MINUTES
Planning and Engineering Services Committee Meeting
Held on Tuesday 18 April 2017 at 4:00pm
City of Rockingham Boardroom
City of Rockingham
Planning and Engineering Services Committee
Meeting Minutes
Tuesday 18 April 2017

CONTENTS

1. Declaration of Opening  3
2. Record of Attendance/Apologies/Approved Leave of Absence  3
3. Responses to Previous Public Questions Taken on Notice  3
4. Public Question Time  6
5. Confirmation of Minutes of the Previous Meeting  9
6. Matters Arising from the Previous Minutes  9
7. Announcement by the Presiding Person without Discussion  9
8. Declaration of Member’s and Officer’s Interest  9
9. Petitions/Deputations/Presentations/Submissions  9
10. Matters for which the Meeting may be Closed  9
   Planning and Development Services Information Bulletin – April 2017  9
   Engineering and Parks Services Information Bulletin – April 2017  9
12. Agenda Items – Planning and Engineering Services Committee
   Planning and Development Services  15
   PDS-013/17 Final Adoption - Amendment to Planning Policy 3.3.19 - Licensed Premises  15
   PDS-014/17 Proposed Modification to Building Envelope  32
   PDS-015/17 Home Business - Massage Therapy  39
13. Reports of Councillors  53
14. Addendum Agenda  53
15. Motions of which Previous Notice has been given  54
   Planning and Development Services  54
   PDS-016/17 Notice of Motion - Ban on Hydraulic Fracturing within the Perth Metropolitan, Peel and South West Regions  54
16. Notices of Motion for Consideration at the Following Meeting  58
17. Urgent Business Approved by the Person Presiding or by Decision of the Committee  58
18. Matters Behind Closed Doors  58
19. Date and Time of Next Meeting  58
20. Closure  58
## City of Rockingham
### Planning and Engineering Services Committee Minutes
#### Tuesday 18 April 2017 - Council Boardroom

### 1. Declaration of Opening

The Chairperson declared the Planning and Engineering Services Committee Meeting open at **4.00pm**, welcomed all present, and delivered the Acknowledgement of Country.

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

#### 2.1 Councillors
- Cr Chris Elliott  (Chairperson)
- Cr Matthew Whitfield
- Cr Deb Hamblin (Deputy Mayor)
- Cr Katherine Summers
- Cr Barry Sammels (Mayor)
- Cr Justin Smith  (Observer)
- Cr Lee Downham  (Observer)

#### 2.2 Executive
- Mr Bob Jeans  (Director Planning and Development Services)
- Mr Peter Doherty  (Director Legal Services and General Counsel)
- Mr Doug Forster  (A/Director Engineering and Parks Services)
- Mr Peter Ricci  (Manager Major Planning Projects)
- Mr Brett Ashby  (Manager Strategic Planning and Environment)
- Mr Mike Ross  (Manager Statutory Planning)
- Mr Eduardo Perotti  (A/Coordinator, Health Services)
- Mr Ian Daniels  (Manager Engineering Services)
- Ms Danielle Quinlivan  (Coordinator Projects)
- Mr James Henson  (Manager Land and Development Infrastructure)
- Mr Cyril Sharrock  (A/Manager Parks Services)
- Ms Melinda Wellburn  (PA to Director Planning and Development Services)

#### 2.3 Members of the Gallery: 3

#### 2.4 Apologies: Nil

#### 2.5 Approved Leave of Absence: Nil

### 3. Responses to Previous Public Questions Taken on Notice

#### 3.1 Mr James Mumme - Mangles Bay

At the March Committee meeting held on 20 March 2017, Mr Mumme asked the following questions that were taken on notice and the Chief Executive Officer provided a response in a letter dated 29 March 2017 as follows:
<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What does the community think about the second phase of the sand replacement trial at Waikiki? Will the opinions be published?</td>
<td>Over the consultation period a total of three favourable comments were received from the community in regard to the imported sand. The work has continued as a result. The opinions will not be published as they are deemed personal and private, permission would have to be sought to publish which is not justifiable.</td>
</tr>
<tr>
<td>2. In the forthcoming tender for Security Services will there be provision for the personnel on patrol to be a) in unmarked cars at times, b) for that possibility to be advertised, c) able to make citizens arrests and d) actively and immediately ensure the security of citizens?</td>
<td>There are two upcoming tenders for security services; the first is for the maintenance and monitoring of City building alarm systems. The second will include the mobile security guard response to alarm activations, locking/unlocking of public toilets and City owned facility security checks. There is no requirement for the vehicles to be unmarked. Both tenders will be advertised, they do not make citizens arrests and they will ensure that the City's buildings and facilities are secure. I refer to a recent website release by Cedar Woods in which they speak of consultation with the boating clubs and say that a group including the TCYC and the MBFC is &quot;currently contributing to a business case for the occupation of a site of approximately 3.5ha with marina frontage and beachfront access ... will be leased on a long-term basis for the clubs to build their clubrooms, hardstand and boat maintenance facilities. ... [including]: A frontage to the marina with the club offered 60% to 75% of the total pens.&quot;</td>
</tr>
<tr>
<td>3. Are Council officers aware that leases at other marinas for 8 metre craft begin at $600/metre/year which means nearly $5000 a year excluding club fees and other charges (or $20,000 for 20 metre craft)?</td>
<td>No, it is not a matter against which the City can assess the existing planning proposal.</td>
</tr>
<tr>
<td>4. Does Council know how many low-income members of both clubs there are and whether or not they may be able to afford such fees?</td>
<td>Refer to response to Question 3.</td>
</tr>
<tr>
<td>5. Is Council aware that the members of the TCYC have never been surveyed as to their views on the MBM? If so, will Council call on the clubs to their members to ascertain whether they believe they will be able to afford the above fees. If not, how will Council ensure that its support of the concept of the MBM meets the community aspiration of financial sustainability?</td>
<td>Refer to response to Question 3.</td>
</tr>
<tr>
<td>6. If local people do not take up boat pens, will out-of-towners be sought?</td>
<td></td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>7. What evidence does the City have of the ability of either club to fund the construction of new clubrooms and maintenance facilities?</td>
<td>Refer to response to Question 3.</td>
</tr>
<tr>
<td>8. How many pens does the City expect to own – 200 or 175 or none?</td>
<td>Questions regarding the negotiations between Cedar Woods Properties Ltd and the Mangles Bay Fishing Club and The Cruising Yacht Club should be directed to those organisations and not the City. The City is not party to those discussions and is not able to answer such questions.</td>
</tr>
<tr>
<td>9. Will costings for assessment by the responsible authority of the geotechnical investigations be included in the 25 year Waterways Management or are they included in the cost of construction?</td>
<td>As reported previously, under the model proposed by Cedar Woods Properties Ltd, the City will not perform the role of marina manager and be responsible for the leasing of boat pens. At the last Council meeting I asked a question about the adequacy of the drill holes to provide enough information about support for the canal-marina walls. The reply was that “The onus would be on the proponent to demonstrate that sufficient geotechnical investigation has been carried out for the approval of the responsible authority …[who would include] the WAPC, EPA and CoR.”</td>
</tr>
<tr>
<td>10. If any of those parties has to enlist the help of suitably qualified consultants, will Cedar Woods or Landcorp pay for the consultants?</td>
<td>Until (and if) the information is received, the method of assessment cannot be confirmed.</td>
</tr>
<tr>
<td>11. How much was paid to MP Rodgers for their work and who paid – Cedar Woods, Landcorp or the City?</td>
<td>This is yet to be determined.</td>
</tr>
<tr>
<td>12. Will the information in Stage 3 be used to assess the adequacy of the MBM’s proposals for coastal protection if and when the LSP is considered by Council? If not why not?</td>
<td>No. The proposal will be assessed in accordance with State Planning Policy No.2.6.</td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>13. Will the information in stage 3 be forwarded as soon as it becomes</td>
<td>No. Refer to response to Question 12.</td>
</tr>
<tr>
<td>available to the WAPC for inclusion in its deliberations on the Rezoning?</td>
<td></td>
</tr>
<tr>
<td>Revised proposal for East Rockingham Waste to Energy Facility. From my</td>
<td>Revised proposal for East Rockingham Waste to Energy Facility. From my</td>
</tr>
<tr>
<td>understanding of the revision that is the correct approach because the</td>
<td>technology is completely different from the previously assessed technology</td>
</tr>
<tr>
<td>technology is completely different from the previously assessed technology and</td>
<td>has higher pollution and a higher risk of fire and explosion. I congratulate</td>
</tr>
<tr>
<td>has higher pollution and a higher risk of fire and explosion. I congratulate the</td>
<td>the City on standing up for health of residents in Hillman and Kwinana Beach</td>
</tr>
<tr>
<td>City on standing up for health of residents in Hillman and Kwinana Beach</td>
<td>and of workers on the Kwinana strip.</td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>14. Did the City speak with the City of Kwinana to seek their views?</td>
<td>No.</td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>15. Is the City aware that two air quality monitoring stations in the CoK</td>
<td>No.</td>
</tr>
<tr>
<td>are no longer operating – one in Calista which has been removed and one</td>
<td>Question</td>
</tr>
<tr>
<td>near Thomas Road and Abernethy Road which has been closed up?</td>
<td>Revised proposal for East Rockingham Waste to Energy Facility. From my</td>
</tr>
<tr>
<td>revised proposal for East Rockingham Waste to Energy Facility. From my</td>
<td>technology is completely different from the previously assessed technology</td>
</tr>
<tr>
<td>technology is completely different from the previously assessed technology</td>
<td>has higher pollution and a higher risk of fire and explosion. I congratulate</td>
</tr>
<tr>
<td>has higher pollution and a higher risk of fire and explosion. I congratulate the</td>
<td>the City on standing up for health of residents in Hillman and Kwinana Beach</td>
</tr>
<tr>
<td>City on standing up for health of residents in Hillman and Kwinana Beach</td>
<td>and of workers on the Kwinana strip.</td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>16. Is the City aware that the North Rockingham AQMS does not monitor</td>
<td>No.</td>
</tr>
<tr>
<td>particulates from diesel engines?</td>
<td></td>
</tr>
<tr>
<td>Question</td>
<td>Response</td>
</tr>
<tr>
<td>17. Will the City ask the DER to include Particulates 10 and 2.5 in the</td>
<td>No. It is up to the DER to determine what level of air quality monitoring is</td>
</tr>
<tr>
<td>North Rockingham station? If not why not?</td>
<td>required.</td>
</tr>
</tbody>
</table>

