advice and guidelines to assist local government.

23. **What special considerations should there be for State government agencies and entities to identify, manage and maintain heritage places?**

Whilst this question addresses state-owned heritage places, it is considered likely that places owned or managed by the City might be considered for inclusion on the Register, including Lake Richmond, Baldivis Primary School and Peelhurst Ruins. In such circumstances, the City should acknowledge the state heritage significance of the place and ensure that it has adequately budgeted for the long-term maintenance of the place. It is expected that the same obligations will apply to state government agencies, including Landcorp who own Chesterfield Inn.
24. **What provision for archaeological sites and moveable heritage should be included in heritage legislation?**

Archaeological sites could feasibly be entered onto the Register in the usual manner. The listing of moveable heritage has potential implications including determining of the owner of the moveable heritage, whether or not a site is associated with moveable heritage and determining what actions relating to the moveable heritage would require a referral to the Heritage Council. Should these questions be satisfactorily resolved, moveable heritage could potentially be included in the Act.

25. **Are there any other areas of heritage that should be considered under the umbrella of the Act?**

The consultation paper is considered to have addressed all aspects of heritage legislation.

The Heritage Council asked for submissions to be made by no later than the 10th June 2011 on phase 1 of the review. Given the Council meeting is scheduled past the submission date, the City has requested an extension on the response timeframe.

### 6. Voting Requirements

Simple Majority

### 7. Officer Recommendation

That Council:

1. **Support** phase 1 of the Heritage Council of Western Australia's review of the *Heritage of Western Australia Act 1990*.
2. **Direct** the Chief Executive Officer to write to the Heritage Council of Western Australia, explaining the Council's position.

### 8. Committee Recommendation

That Council **Support** phase 1 of the Heritage Council of Western Australia's review of the *Heritage of Western Australia Act 1990*.

Committee Voting - 4/0

### 9. The Committee’s Reason for Varying the Officer’s Recommendation

As the Council is supporting the review, direction to the Chief Executive Officer is not required.

### 10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
## Planning Services

### Statutory Planning Services

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<th>Reference No &amp; Subject:</th>
<th>SP-034/11 Proposed Scheme Amendment</th>
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<tr>
<td>Proponent/s:</td>
<td>Urban Endeavour</td>
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<tr>
<td>Author:</td>
<td>Mr Ross Underwood, Senior Planning Officer</td>
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<td>Other Contributors:</td>
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<td>20th June 2011</td>
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<td>Nature of Council’s Role in this Matter:</td>
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### Attachments:
- Maps/Diagrams:
  - Fig 1. Location Plan

### Site:
- Lot 1525 Baldivis Road, Baldivis
- 7,572m²
- LA Zoning: Local Roads Reserve
- MRS Zoning: Urban

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CONFIRMED AT A PLANNING SERVICES MEETING  
HELD ON MONDAY, 18 JULY 2011  

PRESIDING MEMBER
1. Purpose of Report

To consider a request to amend Town Planning Scheme No.2 ("TPS2") to zone part of Lot 1525 Baldivis Road, Baldivis as ‘Development.’

2. Background

In May 2007, Council resolved to request the former Department for Planning and Infrastructure - State Land Services to partially close the unconstructed road reserve adjacent to the Tuart Ridge and Highbury Park estates. In this regard, the road was proposed to be divided into four sections:

- Section 1 (red) - Road reserve to be closed and vested as 'Reserve for Recreation';
- Section 2 (yellow) - Road reserve to remain open and be incorporated as part of proposed subdivisional roads;
- Section 3 (green) - Road reserve to be closed and vested as a reserve for a primary school; and
- Section 4 (blue) - Road reserve to be closed and sold 50/50 to adjoining owners:

![Fig 2. Road Closure Plan](image)

The road closure process has proceeded to the point where the road has been closed and is awaiting disposal.

3. Details

The City has received a request to zone section 4 (the land coloured blue in Fig 2 above) 'Development' under Town Planning Scheme No.2.
4. Implications to Consider

a. Consultation with the Community
   Consultation with the community over a 42 day period will be undertaken, should the Scheme Amendment be initiated.

b. Consultation with Government Agencies
   Consultation with the Department of Education will be undertaken should the Scheme Amendment be initiated. Consultation with other Government agencies is not considered necessary.

c. Strategic Community Plan
   This item addresses the Community's Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-
   
   **Aspiration 15:** Governance systems that ensure decision making and resource allocation is accountable, participative and legally and ethically compliant.

d. Policy
   Nil

e. Financial
   Nil

f. Legal and Statutory
   The procedures for dealing with proposals to amend a local planning scheme, as per the Planning and Development Act 2005, are set out in the Town Planning Regulations 1967. Regulation 13(1) provides that the City shall:
   
   (a) if it resolves to proceed with Scheme Amendment, adopt the proposed amendment in accordance with the Act; or
   
   (b) if it resolves not to proceed with the Scheme Amendment, notify the Commission in writing of that resolution.

5. Comments

   The proposed Amendment to the Scheme Map reconciles the Council's decision to close the road reserve, and is therefore supported.

   The Amendment should, however, include the entire closed road reserve and not just Section 4 as proposed, so that the zones and reserves designated on the adopted Tuart Ridge Structure Plan will have full effect under the TPS2. The land should also be incorporated into Development Area 20 (Tuart Ridge estate).

6. Voting Requirements

   Simple Majority

7. Officer Recommendation

   That Council **ADOPT** (initiate) Amendment No.115 to Town Planning Scheme No.2, in pursuance of Section 75 of the Planning and Development Act 2005, to rezone Lot 1525 Baldivis Road, Baldivis to 'Development', as follows:-
   
   1. Amending the Scheme Maps by including the whole of Lot 1525 Baldivis Road, Baldivis in the 'Development' zone; and
2. Amending the Scheme Maps by modifying the boundary of existing Development Area 20 to include Lot 1525 Baldivis Road, Baldivis.

8. Committee Recommendation

That Council **ADOPT** (initiate) Amendment No.115 to Town Planning Scheme No.2, in pursuance of Section 75 of the *Planning and Development Act 2005*, to rezone Lot 1525 Baldivis Road, Baldivis to 'Development', as follows:-

1. Amending the Scheme Maps by including the whole of Lot 1525 Baldivis Road, Baldivis in the 'Development' zone; and
2. Amending the Scheme Maps by modifying the boundary of existing Development Area 20 to include Lot 1525 Baldivis Road, Baldivis.

Committee Voting - 4/0

9. The Committee’s Reason for Varying the Officer’s Recommendation

Not applicable.

10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
To consider the implications of State Planning Policy 4.1 - Activity Centres for Perth and Peel and commencing legal action for breaches to Town Planning Scheme No.2 ('Scheme') upon Unleashed Surf Shop.

In September 1993, Planning Approval was granted for five showroom/warehouse units on the subject land.
In October 2005, the City received an application seeking Planning Approval to operate a Showroom, for the display and sale of watersports hardware and accessories, from the above tenancy. A meeting was held with the Applicant regarding this proposal, where City Officers advised him that the Scheme did not allow for the sale of clothing/apparel in the Port Kennedy Business Park.

Accordingly, the proponents submitted with the application, the following list of items to be retailed from the tenancy, demonstrating compliance with the Scheme:-

- Wake Boards, Ropes and Bindings;
- Boats or Waverunners;
- Surfboards, Legropes, Fins and Grips;
- Skateboards, Trucks and Wheels;
- Kite Boards, Kites, Ropes and Harnesses; and
- Personal Flotation Devices.

Given the proposal complied with the requirements of the Scheme, the planning approval was granted on the 21st October 2005 subject to conditions, including the following:-

“3. Retail sales from the Showroom is to be limited to watersports hardware and accessories only, and shall not include foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.”

In March 2006, the City received a complaint alleging that the showroom was retailing clothing. A site inspection confirmed the complaint.

In April 2006, the City reminded the operators of Condition No.3 of Planning Approval that the retailing of clothing was not permitted and as such, must cease forthwith.

The City subsequently received a written response from the proponents dated the 1st May 2006, advising that they would cease retailing clothing, however, requested a six month extension to continue retailing clothing for the following reason:-

“We have tried to cancel all clothing deliveries already ordered, but unfortunately there are many orders currently in transit and unable to be sent back. Because we respectfully request more time to sell off all the current stock arriving stock to enable use to pay for it. We estimate that this will take 6 months. This would provide time for our 2 staff members to find adequate employment elsewhere.”

In May 2006, the City advised the operators that it did not support the request for a further 6 months to continue retailing clothing/apparel from the property. To assist, however, the City granted until the end of July 2006 to cease the retail of clothing/apparel from the property. Following this period it was advised an inspection would be carried out to ensure that retailing of clothing/apparel had ceased. If this instruction was not complied with, the operators were informed that legal action may be commenced.