4. Public Question Time

4.01pm The Chairperson invited members of the Public Gallery to ask questions.

4.2 Mr James Mumme, 36 Gloucester Avenue, Shoalwater - Various

The Chairperson invited Mr Mumme to present his questions to the Planning and Engineering Services Committee. Mr Mumme asked the following questions:

Last meeting I asked whether in the forthcoming tender there would be unmarked cars and whether personnel would be able to make citizens arrests and would actively and immediately ensure the security of citizens?

The response indicated that the main purpose of these security services is to “ensure that the City’s buildings and facilities are secure”. Of course I do not question that purpose.

1. I recall that the expressed rationale for this service, in the absence of more effective police presence in the City, was originally to make the citizens of Rockingham feel more secure. Has the purpose changed and if so why?

The Chairperson advised that the fundamental purpose of the City’s City Safe Services is to help the citizens of Rockingham to feel more safe and secure, however, the question will be taken on notice.
BUSINESS CASE FOR MBM

In responses to my questions about the costs of marina pens and the ability of boating club members to pay for marina pens, I was told that “it is not a matter against which the City can assess the existing planning proposal” and “the City is not party to negotiations” between Cedar Woods and the boating clubs.

The community expects that the City will “advocate on its behalf when important issues challenge the best interests of the City and its residents” and [have] “governance systems that enable council to make informed and considered decisions … within an accountable, … transparent and ethical environment.”

2. Why then does the City not ask for the relevant details of the MBM negotiations to protect its own and the residents' interests?

The Chairperson advised that the Council’s and City Officers’ core purpose is the promotion and protection of the residents’ and district’s interest, however, the question will be taken on notice.

3. Why is the City appearing to avoid tackling this important issue by hiding behind planning procedures? Is there a conflict here between the planning rules and the community’s aspiration? If so how can it be resolved?

The Chairperson advised that the planning process is dealt with by the City as required by planning legislation, however, to enable the legal and technical issues to be covered in a response, the question will be taken on notice.

COST OF MANGLES BAY MARINA TO CITY

I thank the City for its response regarding the costs of the MP Rodgers report.

I refer to the Update in the Bulletin which uses the abbreviation N/A beside budget and also beside expenditure to date.

4. What does N/A mean? From what budget did the money for Rodgers report come?

The Chairperson advised that N/A means 'Not Applicable', however, the question will be taken on notice.

5. How many other expenditures has council incurred in dealing with the MBM that a) were budgeted? b) were not budgeted? How much do they add up to in F/Y15/16 and 16/17?

The Chairperson advised that the question will be taken on notice.

6. Does Council have any idea what proportion of Officers’ time over F/Y 15/16 and 16/17 has been devoted to this proposal? And if so, how many hours?

The Chairperson advised that the question will be taken on notice.

ROLE OF MARINA MANAGER

The response to a question about pens said that “As reported previously under the model proposed by Cedar Woods Properties Limited, the City will not perform the role of marina manager and be responsible for the leasing of boat pens”

7. Where and when was this reported?

The Chairperson advised that the City has no interest in marina management, however, the question will be taken on notice.

8. If the City will not be responsible for leasing boat pens, does the City expect to receive any income from the leasing of boat pens?

The Chairperson advised that the question will be taken on notice.

9. Does the City expect any other income from any part of the MBM and where specifically would this income come from?

The Chairperson advised that the question will be taken on notice.
RELEASE OF DOCUMENTS

I refer to a recent court ruling in New south Wales on refusal of the government to release documents relating to a controversial matter of great interest to the community. The decision said that “It was fundamentally unfair for the opposing council and other opponents of the merger proposal, to have to participate in the inquiry without possession of the document.”

10. Does Council consider that it has been fundamentally unfair that the opponents of the MBM have had to participate in discussions on the MBM without access to the MP Rodgers report, without access to the draft LSP? If not, why not?

The Chairperson advised that the question will be taken on notice.

PNP COASTAL VALUES INITIATIVE.

I note that only one of the City's beaches, Waikiki, was proposed to be included in this study. I recall that the PNP included a figure of 200 metres of erosion along the coast and I know that council are very aware of the speed of erosion of Shoalwater Bay. It appears that Shoalwater has been decided to have no value!

11. Why was Shoalwater Bay not proposed for inclusion?

The Chairperson advised that the question will be taken on notice.

4.1 Mr Peter Green, 25 Nabberu Loop, Cooloongup - Mangles Bay Marina

The Chairperson invited Mr Green to present his questions to the Planning and Engineering Services Committee. Mr Green asked the following questions:

It is noted in the Progress Report of the Mangles Bay Marina project, that ‘the City has assessed the revised 25 Year Waterways Management Report and sought clarification from the proponent on various projected cost and income items.’

At a meeting held in October, between Mr Jeans, Mr Ricci, Mr Fernandez, Mr Mumme and myself, it was asked that when the Waterways Management research had been completed, if the items that had been identified could be made known, bearing in mind no monetary figures were asked for.

1. As the Waterways Management Report has been assessed by the City, could the City release the items for both a projected cost and income to the City.

The Chairperson advised that when the Waterways Management Report has been assessed it will be presented to Council for its consideration and at that time would become public.

It should be noted, however, that the City is considering waterways management in accordance with WAPC Development Control Policy 1.8 which lists potential expenditure and income items.