By facsimile message on the 29th July 2006, the proponents advised they had complied with the condition of Planning Approval and ceased retailing of clothing/apparel from the property. To assist, however, the City granted until the end of July 2006 to cease the retail of clothing/apparel from the property. Following this period it was advised an inspection would be carried out to ensure that retailing of clothing/apparel had ceased. If this instruction was not complied with, the operators were informed that legal action may be commenced.

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(ii) *Failure to comply with the above, will result in legal action being initiated for a breach of the Town Planning Scheme and that no further warnings will be issued.*

On the 28th November 2006, the proponent again requested that Council grant a further extension of their current trading conditions to sell clothing and accessories that compliment watersports hardware beyond the November deadline. It was also alleged that many other traders were trading outside of the Scheme requirements.

On the 19th December 2006, it was the City's understanding that the proponent withdrew the clothing items and the business complied with the Planning Approval.

On the 25th June 2007, the proponent wrote to the City advising that after being ordered to cease selling clothing, shoes and accessories from their 'Unleashed' surf, wake and ski store, compliance with this direction had seen their company reach the stage of "virtually going to the wall". It was also stated that attempts to find a suitable premises to sell their full range of items in the area had been unsuccessful. A complaint was made against another nearby business and Council was requested to waive the clothing, shoes and accessories restriction until they could relocate their business to a property in the Port Kennedy area.

In May 2008, the proponents of 'Unleashed Pty Ltd' requested Council approval for temporary sale of apparel incidental to the water sports equipment currently sold in their Port Kennedy showroom, until final approval of an additional use was granted.

In June 2008, Council decided to defer this matter subject to an investigation of an 'IP' (incidental to predominant use) designation for a 'Shop' use in the 'Port Kennedy Business Enterprise' zone and its planning implications for the Scheme.

In September 2008, the Council resolved to defer consideration to initiate an Amendment to Town Planning Scheme No.2 for an additional use to permit the sale of clothing, pending clarification of the Western Australian Planning Commission's revised Commercial Centres Policy and subsequent assessment by City Officers on the potential impact of any changes outlined within the document on the existing provisions of the Scheme.

### 3. Details

In August 2010, State Planning Policy 4.1 - Activity Centres for Perth and Peel (SPP 4.2) was gazetted.

In March 2011, the City received a complaint regarding 'Unleashed' surf shop selling retail clothing and apparel at the subject site.

The City sought legal advice in relation to the enforcement of conditions of planning approval and the unlawful use of the property for the retail sale of clothing. The legal advice confirms the City's ability to initiate legal action.

City Officers undertook an inspection of the tenancy and received verbal confirmation from the owners that have continued to operate from September 2008 in breach of the conditions of planning approval.

### 4. Implications to Consider

a. **Consultation with the Community**

   Nil

b. **Consultation with Government Agencies**

   Nil
c. Strategic Community Plan

This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-

**Aspiration 11:** Planning for population growth to ensure that future developments and land-uses that contribute to a sustainable City that provides for a genuinely desirable lifestyle.

d. Policy

State Planning Policy 4.1 - Activity Centres for Perth and Peel addresses the appropriateness of the retail sale of apparel as part of bulky goods and showroom based retailing.

e. Financial

Potential legal fees will be accrued if the City is required to prosecute the proprietor for continuing to contravene the requirements of the Town Planning Scheme.

f. Legal and Statutory

Section 218 of the Planning and Development Act (2005) gives the Council power prosecute a person who commences and continues to carry out an activity in contravention of a Planning Approval or Town Planning Scheme No.2.

5. Comments

In September 2008, Council resolved to defer further action on this matter, pending clarification of the WAPC’s revised Commercial Centres Policy and subsequent assessment by City Officers on the potential impact of any changes outlined within the document on the existing provisions of the Scheme.

**TPS.2**

The subject land is zoned ‘Port Kennedy Business Enterprise’ under the Scheme. Within the ‘Port Kennedy Business Enterprise’ zone a Showroom is a ‘P’ (permitted) use and a ‘Shop’ is an ‘X’ (prohibited) use.

Under the Scheme, a ‘Showroom’ is currently defined as follows:-

“Premises, or part thereof, used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools, hardware supplies or goods of a bulky nature but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.”

Further, a ‘Shop’ is currently defined as follows:-

“Premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet.”

In light of the above, any use that involves the sale by retail of clothing or apparel is classified as a ‘Shop’ under the Scheme, and is prohibited. The Council does not have discretion to permit the retailing of clothing and apparel from the subject tenancy. It is quite clear that the sale of clothing and items of personal adornment by retail as exists at Unleashed takes the use outside the Showroom use class. The retail shopfront would instead fall within the TPS2 land use classification of ‘Shop’.

The question of whether the retail sales are incidental to the predominant use does not arise. In the ‘Port Kennedy Business Enterprise” zone a shop is an ‘X’ (prohibited) use. It is not listed as an ‘IP’ use, which may be approved if incidental to the predominant use.
The objective of the 'Port Kennedy Business Enterprise' zone under the City of Rockingham TPS2 is to promote service commercial and office land uses within the area to serve the community and to provide for light industrial land within the region. As a consequence, there are a range of businesses trading in the area, which are consistent with the Scheme.

State Planning Policy 4.2 - Activity Centres for Perth and Peel

The definition of 'Bulky Goods Retail or Showroom' under SPP 4.1 is as follows:-

"Large premises to display, sell by wholesale or retail, or hire;-
- automotive parts or accessories;
- camping and recreational equipment
- electrical light fittings
- animal and pet supplies
- floor coverings
- furnishings, bedding and manchester
- furniture
- home entertainment goods
- household appliances
- office equipment supplies
- party supplies
- swimming pools and supplies
- hardware
- garden supplies
- goods of a bulky nature that require a large area for handling, display or storage; or direct vehicle access to the site of the premises by the public for the purposes of loading goods into a vehicle after purchase or hire."

The definition of 'Shop/Retail (Shopping or Shop)' under SPP 4.1 is as follows:-

"The land use activities included in "Planning and Land use category 5: Shop/retail" as defined by the Commission's Perth Land Use and Employment Survey (As amended from time to time). (planning land use categories are broad descriptors of land use activities."

The City's assessment of the changes to the definition to 'Showroom' and 'Shop' under SPP 4.2 has concluded that there would be no change to the land-use classification of Unleashed under the Scheme. In essence, Unleashed will continue to operate as a 'Shop' which is prohibited within the Port Kennedy Business Enterprise zone. It is considered that the Unleashed business would be more appropriately located within a commercial zone.

City Officers are currently investigating the preparation of a Scheme Amendment for consistency with the 'Showroom' and 'Shop' definitions contained in SPP 4.2.

Conclusion

The owners of Unleashed have previously advised the City they were looking to relocate to an appropriate premise and that the operation of the business at the subject tenancy was an interim measure only. Given there are still several vacant tenancies available at the Port Kennedy Shopping Centre and sufficient time has elapsed to allow the owners to make alternate arrangements, it is considered appropriate that further action be taken to enforce compliance with the Scheme.
6. Voting Requirements

Simple Majority.

7. Officer Recommendation

That Council:

1. **REQUIRE** the owners and operators of 'Unleashed' at Unit 1 (No.1) Sunlight Drive, Port Kennedy to permanently cease retailing of clothing/apparel and items of personal adornment from the 'Showroom' within 60 days from the receipt of written notification.

2. **INITIATE** prosecution of the owners and operators of 'Unleashed' pursuant to section 218 of the Planning and Development Act (2005) if the direction above is not carried out within the notification period.

8. Committee Recommendation

That Council:

1. **REQUIRE** the owners and operators of 'Unleashed' at Unit 1 (No.1) Sunlight Drive, Port Kennedy to permanently cease retailing of clothing/apparel and items of personal adornment from the 'Showroom' within 60 days from the receipt of written notification.

2. **INITIATE** prosecution of the owners and operators of 'Unleashed' pursuant to section 218 of the Planning and Development Act (2005) if the direction above is not carried out within the notification period.

Committee Voting – 4/0

9. The Committee’s Reason for Varying the Officer’s Recommendation

Not applicable.

10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
**Reference No & Subject:**

| DPD-004/11 Disabled Access - Centrelink Tenancy - Civic Boulevard, Rockingham City Centre |

| File No: | 28/5797 |
| Proponent/s: | Ms Tamara Vreeken, Special Projects Officer |
| Author: | Mr Bob Jeans, Director, Planning & Development Services |
| Date of Committee Meeting: | 20th June 2011 |
| Previously before Council: | |
| Disclosure of Interest: | |
| Nature of Council’s Role in this Matter: | Executive |

**Site:**

| Site: | Lots 404 & 8001 (formerly Lot 403) Civic Boulevard, Rockingham |
| Lot Area: | 2506m² & 2908m² |
| LA Zoning: | Primary Centre City Centre |
| MRS Zoning: | Central City Area |
| Attachments: | |
| Maps/Diagrams: | Location Plan |
1. **Purpose of Report**

To recommend the construction of a 1.5 metre temporary footpath for access between the public carpark, through to Civic Boulevard to facilitate disabled access to the Centrelink tenancy.