2. If the MRS Amendment is supported by the WAPC, but after Local Structure Plan the Marina/Canals are not, would a housing development on subject land contravene SPP 2.6 under Infill Development?

The Chairperson advised that the question is hypothetical and the answer will be able to be provided if and when these events take place.

The Peron Naturaliste Partnership is to undertake a Coastal Values initiative to which the City has asked for Waikiki Beach to be included.

3. Does the Cockburn Sound Coastal Alliance include this Coastal Values section in its reports, if not could it be included into the Coastal Hazard Modelling to be undertaken by the City in coming months, particularly in beach areas north of Point Peron?

The Chairperson advised that the City will be undertaking community engagement to inform the preparation of its Coastal Hazard Risk Management and Adaptation Plan.
There being no further questions the Chairperson closed Public Question Time.

5. **Confirmation of Minutes of the Previous Meeting**

Moved Cr Whitfield, seconded Cr Hamblin:

That Committee **CONFIRMS** the Minutes of the Planning and Engineering Services Committee Meeting held on 20 March 2017, as a true and accurate record.

Committee Voting – 5/0

6. **Matters Arising from the Previous Minutes**

Nil

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

4.18pm The Chairperson 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**

4.18pm The Chairperson asked if there were any interests to declare. There were none.

9. **Petitions/Deputations/Presentations/Submissions**

Nil

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

Nil

11. **Bulletin Items**

Planning and Development Services Information Bulletin – April 2017

**Health Services**

1. Health Services Team Overview
2. Human Resource Update
   3.1 FoodSafe
   3.2 Industrial and Commercial Waste Monitoring
   3.3 Mosquito Control Program
   3.4 Environmental Waters Sampling
   3.5 Food Sampling
4. Information Items
   4.1 Mosquito-Borne Disease Notifications
   4.2 Food Recalls
   4.3 Food Premises Inspections
   4.4 Public Building Inspections
   4.5 Outdoor Public Event Approvals
   4.6 Permit Approvals
   4.7 After Hours Noise and Smoke Nuisance Complaint Service
   4.8 Complaint - Information
   4.9 Noise Complaints - Detailed Information
   4.10 Animal Exemptions
   4.11 Building Plan Assessments
   4.12 Septic Tank Applications
<table>
<thead>
<tr>
<th>4.13 Demolitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.14 Swimming Pool and Drinking Water Samples</td>
</tr>
<tr>
<td>4.15 Rabbit Processing</td>
</tr>
<tr>
<td>4.16 Hairdressing and Skin Penetration Premises</td>
</tr>
<tr>
<td>4.17 New Family Day Care Approvals</td>
</tr>
<tr>
<td>4.18 Caravan Park and Camping Ground Inspections</td>
</tr>
</tbody>
</table>

**Building Services**

1. Building Services Team Overview  
2. Human Resource Update  
3. Project Status Reports  
4. Information Items  
   4.1 Monthly Building Permit Approvals - (All Building Types)  
   4.2 Private Swimming Pool and Spa Inspection Program  
   4.3 Demolition Permit  
   4.4 Permanent Sign Licence  
   4.5 Community Sign Approval  
   4.6 Street Verandah Approval  
   4.7 Occupancy Permits  
   4.8 Strata Titles  
   4.9 Unauthorised Building Works (Section 51 of the Building Act)  
   4.10 Monthly Caravan Park Site Approvals  
   4.11 R Code Variations

**Compliance and Emergency Liaison**

1. Compliance and Emergency Liaison Team Overview  
2. Human Resource Update  
3. Project Status Reports  
4. Information Items  
   4.1 Ranger Services Action Reports  
   4.2 Department Update  
   4.3 Emergency Services  
   4.4 Social Media  
   4.5 Customer Requests Emergency Service Team  
   4.6 Training – Volunteer and Officers  
   4.7 Permits to Burn – Restricted Burning Period  
   4.8 Prescribed Burning Program  
   4.9 SmartWatch Key Result Area: Visibility  
   4.10 SmartWatch Key Result Area: Engagement with Community  
   4.11 SmartWatch Key Result Area: Increasing perception of Safety  
   4.12 Notable Statistics

**Strategic Planning and Environment**

1. Strategic Planning and Environment Team Overview  
2. Human Resource Update  
3. Project Status Reports  
3.1 Local Planning Strategy (LUP/1352)  
3.2 Waterwise Council Program (EVM/56-02)  
3.3 Karnup District Structure Plan (LUP/1546)  
3.4 Cockburn Sound Coastal Alliance – Vulnerability & Flexible Adaptation Pathways Project Stage 3 (EVM/149)  
3.5 Greening Plan (PKR/52-02)  
3.6 Frog Population Monitoring Program (EVM/174)  
4. Information Items  
   4.1 Delegated Advertising of Proposed Structure Plan
### Land and Development Infrastructure

1. Land and Development Infrastructure Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   1. Structure Plan Approval Referrals
   2. Subdivision Approval Referrals
   3. Urban Water Management Referrals
   4. Traffic Report Referrals
   5. Delegated Land & Development Infrastructure Assets Approvals
   6. Subdivision Clearance Requests
   7. Handover of Subdivisional Roads
   8. Development Application Referrals
   9. Delegated Subdivision Public Open Space Practical Completions
10. Delegated Authority to approve the release of Bonds for private subdivisional works

### Statutory Planning

1. Statutory Planning Team Overview
2. Human Resource Update
3. Project Status Reports
   1. Planning Products via the Web formerly eDA
4. Information Items
   1. Land Use - Planning Enforcement
   2. Subdivision/Development Approval and Refusals by the WAPC
   3. Notifications and Gazettals
   4. Subdivision Clearances
   5. Subdivision Survey Approvals
   6. Subdivision Lot Production
   7. Delegated Development Approvals
   8. Delegated Development Refusals
   9. Delegated Building Envelope Variations
   10. Subdivision/Amalgamation Approved
   11. Strata Plans
   12. Subdivision/Amalgamation Refused
   13. Renovations to Heritage Building (Restoration of Roof) - Chesterfield Inn
   14. Signage on the Kwinana Freeway, or at the Freeway Service Centres that Promote Rockingham

### Planning and Development Directorate

1. Planning and Development Directorate Team Overview
2. Human Resource Update
3. Project Status Reports
   1. Rockingham Primary Centre, Centre Plan Implementation (LUP/137-08)
   2. Northern Smart Village Sector – Masterplan, Development Policy Plan and Proposed Amendment No’s.161 and 162 to Town Planning Scheme No.2
   3. Southern Gateway/Rockingham Station Sector – Masterplanning, Development Policy Plan and TPS (LUP/1846 and LUP/1847)
   4. Leeuwin Sector – Masterplan, Development Policy Plan and Amendment to Town Planning Scheme No.2
   5. Northern Gateway Sector - Masterplan, Development Policy Plan and Amendment to Town Planning Scheme No.2
   6. Redevelopment of City Square and Civic Plaza (LUP/1933)
   7. ‘Mangles Bay Marina’
<table>
<thead>
<tr>
<th>4. Information Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1 Rockingham Strategic Metropolitan Centre Public Parking Strategy</td>
</tr>
</tbody>
</table>

**Committee Recommendation**

**Moved Cr Whitfield, seconded Cr Sammels:**

That Councillors acknowledge having read the Planning Services Information Bulletin – April 2017 and the content be accepted.