2. **Background**

In June 2010, the City received an approach from Property Matrix Pty Ltd (the owners of the Centrelink building) requesting the City's assistance in constructing a pathway along the northern side of the Centrelink building, to facilitate disabled access from disabled carparking bays to Civic Boulevard.

Property Matrix had been made aware by Centrelink of complaints lodged by some of its customers regarding problems with disabled access from the public carpark to the front entrance of Centrelink. It advised that for security reasons, access via the Ground Floor lobby of its building had been closed to prevent antisocial behaviour in the lobby area. The company recommended the construction of a pathway through the City's Lot 404 landholding, rather than opening the building's foyer to public and/or disabled access.
Since that time, the City has been negotiating with Property Matrix in an endeavour to open up the Ground Floor foyer to enable disabled customers to move from the disabled carparking bays within the public carpark, through to the Centrelink tenancy on Civic Boulevard.

The City sought support from the Ground and First Floor tenants, in an endeavour to convince the owners that customer access to the Ground Floor lobby area and the installation of automatic doors was in the best interests of all concerned. Exchanges of correspondence failed to achieve a suitable outcome.

In an endeavour to seek a resolution, a meeting was convened between building tenants, the building owner and City Officers to discuss options to achieve an acceptable result. The meeting was held on the 11th January 2011.

All parties acknowledged the issue and the urgency associated with its resolution. At that stage, all parties displayed a genuine approach to resolve the matter. Various options were discussed, and these were to be further considered by the building owner.

**Civic Core Concept Plan**

In response to the original approach from Property Matrix in June 2010, the City advised that it did not support the construction of a pedestrian accessway through Lot 404, as such pathway would be contrary to the Civic Core Concept Plan (ie. the Lot 80 Masterplan) which has been the City's adopted Planning Policy for this landholding since the mid 1990's.

The City further advised that the construction of a pathway through Lot 404 would create a public expectation of permanent access, which would be removed once Lot 404 was sold and a building constructed.

The building layouts as contained in the Civic Core Concept Plan have since been updated in "Planning Policy 3.2.1 - Development Policy Plan: City Centre Sector", adopted by Council in April 2011. The Civic Core Concept Plan depicts a continuous building frontage for the Lot 404 and 403 Civic Boulevard frontages.

**Property Matrix Response**

On the 8th April 2011, written advice was received from Property Matrix advising that the company had consulted with all relevant parties and based on those discussions, and taking into consideration events of the past, it had decided to keep the foyer as a dedicated access point for First Floor tenants only. As such, the foyer would not be available for general public access.

On the 14th April 2011, written advice was received from Centrelink requesting the City to again consider the option of installing a permanent, paved footpath between the disabled carparking bays and Civic Boulevard.

Given the building owner’s decision to prevent access through its foyer, there are three options available for consideration by the City. These options were:-

1. Apply the status quo, which would mean disabled patrons will need to access the Centrelink tenancy via the City Square and Civic Boulevard.
2. Require any building development on Lot 404 to retain a public access foyer which would facilitate access to both Lot 403 and Lot 404 tenancies facing Civic Boulevard.
3. Permit the Core Precinct Concept Plan to be amended to allow an open air accessway between the buildings (similar to the Lotteries House/LifeLinks building arrangement).

In respect to the above options, advice was sought from the City's Urban Design Consultant, Max Margetts & Associates, to enable further consideration by City Officers.

**3. Details**

The City's Urban Design Consultant provided advice as follows:-
“Background
I have reviewed the forwarded “Information Item 4” from the Planning Services Bulletin of 16th May 2011 and concur that a dedicated pedestrian link is needed to provide more convenient access between the rear car park and street front entries to tenancies on Lot 403 and to future street oriented tenancies on Lot 404 Civic Boulevard.

As generally described in the Background to the Information Item, neither the notations on the DPP Core Precinct Concept Plan nor the text of the Precinct Policy make specific reference to the provision of a dedicated pedestrian access way between the rear car park and street front building entries. However, the indicative built form illustrated by the Concept Plan infers that such linkages could be included in developments on both sides of Civic Boulevard. In the case of the referred to situation, such a link would be highly beneficial given the ultimate, multi-level capacity of the off-street public car park.

Such laneway linkages to rear car parks are a common feature of sustainable ‘Main Street’ town centres. In recent times the City of Subiaco has sought to make more use of such linkages and is retrofitting them where possible to achieve greater levels of frontage activation. Subiaco is also adding new laneway and arcade connections in strategic locations in conjunction with major property redevelopments.

Recommended Approach
In locating such a laneway or arcade at Rockingham, consideration needs to be given to the constraint of the street front transformer site which straddles the common boundary to Lots 403 and 404. An appropriate response to this constraint would be to position any pathway, future arcade or laneway a minimum of 10 metres to the north of the common boundary, well clear of the pad mount site which could be discretely incorporated into a contiguous building facade. Activated tenancies could then be developed along both sides of the open arcade or laneway. Subject to detailed design proposals, provision should be made for an open, ground level laneway or arcade with a minimum width of 3 metres. Upper floor levels could be built over any ground level arcade link.

In summary, I support the development of a pathway between the rear car park and the Civic Boulevard street frontage. Such a pathway should be located a minimum of 10 metres to the north of the common boundary between Lots 403 and 404.

The existing Civic Core Concept Plan indicatively illustrates the possibility of such a link although the exact location needs to take into account the constraint of the transformer site referred to above and the opportunity to ensure that both sides of the arcade or laneway can be activated by adjoining tenancies.”

4. Implications to Consider

a. Consultation with the Community
   Nil

b. Consultation with Government Agencies
   Nil

c. Strategic
   Community Plan
   This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-

   **Aspiration 1:** An involved and engaged community enjoying a lifestyle that caters for all residents, including those with specific or special needs.
d. **Policy**

Planning Policy No.3.2.1 - Development Policy Plan – City Centre Sector, which incorporates an Indicative Development Plan and design guidelines, sets out that generally, development within the Core of the City Centre should include generally contiguous building frontages.

e. **Financial**

The approximate cost to the City to construct a temporary footpath is $2,500.00. This can be funded from the City Centre Development - Lot 80 Subdivision account (Account 210470.1732)

f. **Legal and Statutory**

Nil

5. **Comments**

With regard to the advice received from the City’s Urban Design Consultant, the best approach would be to include an accessway between the buildings on Lot 404 Civic Boulevard (similar to the Lotteries House/LifeLinks building arrangement).

Officers are currently progressing discussions with a potential purchaser about the prospect of developing Lot 404, however, no development would commence for at minimum of 18 months. In the mean time, the issue of disabled access to Centrelink would remain unresolved.

In light of the above, as an interim measure, it is recommended that the City construct a temporary 1.5 metre footpath between the City’s public carpark and Civic Boulevard and erect signage to state that the footpath is ‘temporary’.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council AUTHORISE the construction of a temporary footpath connecting the City’s public car park through to Civic Boulevard.

8. **Committee Recommendation**

That Council AUTHORISE the construction of a temporary footpath connecting the City’s public car park through to Civic Boulevard.

Committee Voting – 4/0

9. **The Committee’s Reason for Varying the Officer’s Recommendation**

Not applicable.

10. **Implications of the Changes to the Officer’s Recommendation**

Not applicable.
1. **Purpose of Report**

To consider a draft Memorandum of Understanding (MoU), prepared by the Rockingham Kwinana Development Office (RKDO) to:

- establish an agreed framework to progress the planning and implementation of the Rockingham Strategic Metropolitan Centre (SMC) Revitalisation Project.
- facilitate future State Government investment in the Rockingham SMC Revitalisation Project.
2. **Background**

In 2003, the State Government formed the Rockingham Planning and Development Taskforce to co-ordinate State Government agency support for the provision of services and investment in public infrastructure for the Rockingham Strategic Regional Centre and its hinterlands.

One of the Taskforce’s initial recommendations was the establishment of a specialist development office in Rockingham to bring together the key agencies involved in planning, land development and economic support for the region (both State and Local Government).

In September 2004, the then Premier (Dr Geoff Gallop, MLA) announced the opening of the Rockingham Development Office (RDO). The primary objective of the RDO was to address the comparative disadvantage of the Rockingham region and to bring together the various land development agencies to facilitate Government support and infrastructure to the Strategic Regional Centre.

The RDO was to address the comparative disadvantage of the region by:-

- Deliver a mechanism for Landcorp, DPI and the City of Rockingham to work more closely together to progress priority projects and secure Government funding support where required;
- Advocate for other projects in the Rockingham region beyond the direct responsibility of the RDO partnership agencies; and
- Establish a shop front for the Government’s presence in the Rockingham region.