Committee Voting – 5/0

---

<table>
<thead>
<tr>
<th>Engineering and Parks Services Information Bulletin – April 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineering and Parks Services Directorate</strong></td>
</tr>
<tr>
<td>1. Engineering and Parks Services Directorate Team Overview</td>
</tr>
<tr>
<td>2. Human Resource Update</td>
</tr>
<tr>
<td>3. Project Status Reports</td>
</tr>
<tr>
<td>3.1 Rockingham Foreshore Masterplan – Detailed Design</td>
</tr>
<tr>
<td>4. Information Items</td>
</tr>
<tr>
<td>4.1 Request for Information – Advertising on Infrastructure</td>
</tr>
</tbody>
</table>

**Engineering Services**

1. Engineering Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Stormwater Drainage Plan
   3.2 Coastal Management Consultants (Sand Drift/Erosion Problems)
   3.3 Coastal Infrastructure Facilities Consultant (Jetties/Boat Ramp Planning)
4. Information Items
   4.1 Delegated Authority for Temporary Thoroughfare Closure
   4.2 Delegated Authority for the payment of Crossover Subsidies
   4.3 Delegated Authority for approval of Directional Signage
   4.4 Engineering Services Design Projects 2016/2017
   4.5 Authorised Traffic Management Plans for Works on City Controlled Roads
   4.6 Safety Bay Road – Principal Shared Path – Stage 2B Mandurah Road to Eighty Road
   4.7 Water Corporation - Significant works within the City
   4.8 Asset Inspections
   4.9 Waikiki Foreshore – Foreshore Protection Specification
   4.10 Bent Street Boat Ramp Navigation Channel Sand Bypassing
   4.11 Mersey Point Jetty Design
   4.12 Palm Beach West Boat Ramp Upgrade – Detailed Design
   4.13 Point Peron Boat Launching Facility Detailed Design of Boat Ramp Lanes Five and Six including boat trailer car park design
   4.14 Palm Beach East Boat Ramp Rock Armour Replacement and Boat Ramp Maintenance
   4.15 EP-013/16 – Investigate need for additional traffic signals on Warnbro Sound Avenue
   4.16 Road Construction Program Roads to Recovery 2016/2017
   4.17 Road Construction Program Federal Black Spot 2016/2017
   4.18 Road Construction Program Municipal Works 2016/2017
   4.19 Road Renewal Program Municipal Works 2016/2017
   4.20 Road Maintenance Program 2016/2017
   4.21 Litter Team 2016/2017
4.22 LitterBusters and Sweeping 2016/2017
4.23 Graffiti Out and About
4.24 Graffiti Removal Annual Statistics
4.25 Passenger Vehicle Fleet Program 2016/2017
4.26 Light Commercial Vehicles Program 2016/2017
4.27 Heavy Plant Program 2016/2017

Parks Services
1. Parks Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Rockingham Dog Exercise Area
   3.2 Weld Street shower and drink fountain - Rockingham
   3.3 Practice Cricket Net Modification - Rhonda Scarrott Reserve, Golden Bay
   3.4 Practice Cricket Net Renewal – Careeaba Reserve and Koorana Reserve
   3.5 Bore and Irrigation Cabinet – Malibu Reserve
   3.6 City Parks – Central Irrigation Management System
   3.7 Play Equipment Replacements
   3.8 Synthetic Turf Renewal - Lark Hill Practice Cricket Nets
   3.9 Limestone Access Track Upgrade - Lark Hill Reserve
   3.10 Replace Conservation Reserve Fencing
   3.11 New Conservation Reserve Fencing – Foreshore Drive, Singleton
   3.12 New Conservation Reserve Fencing – Lake Richmond
   3.13 Tamworth Hill Swamp, Conservation Works
   3.14 Dixon Road Reserve, Conservation Works
   3.15 Outdoor Gym Equipment - Harmony Park, Singleton
   3.16 Outdoor Gym Equipment – Lions Park and Safety Bay Foreshore
   3.17 Wilkes Loop Landscaping - Baldivis
4. Information Items
   4.1 Delegated Public Open Space Handovers
   4.2 Parks Maintenance Program 2016/2017
   4.3 Parks Maintenance Program 2016/2017

Asset Services
1. Asset Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Path condition audit 2016-2017
   3.2 Maintenance and provision of public toilets
   3.3 Public Area Lighting Projects
4. Information Items
   4.1 Strategic Asset Management
   4.2 2016/2017 Public area lighting and arterial lighting
   4.3 Aqua Jetty – Gym roof HVAC enclosure (design)
   4.4 Baldivis South Sports Pavilion Eighty Road Baldivis
   4.5 Laurie Stanford Reserve development
   4.6 Rhonda Scarrott Reserve development
   4.7 Administration building exterior render repairs
   4.8 Aqua Jetty solar PV system 328kw
   4.9 Aqua Jetty – Tiling of external 50m pool
   4.10 Secret Harbour – Inclusive play space
   4.11 Baldivis South Youth Space
   4.12 2016/2017 Reserve flood lighting
   4.13 Baldivis South Community Centre
4.14 Mike Barnett Sports Complex – Netball courts resurfacing
4.15 Larkhill – Bench seating replacement
4.16 Building and Facility Maintenance
4.17 Reserve Maintenance
4.18 Electrical Maintenance
4.19 Asset Maintenance Statistics
4.20 Lighting Inspections
4.21 Solar Power Generation
4.22 Building Operations

**Advisory Committee Minutes**

**Committee Recommendation**

Moved Cr Whitfield, seconded Cr Sammels:
That Councillors acknowledge having read the Engineering and Parks Services Information Bulletin – April 2017 and the content be accepted.

Committee Voting – 5/0
### 12. Agenda Items

#### Planning and Development Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PDS-013/17 Final Adoption - Amendment to Planning Policy 3.3.19 - Licensed Premises</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/272</td>
</tr>
<tr>
<td>Applicant:</td>
<td></td>
</tr>
<tr>
<td>Owner:</td>
<td>Miss Donna Shaw, Senior Planning Officer</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>18 April 2017</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td>March 2000 (3PS/00-7.1.8), February 2001 (PD15/2/01), May 2009 (PD64/5/09), November 2009 (PD133/11/09), October 2016 (PDS-069/16)</td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td></td>
</tr>
<tr>
<td>Nature of Council's Role in this Matter:</td>
<td>Executive</td>
</tr>
<tr>
<td>Site:</td>
<td></td>
</tr>
<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></td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
</tr>
</tbody>
</table>

**Purpose of Report**

To consider adopting amendments to Planning Policy No.3.3.19 - Licensed Premises (PP3.3.19) following public advertising

**Background**

In November 2009, Council adopted PP3.3.19 to reflect the reforms to the Liquor Control Act 1988 and to bring the Council's procedures for assessing applications for Liquor Licenses and the Alcohol Policy into one document.
In 2010, the Liquor Control Amendment Act 2010 was passed, which amended the Liquor Control Act 1988 to establish a new licensing regime for approved managers. The new system sought to provide greater flexibility and allow approved managers to move freely between licensed premises without approval from the licensing authority.

A number of changes have been made to liquor licencing in Western Australia as a result of the Liquor Control Amendment Act 2010, and since the last review of PP3.3.19, various changes to terminology and legislation and policy have resulted in the need to review and update PP3.3.19 to ensure it is up to date and accurate.

In October 2016, Council resolved to adopt the revised PP3.3.19 for the purpose of public advertising.

**Details**

The amendments to the Policy are to reflect changes to the Liquor Control Amendment Bill 2010 in relation to terminology, legislation and new licence types.

**Implications to Consider**

- **Consultation with the Community**
  
  The draft PP3.3.19 was advertised for a period of 21 days, commencing on the 17 March 2017 and expiring 7 April 2017. Public advertising was carried out in the following manner:
  
  - Notice was placed in the Weekend Courier Newspaper on 17 March 2017;
  - Public information was placed on the City's website giving formal notice of the proposed Policy changes; and
  - Copies of the revised PP3.3.19 were made available for inspection at the City's Administration Offices.

  Advertising was undertaken in accordance with the requirements of Clauses 4(1) and 4(2) of the deemed provisions of Town Planning Scheme No.2 (TPS2).

  Upon the close of the submission period, no submissions had been received.

- **Consultation with Government Agencies**

  Community Plan

  This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2015-2025:

  **Aspiration D:** Sustainable Development

  **Strategic Objective:** Land Use and Development Control - Planning for population growth and guiding development and land use to ensure that future generations enjoy a sustainable city and a genuinely desirable lifestyle.