In late 2006, a review of the Taskforce and Rockingham Development Office operations established that Kwinana should be included within the operational sphere of the RDO.

In 2007, the Office was renamed the Rockingham Kwinana Development Office to reflect the inclusion of the Kwinana area into its operations. Revised objectives for the RKDO were to:-

- Develop land to meet the economic and social needs of Rockingham and Kwinana;
- Identify opportunities for the provision of facilities and programmes to support and enhance community life in Rockingham and Kwinana and to encourage the provision of those facilities and programmes;
- Identify infrastructure services necessary to promote economic and social development in Rockingham and Kwinana and to encourage the provision of those services;
- Facilitate co-ordination between relevant statutory bodies and State Government agencies for the purpose of promoting economic and social development in Rockingham and Kwinana; and
- Provide information and advice for the purpose of promoting economic and social development in Rockingham and Kwinana.

The RKDO now incorporates representatives from the Department of Planning, Landcorp, City of Rockingham and Town of Kwinana.

In December 2008, the Hon Phil Edman, MLC, was appointed as the new Chairman of the Rockingham Kwinana Planning & Development Taskforce. Taskforce members now include:-

- Mayor, City of Rockingham
- Mayor, Town of Kwinana
- Department of Planning
- Department of Housing
- Landcorp

Taskforce meetings are also attended by:-

- Director, RKDO
The planning and development of the Rockingham SMC has been listed as a Priority Project by the Taskforce and RKDO since its inception.

The RKDO played a role in the review of the SMC Centre Plan, which was undertaken 2006-2009.

3. Details

Following the approval of the reviewed Centre Plan by the City (September 2009) and the WAPC (November 2009), the RKDO is seeking to implement a partnership document to:-

- establish Project Objectives (Social, Economic, Environmental and Planning), Project Principles, a General Operating Approach and governance framework.
- outline the roles and responsibilities for each proposed partner (City, Department of Planning, RKDO and Landcorp).
- establish a Project Reference Group, to be chaired by the City, to oversee the planning and implementation of the Project.
- nominate Landcorp as the preferred development agency for State Government land within the SMC Project Area.
- seek funding for the Project (through the acquisition by Landcorp) of surplus land owned by the State Government (including the Dixon Road sporting fields).
- define future priority investment in land development and public infrastructure.

The draft MoU deals with the Rockingham SMC under the following major headings:-

- Project Area (see map below)
- Project Objectives
- Project Principles
- General Operating Approach
- City of Rockingham's Role and Responsibility
- Rockingham Kwinana Development Office's Role and Responsibility
- Department of Planning's Role and Responsibility
- Landcorp's Role and Responsibility
- Reference Group

Operational matters such as Communications, Resourcing, Funding of Studies, Dispute Resolution and Memorandum Not Binding are also dealt with.
The RKDO has identified State Government landholdings within the SMC which are proposed to be incrementally developed and/or sold to provide funding for the Project. These parcels are identified in Annexure 2 of the draft MoU.

4. Implications to Consider

a. Consultation with the Community
   Nil

b. Consultation with Government Agencies
   The draft MoU has been prepared generally in consultation with RKDO, Landcorp, Department of Planning and the City.

c. Strategic
   Community Plan
   This item addresses the Community’s Vision for the future and specifically the following Aspiration/s contained in the Community Plan 2011:-
   
   **Aspiration 6:** Civic buildings, public places and transport infrastructure of contemporary design, constructed and maintained using best practice principles.

d. Policy

   Planning Policy No3.2.1 – Development Policy Plan - City Centre Sector, adopted by Council in February 2011), applies.

   The draft MoU has incorporated the various planning objectives and principles contained within these two documents.
5. Comments

The current draft of the MoU has evolved over several months of negotiations between the proposed project partners. Comments in response to the draft MoU are:-

**Project Objectives:**
Reflects the City's current planning policies on the SMC; generally acceptable.

**Project Principles:**
Generally acceptable, subject to the inclusion of an additional statement on governance principles and separation. Wording still to be finalised.

**General Operating Approach:**
Generally acceptable, subject to:-
- sub-clause 5.a(iii) being amended to include the following wording:-
  "...subject to Council agreement to relinquish the Management Orders of Reserved Lands under its control, after giving consideration to State Cabinet decisions relating to the provision of infrastructure and the funding thereof."
- sub-clause 5.b(iii) being amended to include reference to the Department of Planning.
- sub-clause 5.b(iv) being amended to reference Landcorp and the Department of Planning.