- **Policy**

  PP3.3.19 is not part of TPS2 and does not bind the Council in respect of any application for Development Approval, but it must have due regard to the provisions of the Policy and the objectives, which the Policy is designed to achieve, before making its determination.

- **Financial**

  Nil

- **Legal and Statutory**

  In accordance with Clauses 4(3) and 5 of the deemed provisions of TPS2, following the expiry of the advertising period for submissions, the Council is to review PP3.3.19 in the light of submissions made and resolve to adopt the Policy with or without modifications, or not to proceed with the Policy.
g. Risk

All Council decisions are subject to risk assessment according to the City's Risk Framework. Implications and comment will only be provided for the following assessed risks.

Customer Service / Project management / Environment: High and Extreme Risks
Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

As no submissions were received on the revised PP3.3.19, it is recommended that Council adopt revised PP3.3.19 as advertised.

Voting Requirements

Simple Majority

Officer Recommendation

That Council ADOPTS the amended (modifications in red) Planning Policy 3.3.19 - Licensed Premises.

Committee Recommendation

Moved Cr Sammels, seconded Cr Whitfield:

That Council ADOPTS the amended (modifications in red) Planning Policy 3.3.19 - Licensed Premises, as follows:

PLANNING POLICY 3.3.19
LICENSED PREMISES

1. Introduction

The purpose of this Policy is to provide guidance for the assessment and determination of Liquor License Applications and Development Applications within the City of Rockingham.

The Policy also aims to protect the safety and amenity of existing and future residents and business proprietors against alcohol related problems such as anti-social behaviour, violence, property damage, harm and promote the responsible sale and consumption of alcohol.

2. Policy Application

Under the Liquor Control Act 1988, Council approval is required for all new liquor license applications and any alterations to existing licensed premises.

In Town Planning Scheme No.2 (TPS2), clause 4.22 outlines the application requirements for a Licensed Premises and that the Council shall take into account the General and Specific Objectives of TPS2. Clause 67 of the deemed provisions require Council to have regard to any relevant Policy in determining an application for a Licensed Premises.

The Council will have regard to this Policy when assessing applications made for:

- Section 39 and 40 Certificates under the Liquor Control Act 1988;
- Development Approval under TPS2 for development which may involve a liquor license;
- Assessment of Extended Trading Permit Applications under Section 60 of the Liquor Control Act 1988.

The Council will also have regard to this Policy when considering a request to intervene or raise objections to any licensed premises operating under the requirements of the Liquor Control Act 1988.
TPS2, Table No.1 - Zoning Table identifies numerous forms of licensed premises as being discretionary uses or prohibited uses according to the relevant Zone. This Policy guides the exercise of the Council's discretion where the use is permissible, and also assists in identifying preferred locations for licensed premises.

The Council will examine each application for Development Approval in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which liquor is to be distributed and the amenity of adjacent areas that may be affected.

The types of Liquor Licenses and Extended Trading Permits issued by the Department of Racing, Gaming and Liquor, that the Council is concerned with and to which this Policy applies include:

**Type of Licenses:**

- Restaurant
- Nightclub
- Hotel
- Hotel - Restricted
- Tavern
- Tavern - Restricted
- Producer
- Liquor Store
- Small Bar
- Club
- Club Restricted
- Occasional
- Special Facility
- Casino (Only applicable to Burswood Casino)

**Extended Trading Permits:**

- Extended Hours
- Liquor Without a Meal (Restaurant)
- Alfresco
- Dining Area
- Permits for One-Off Events

Definitions of each type of license and their permitted trading hours is outlined in Appendix 1.

This Policy should be read in conjunction with the following:

- Health Policy No. 6.6 - Outdoor Eating Facilities in Public Places;
- City of Rockingham - Outdoor Events Policy; and
- City of Rockingham - Local Government Property Local Law (in reference to liquor licenses on private marine vessels).

**3. Policy Objectives**

The objectives of this Policy are to:

(a) Provide a framework for the assessment and determination of Liquor License Applications, including the issuing Section 39 and 40 certificates under the Liquor Control Act 1988;

(b) Assist the Council in its consideration of applications for Development Approval which involve a liquor license;
(c) Identify appropriate locations for different types of licensed premises;
(d) Protect the safety and amenity of existing and future residents and business proprietors against anti-social behaviour; and
(e) Minimise personal harm or ill health caused to people, or any group, due to excessive consumption of liquor.

4. Policy Statement

4.1 Development Applications

4.1.1 Interpretation

Town Planning Scheme No.2 (TPS2), Table No. 1 – Zoning Table identifies the following licensed premises as discretionary uses in certain zones:
- Club Premises;
- Hotel;
- Motel;
- Night Club;
- Restaurant;
- Bed & Breakfast;
- Reception Centre;
- Public Amusement;
- Cinema/Theatre;
- Exhibition Centre;
- Private Recreation
- Wildlife Park;
- Tavern; and
- Small Bar.

In accordance with clause 60 of the deemed provisions, Development Approval is required for the establishment, expansion, extension or change to any of the above uses.

Liquor Store falls within the definition of a “Shop” under TPS2. A “Shop” is a permitted use in the Commercial zone and a discretionary use in the Primary Centre City Centre, Primary Centre Waterfront Village and District Town Centre zones.

4.1.2 Application Requirements and Procedure

The requirement for Development Approval for a licensed premises is outlined under clause 60 of the deemed provisions.

Applications for Development Approval shall be made on the form prescribed by the Council, and shall be signed by the owner(s).

In accordance with clause 4.22 of TPS2, unless the Council waives any particular requirement, every application for premises to be licensed under the Liquor Control Act 1988, shall be accompanied by the following:
- A full set of the liquor licensing application papers;
- A full set of the floor, site and elevation plans of the premises;
- Full details as to what conditions are sought to be imposed on the license;
- Details on how the proposed business to be licensed is to be managed; and
- Any other plan or information that the Council may reasonably require to enable the application to be determined.

Note: A Public Interest Assessment (PIA) is to be included in the information provided to the Council. Section 6 and Appendix 5 contain further information on PIA.

The Council also requires the following additional information:
(a) A written submission describing the nature of the proposal (i.e. whether it is intended to be a club premises, hotel, motel, night club, small bar, restaurant or tavern, hours of operation, proposed number of patrons etc); and which includes confirmation that the requirements of this Policy can be achieved.

(b) Any specialist studies that the Council may require the applicant to undertake in support of the application such as an acoustic report from a suitably qualified acoustic consultant.

The information referred to above is in addition to any information and plans required by TPS2. The payment of an Administration Fee as detailed in the Scale of Fees for Planning Services is also required.

Applications for Development Approval should be lodged with the City’s Planning Services.

4.1.3 Assessment Criteria

In assessing applications for Development Approval, the following matters are to be considered by the Council (in addition to any other relevant considerations under TPS2):

(a) Location: Applications will generally not be supported if the proposal is likely to have a significant potential impact upon the amenity of an area or affected neighbouring properties. A significant potential impact includes circumstances in which if the application were granted:

(i) undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship, hospital, child care premises or school, would be likely to occur; or

(ii) the amenity, quiet or good order of the locality in which the premises or the proposed premises are, or are to be, situated would in some other manner be lessened.

Licensed premises should generally have an active street front.

Note: When assessing the location of a licensed premises, consideration will be given to the following specific objective of TPS2:

(b) to secure the amenity, health and convenience of the Scheme Area and the inhabitants thereof;

The Council will also take into consideration the following matters as identified under clause 67 of the deemed provisions - ‘Matters to be Considered by the Local Government’:

(n) the amenity of the locality including the following:

(i) environmental impacts of the development;

(ii) the character of the locality;

(iii) social impacts of the development;

(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals; and

(y) any submissions received on the application

(b) Number of Patrons: Premises are restricted to maximum patron numbers under the Health (Public Building) Regulations 1992, and those numbers are to be complied with at all times.

Note: This is particularly relevant to Hotel, Tavern and Nightclub licenses which can have a detrimental impact upon the amenity of a locality, when considering the long hours of operation.

(c) Previous History: The City will generally review the history of complaints regarding an existing licensed premises when considering an Application for Development Approval for a “Change of Use” or an Extended Trading Permit. In this regard, the City is interested in past complaints regarding noise, vandalism, anti-social behaviour or traffic/parking issues. The City may request the applicant to supply full and complete details of any complaints regarding an existing licensed premises including details of any complaints or prosecutions commenced by the WA Police, the Department of Racing, Gaming and Liquor, the Health Department or Department of Fire and Emergency Services.
(d) Noise: To address noise impacts from a proposed licensed premises, the City may require that an applicant submit an acoustic report, prepared by a suitably qualified acoustic consultant (as determined by the City), demonstrating that the noise likely to be emitted from the licensed premises will comply with the Environmental Protection (Noise) Regulations 1997. The report should indicate the likely noise nuisance and what sound attenuation measures will be needed to control noise emissions from the premises in accordance with the requirements of the Environmental Protection (Noise) Regulations 1997.

On receipt of the report, the City may require measures to be undertaken via construction, management or other means where necessary to ensure noise is managed in accordance with the Environmental Protection (Noise) Regulations 1997.

(e) Harm Minimisation: The applicant will be required to demonstrate that the principles of harm minimisation have been addressed by the lodgement of a House Management Policy, Code of Conduct and Management Plan in accordance with the Department of Racing, Gaming and Liquor Guidelines.

Note: The applicant will be required to address public safety by providing information regarding crowd control, security personnel or security patrol services and external lighting for premises trading past midnight.

Section 5 and Appendix 3 contain further information on harm minimisation.

(f) Consultation: Where the Manager, Statutory Planning considers that an Application for Development Approval for a ‘Licensed Premises’ is likely to have a significant potential impact upon the amenity of an area or affected neighbouring properties, the application will be the subject of a process of community consultation in accordance with clause 64 (3) of the deemed provisions and Planning Procedure No. 1.3 - Community Consultation.

Note: Such consultation will include consultation with neighbours, relevant community groups, local police, the Drug and Alcohol Office, Southern Metropolitan Health Services, at the discretion of the Manager, Statutory Planning.

The Council may also give notice or require the applicant to give notice of an application for Development Approval in one or more of the following ways:

(a) Notice of the proposed use or development served on the nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the granting of Development Approval, stating that submissions may be made to the Council by a specified date being not less than fourteen (14) days from the date the notice is served;

(b) Notice of the proposed use or development published in a newspaper circulating in the Scheme Area stating that submissions may be made to the Council by a specified day being not less than fourteen (14) days from the day the notice is published;

(c) A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than fourteen (14) days from the date of publication of the notice referred to in paragraph (b) above.

4.1.4 Conditions of Approval

The Council may impose any relevant condition(s) on the Development Approval for a Licensed Premises as appropriate. See clause 68 of the deemed provisions.

4.1.5 Delegation

Where an application for Development Approval for a licensed premises has been the subject of a process of community consultation and substantiated objections are received, the application for Development Approval will be referred to the Council for determination.
Unless otherwise determined by the Manager, Statutory Planning, all other applications for Development Approval for licensed premises that comply in all respects with the objectives and provisions of this Policy will be determined under delegated authority, pursuant to clause 82 and 83 of the deemed provisions and Planning Procedure 1.1 – Delegated Authority.

Notwithstanding the above, applications for planning approval for the following licensed premises will be referred to the Council for determination:-
- Nightclub;
- Hotel; and
- Club Premises.

With the exception of within the Primary Centre City Centre, Primary Centre Waterfront Village and District Town Centre zones, all applications for Development Approval for a Tavern will also be referred to the Council for determination.

4.2 Section 40 Certificate

4.2.1 Interpretation

A Section 40 Certificate confirms that the proposed use of the premises:
- Will comply with the requirements of the relevant planning laws (i.e., Town Planning Scheme); or
- Would comply with the requirements specified if consent were to be given by a specific authority (i.e., Council), if it is known whether that authority will give the consent and what specified conditions or specifications should be, or are likely to be, imposed; or
- Cannot comply with the relevant planning laws for reasons specified.

Appendix 1 contains the definitions and permitted trading hours for each type of Liquor License under the Liquor Control Act 1988.

4.2.2 Application Requirements and Procedure

Section 40 of the Liquor Control Act 1988 requires that any applications made to the licensing authority (the Liquor Commission and the Director of Liquor Licensing) for:
- the grant or removal of a license;
- or for a change in the use or condition of any premises must be accompanied by a certificate from the Local Government.

In accordance with clause 4.22 of TPS2, an application for a Section 40 Certificate must be accompanied by the following information:
- A full set of the liquor licensing application papers;
- A full set of the floor, site and elevation plans of the premises;
- Full details as to what conditions are sought to be imposed on the license;
- Details on how the proposed business to be licensed is to be managed;
- Any other plan or information that the Council may reasonably require to enable the application to be determined; and
- The payment of an Administration Fee as detailed in the Scale of Fees for Planning Services.

Note: A Public Interest Assessment (PIA) is to be included in the information provided to the Council. Section 6 and Appendix 5 contain further information on PIA.

All Section 40 Certificate applications are required to be lodged with the City's Planning Services.

4.2.3 Assessment Criteria

In addition to the Assessment Criteria outlined in section 4.1.1 – 'Development Applications' of this Policy, the following will also be taken into consideration when assessing a Section 40 Certificate application:
(a) **Consistency with Development Approval**: Ensure compliance with conditions that have been placed on a Development Approval (if appropriate). Particular note should be made of the approved size of the license premises under the Development Approval and the proposed licensed area requested under the Section 40 Certificate.

In circumstances where a Liquor License is being sought for premises which have been issued with Development Approval but remain unconstructed, the Council has the ability to issue the Section 40 Certificate, whether it be conditional or unconditional.

(b) **Consultation**: Where the Manager, Statutory Planning considers that an application for Section 40 Certificate for a ‘Licensed Premises’ is likely to have a significant potential impact upon the amenity of an area or affected neighbouring properties, the application will be the subject of a process of community consultation.

<table>
<thead>
<tr>
<th>Note: Such consultation will include consultation with neighbours, relevant community groups, local police, the Drug and Alcohol Office, Southern Metropolitan Health Services, at the discretion of the Manager, Statutory Planning. The Council may also give notice or require the applicant to give notice of an application for a Section 40 Certificate in one or more of the following ways:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Notice of the proposed use or development served on the nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the granting of the Section 40 Certificate, stating that submissions may be made to the Council by a specified date being not less than fourteen (14) days from the date the notice is served;</td>
</tr>
<tr>
<td>(b) Notice of the proposed use or development published in a newspaper circulating in the Local Government Area stating that submissions may be made to the Council by a specified day being not less than fourteen (14) days from the day the notice is published;</td>
</tr>
<tr>
<td>(c) A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than fourteen (14) days from the date of publication of the notice referred to in paragraph (b) above.</td>
</tr>
</tbody>
</table>

### 4.2.4 Conditions of Approval

The Liquor Control Act 1988 gives the Council the ability to oppose or seek conditions on a license by objecting or intervening in particular licensing matters.

Condition/s on the Section 40 Certificate may indicate that the Council’s support of the Liquor License application is conditional upon certain requirements being complied with and/or acknowledged. These conditions may or may not coincide with specific conditions of the Development Approval (if applicable) and will normally be structured such that the amenity of the surrounding area is respected.

The Department of Racing, Gaming and Liquor can impose any conditions on a license that are considered to be in the public interest. This can be done as a result of an application by a licensee, at the Director's own will, or at the request of a liquor accord.

A condition may include a limitation, restriction, prohibition or an authorisation on any license or permit. A condition can relate to any aspect of business carried out under the license, or any activity that takes place at the licensed premises.

Appendix 4 contains a list of issues that the Department of Racing, Gaming and Liquor can address through conditions. These conditions are a guide only. The Council may request other relevant conditions as it sees fit.