**Roles and Responsibilities:**
Generally acceptable, subject to the RKDO section, sub-clause 7(iii), being amended to include reference to both Landcorp and the Department of Planning preparing the Cabinet submission.

**Project Reference Group**
Reflects current practices; generally acceptable.

**General Comments:**
Throughout the preparation of the draft, the City has sought to ensure that the planning objectives and principles (as contained within the approved Centre Plan and Development Policy Plan) are translated into the draft MoU. This has been generally achieved.

In addition, the City has also sought to ensure that elements of the proposed State Government land bank, in particular the Dixon Road sporting fields, are not disposed of by the State without adequate assurances to the City that the proceeds from any development and/or sale are directed towards community and SMC infrastructure. Several text changes have been recommended to the document to ensure that the City's interests are protected in this regard.
6. Voting Requirements

Simple Majority.

7. Officer Recommendation

That Council DIRECT the Chief Executive Officer to endorse the Memorandum of Understanding for the Rockingham Strategic Metropolitan Centre, upon finalisation of the draft document, incorporating the City's required text amendments.

8. Committee Recommendation

That Council ENDORSE the Memorandum of Understanding for the Rockingham Strategic Metropolitan Centre, upon finalisation of the draft document, incorporating the City's required text amendments.

Committee Voting – 4/0

9. The Committee’s Reason for Varying the Officer’s Recommendation

As Council is endorsing the Memorandum of Understanding, direction to the Chief Executive Officer is not required.

10. Implications of the Changes to the Officer’s Recommendation

Not applicable.
<table>
<thead>
<tr>
<th>13.</th>
<th>Reports of Councillors</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.</td>
<td>Addendum Agenda</td>
<td>Nil</td>
</tr>
<tr>
<td>15.</td>
<td>Motions of which Previous Notice has been given</td>
<td>Nil</td>
</tr>
<tr>
<td>16.</td>
<td>Notices of Motion for Consideration at the Following Meeting</td>
<td>Nil</td>
</tr>
<tr>
<td>17.</td>
<td>Urgent Business Approved by the Person Presiding or by Decision of the Committee</td>
<td>Nil</td>
</tr>
<tr>
<td>18.</td>
<td>Matters Behind Closed Doors</td>
<td>Nil</td>
</tr>
<tr>
<td>19.</td>
<td>Presentation</td>
<td>5.05pm Ms Ainslie De Vos, Mr Lyle Banks and 2 Representative for Mineral Resources, Fremantle Ports attended the Planning Services Standing Committee meeting.</td>
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</table>

The chairman welcomed Ms Ainslie De Vos and Mr Lyle Banks from Fremantle Ports and two representatives from Mineral Resources and invited them to make their presentation to the Committee.

Major economic gains were explained for Western Australia in trade opportunities at the Kwinana Bulk Terminal. Fremantle Ports has progressively upgraded the Kwinana Bulk Terminal infrastructure and has announced arrangements for Mineral Resources Limited to export iron ore from the Kwinana Bulk Terminal. The iron ore will be sourced initially from the Carina open pit mine, located in the central Yilgarn region, 60 kilometres north east of Koolyanobbing. Fremantle Ports is also concluding negotiations with Griffin Coal for the continued export of coal from the Kwinana Bulk Terminal. Coal has been exported through the Kwinana Bulk Terminal since 2007.

Environment Management aspects were explained during the construction phase to manage the export of iron ore and coal. A Construction Management Plan has been prepared to address environmental matters such as noise, dust, waste management, storage of fuel and refuelling. The Carina iron ore mining project has been approved and the infrastructure upgrade at the Kwinana Bulk Terminal for Mineral Resources and Griffin has received the approval of the Fremantle Ports Board and the Minister for Transport. A Works Approval is required for the planned new infrastructure from the Department of Environment and Conservation. This will include a three week public consultation period.

The Chairman thanked Ms De Vos and Mr Banks and the delegation for the presentation.
<table>
<thead>
<tr>
<th><strong>20.</strong></th>
<th><strong>Date and Time of Next Meeting</strong></th>
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<tbody>
<tr>
<td>The next Planning Services Standing Committee Meeting will be held on <strong>Monday 18 July 2011</strong> in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.</td>
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<th><strong>21.</strong></th>
<th><strong>Closure</strong></th>
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<tr>
<td>There being no further business, the Chairman thanked those persons present for attending the Planning Services Standing Committee meeting, and declared the meeting closed at 5.32pm.</td>
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