### 4.2.5 Delegation

Where an application for Section 40 Certificate for a licensed premises has been the subject of a process of community consultation and substantial objections are received, the Section 40 Certificate application will be referred to the Council for determination.

Where a Section 40 Certificate application is consistent with a Development Approval (where applicable), and/or complies in all respects with the objectives and provisions of this Policy, it will be determined under delegated authority by the Manager, Statutory Planning. Prior to doing so, legal advice on the content of the Section 40 Certificate may be sought.
In circumstances where a Liquor License is being sought for premises which has been issued with Development Approval but remains unconstructed, the Council has the ability to issue the Section 40 Certificate, whether it be conditional or unconditional.

4.3 Section 39 Certificate

4.3.1 Interpretation

A Section 39 Certificate confirms that the premises comply with all relevant requirements of:
- the Health Act 1911;
- the Food Act 2008;
- any written law applying to the sewerage or drainage of those premises;
- the Local Government Act 1995; and
- the Building Act 2011.

The Section 39 Certificate can also state the manner in which a premises can be made to comply with the relevant requirements or that the premises could not reasonably be made to comply.

4.3.2 Application Requirements and Procedure

Section 39 of the Liquor Control Act 1988 requires that any applications made to the licensing authority (the Liquor Commission and the Department of Racing, Gaming and Liquor) for:
- the grant or removal of a license
- or for a change in the use or condition

of any premises must be accompanied by a certificate from the Local Government.

Applicants are required to submit the application form and pay the prescribed fees to the City’s Health Services.

4.3.3 Assessment Criteria

A Section 39 Certificate is issued when the premises complies or can be made to comply with the relevant Acts and legislation. If the premises has outstanding work to be completed, the Certificate may be withheld until the work is finished. If the premises cannot be made to comply with the legislation, the applicant will be given a written explanation.

4.3.4 Conditions of Approval

As with Section 40 Certificates, the Liquor Control Act gives the Council the ability to seek conditions be placed on the Section 39 Certificate that requirements be complied with and/or acknowledged.

Appendix 4 contains a list of conditions of approval that the Department of Racing, Gaming and Liquor can apply. These conditions are a guide only. The Council may request other relevant conditions as it sees fit.

4.3.5 Delegation

Upon the issue of a Section 40 Certificate, the Section 39 Certificate will be issued concurrently (if appropriate). All Section 39 Certificates will be issued by the Manager, Health Services under Delegated Authority.

A Section 39 Certificate cannot be issued if a premises has not been constructed (although Development Approval and a Section 40 Certificate have been issued) given that compliance with the various legislative requirements cannot be confirmed until construction of the premises is completed.

4.4 Extended Trading Permits

4.4.1 Interpretation

An Extended Trading Permit may be granted to licensees who hold an existing liquor license to enable them to operate outside of the normal constraints of their license conditions.

There are two types of Extended Trading Permits:
- Short term or one off; and
- Ongoing or indefinite.
The following proposals require an Extended Trading Permit:
- Extended hours;
- Liquor without a meal (restaurant);
- Alfresco;
- Dining Area; and
- Permits for one-off events.

A definition of each type of Extended Trading Permit and further information is contained in Appendix 2.

4.4.2 Application Requirements and Procedure

All applications for Extended Trading Permits are lodged with the Department of Racing, Gaming and Liquor who forwards a copy to the Council for consideration.

The City's Planning Services will issue a Section 40 Certificate for all Extended Trading Permit applications.

A Section 39 Certificate is only required in certain circumstances in relation to Extended Trading Permit applications. For example, if there is an increase or change to the kitchen and for new alfresco dining areas.

4.4.3 Assessment Criteria

In addition to the Assessment Criteria outlined in section 4.1.1 – Development Applications of this Policy, the following will also be taken into consideration when assessing an Extended Trading Permit application:

(a) Hours of Operation: When considering an Extended Trading Permit, the Council is unlikely to support those premises which have the potential to cause undue offence, annoyance, disturbance or inconvenience to residents and/or business proprietors located in the vicinity of the licensed premises or where the amenity, quiet or good order of the locality in which the premises are situated would in some other manner be lessened.

Note: Late operating hours can contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers.

(b) Consultation: The Council may undertake consultation with the owners and occupiers of residential premises and businesses within a radius or a location of potential impact as determined by the Council. The Council may also undertake consultation with the local Police, the Drug and Alcohol Office and the Southern Metropolitan Health Services. A copy of all written submissions received in response to this consultation shall be forwarded to the Department of Racing, Gaming and Liquor.

Note: Council may also give notice or require the applicant to give notice of an application for a Section 40 Certificate – Extended Trading Permit in one or more of the following ways:

(a) Notice of the proposed use or development served on the nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the granting of the Section 40 Certificate, stating that submissions may be made to the Council by a specified date being not less than fourteen (14) days from the date the notice is served;

(b) Notice of the proposed use or development published in a newspaper circulating in the Local Government Area stating that submissions may be made to the Council by a specified day being not less than fourteen (14) days from the day the notice is published;

(c) A sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than fourteen (14) days from the date of publication of the notice referred to in paragraph (b) above.

(c) Alfresco: Where an Extended Trading Permit/s is sought for an alfresco dining area on the footpath, consideration is to be given to Health Policy No. 6.6 – Outdoor Eating Facilities in Public Places.
4.4.4 Conditions of Approval

The Liquor Control Act 1988 gives Council the ability to seek that conditions be placed on a Section 40 Certificate that requirements be complied with and/or acknowledged.

Appendix 4 contains a list of issues that the Department of Racing, Gaming and Liquor can address through conditions. These conditions are a guide only. The Council may request other relevant conditions as it sees fit.

4.4.5 Delegation

Where an application for Section 40 Certificate for a licensed premises has been the subject of a process of community consultation and substantial objections are received, the Section 40 Certificate application will be referred to the Council for determination.

Where a Section 40 Certificate application is consistent with a Development Approval (where applicable), and/or complies in all respects with the objectives and provisions of this Policy, it will be determined under delegated authority by the Manager, Statutory Planning. Prior to doing so, legal advice on the content of the Section 40 Certificate may be sought.

Unless otherwise determined by the Manager, Health Services, all responses relating to proposed Extending Trading Permits requiring Section 39 certificates will be referred to the Council for consideration.

4.5 Occasional Liquor Licenses for Events on Council Public Reserves, Beaches and Public Open Space

4.5.1 Interpretation

Events to be held on reserves, beaches or public open space that must be approved by the City. An Occasional Liquor License may be required when a gathering, occasion or event, including a sporting contest, show, exhibition, trade or other fair or reception is proposed.

An Occasional Liquor License can be granted for a function being held over a few hours or a number of days. Each license, however, cannot cover a period of more than 21 days between the start of the first function and the end of the last function.

The City will generally not support having alcohol available for sale at public or private events or supplied or consumed on or around Council owned or managed property, such as:

- Road reserves;
- Parks;
- Beach areas; or
- Designated open spaces;

except for occasions or events where approval has been granted by the City and a license to serve alcohol has been obtained from the Department of Racing, Gaming and Liquor.

4.5.2 Application Requirements and Procedure

All applications for Occasional Liquor Licenses are lodged with the Director of Racing, Gaming and Liquor or with the Managing Registrar at the local court.

A letter of consent from the City must accompany the Occasional Liquor Licence application.

The following information is required to be lodged with the City to receive a letter of consent:

- A site plan indicating the size and location of the proposed licensed area;
- A House Management Policy, Code of Conduct and Management Plan (see Appendix 3);
- The event organiser shall have applied for a Public Building Approval, and have submitted an Emergency Evacuation Plan incorporating a Risk Management Plan.
- A copy of any conditions imposed or sought to be imposed by the WA Police in relation to the event.

An Outdoor Events Permit may also be required from the City. Please refer to the City’s Outdoor Events Policy for further information.
Note: The City's Outdoor Events Policy defines an event as any outdoor festival, concert or entertainment activity or any event defined as a public building under the Health Act 1911. These events require a Public Building Approval. It is the responsibility of the event organiser to ensure all relevant approvals have been obtained from the City and other approving agencies.

4.5.3 Assessment Criteria

In providing a letter of consent for an Occasional Liquor License application, the Council will consider the nature of the event, venue, social aspects, public safety and any other matters it feels are appropriate.

4.5.4 Conditions

The Liquor Control Act 1988 gives the Council the ability to seek conditions be placed on the Occasional Liquor License that requirements be complied with and/or acknowledged.

In addition to those issues listed in Appendix 4, the following requirements may be requested to apply to the Liquor License:

- The availability of alcohol at the event should be ancillary to the event and not the main reason for it;
- The licensee will promote the consumption of non-alcoholic and low alcohol beverages. Coffee, tea and soft drinks should be available throughout the event. The bar shall be closed if for any reason low alcohol beverages and/or tea and coffee become unavailable;
- Water shall be available free of charge to all patrons within the licensed area;
- The pricing of alcoholic drinks should have a relationship to the alcohol content of the beverage;
- Competitions that involve the actual consumption of alcohol will not be permitted;
- The licensee and staff serving shall have a full understanding of their responsibilities and obligations when serving alcohol;
- The liquor license is to apply for the same or lesser period as the event. Applications for liquor licenses are likely to be opposed by the Council if they are greater than 10 hours duration or apply after the conclusion of the event. The Council may insist on a requirement for the licensee to incorporate a period where liquor sales are suspended to enable patrons to consume food or other refreshments.

4.5.5 Delegation

A letter of consent from the City will be provided by the Manager, Recreation and Cultural Services under Delegated Authority.

4.6 Special Facility Liquor Licenses on Private Marine Vessels

4.6.1 Interpretation

A Special Facility License may be granted for the purpose of allowing the sale of liquor to passengers and their guests on a private marine vessel.

4.6.2 Application Requirements and Procedure

A Section 40 Certificate is required (see section 4.1.2 – Section 40 Certificate of this Policy for requirements to obtain this Certificate).

4.6.3 Assessment Criteria

In addition to the Assessment Criteria for Section 40 Certificates outlined in 4.1.2, the following will also be taken into consideration when assessing a Special Facility Licence:

- Consent may be required from the Council for the use of a jetty for the operation of any ferry/charter services. Consideration is to be given to Part 7 – Jetties of the City of Rockingham – Local Government Property Local Law;
- Consideration should be given to carparking for those who intended to board the vessel. This issue should be addressed at the time of considering the operation of any ferry/charter service.
Note: Moorings and jetties are located on a reservation for ‘Waterways’ under the Metropolitan Region Scheme; the mooring and jetty, however, lie outside the jurisdiction of the City’s TPS. Notwithstanding, the Department of Racing, Gaming and Liquor has advised that if a vessel is docked at a jetty, licensed by the Council, a Section 40 Certificate is still required from the Council.

4.6.4 Conditions
The Liquor Control Act 1988 gives the Council the ability to seek that conditions be placed on the Section 40 Certificate that requirements be complied with and/or acknowledged.

4.6.5 Delegation
Where a Section 40 Certificate application is consistent with a Development Approval (where applicable), and/or complies in all respects with the objectives and provisions of this Policy, it will be determined under delegated authority by the Manager, Statutory Planning. Prior to doing so, legal advice on the content of the Section 40 Certificate may be sought.

5. Harm Minimisation
One of the primary objects under section 5(1) of the Liquor Control Act (the Act) is “to minimise harm or ill health caused to people, or any group of people, due to the use of liquor”.

Section 64(3) of the Act also empowers the licensing authority to impose conditions on a licence that are in the public interest and reflect local issues. Those conditions are primarily aimed at ensuring that liquor is sold and consumed in a responsible manner.

In view of these legislative requirements, there is a need for licensees to demonstrate a strong commitment to the way in which their premises are being managed. For this reason, applicants and licensees under the Act need to demonstrate to the licensing authority that:

- Liquor will be sold and consumed in a responsible manner; and
- Harm or ill health caused to people or any group of people, due to the use of liquor will be minimised.

Accordingly, on the lodgement of any application under the Act (except where the application relates to wholesalers and occasional licences) the applicant will not only be required to meet the statutory requirements in respect of the application, but will also be required to address the principles of harm minimisation.

Applicants will be required to lodge with their application a copy of the premises’ House Management Policy, Code of Conduct, and Management Plan.

Note: The Council is particularly interested in how the licensees addresses such issues as:

- How patrons are encourage to respect the rights of neighbours and not to disturb the amenity of the local area; and
- The procedures in place to respond to complaints about the premises.

Appendix 3 contains a copy of the Department of Racing, Gaming and Liquor – Harm Minimisation Policy.

6. Public Interest Assessment
Applications for new liquor licenses, the removal of existing licenses, and applications for permits such as “Liquor without a meal” permits and “on-going hours” (extended trading) permits, must be accompanied by a Public Interest Assessment (PIA).

The purpose of the PIA is based on the principle that all licensed premises operate within the “public interest” of the affected individual community/s.

To satisfy the PIA test, an applicant will need to consider and find solutions to any negative impact that may be suffered by sections of the community through the operation of their licensed premises.

The following factors are taken into consideration as part of the PIA:

- The harm, or ill-health that may be caused to people from the use of liquor;
- The impact on the amenity of the locality where the licensed premises, or proposed licensed premises, is situated;
- Whether offence, annoyance, disturbance or inconvenience might be caused to people who live or work in the vicinity; and
- Any other matters stipulated in the Liquor Control Regulations 1988.

Applicants can complete their own PIA by following the guidelines provided within the Department of Racing, Gaming and Liquor - Public Interest Assessment Policy contained in Appendix 5.

7. Managing Complaints/Advocacy

7.1 Intervention

Section 69 of the Act allows the Commissioner of Police, Executive Director Public Health and Local Government Authorities the right to intervene in proceedings and make representations to the licensing authority on limited matters.

The Council may intervene in proceedings before the licensing authority and introduce evidence or make presentations to outline whether a premises is suitable for a liquor license; whether an alteration or redefinition of a premises should be approved; or whether people who work or live in the vicinity of a premises would be impacted upon negatively.

The Council can also intervene in proceedings to supply information relating to legislation and regulations within its jurisdiction.

Examples of grounds for intervention may include:
- The building is not safe according to the Public Building Regulations or Building Code of Australia;
- The location of the building is not suitable according to zoning requirements under the Town Planning Scheme;
- The building is not equipped to cater for the license. For example, there is not adequate sound proofing to ensure that noise from the premises will be contained and that surrounding businesses or residents will not be adversely affected;
- Complaints or concerns have been raised by nearby residents, schools, hospitals, businesses and community groups;
- Submission letters of concern from residents or businesses in the affected area; and
- Data from community safety surveys that outline community concerns about the license or other licenses in the area.

Interventions are usually provided in the form of a report to the Licensing Authority.

7.2 Objections

Any person, including the Council, has the ability to object to any application for a license, as outlined in Section 73 (1) of the Act.

The general grounds for objection are:
- The granting of the licenses would not be in the public interest;
- The granting of the license would cause undue harm or ill health to people, of any other group of people, due to the use of liquor;
- If the license was granted, undue offence, annoyance, disturbance or inconvenience would likely occur to people who reside or work in the vicinity, or to people in or travelling to an existing or proposed place of worship, hospital or school;
- That if the license was granted, the amenity, quiet or good order of the locality in which the premises is, or will be, would in some way be lessened; and
- That the granting of the license would contravene that Liquor Control Act.

The Department of Racing, Gaming and Liquor requires that objections are lodged using a Form 17 – Notice of Objection. The form requires that the objector documents the grounds for objection and the particulars in support of each ground.

7.3 Process for Dealing With Complaints

Should complaints be received or the Council otherwise became aware of issues, the Council will undertake an assessment of the situation and determine if intervention is required.
Intervention may include:
- Conducting discussions with the licensee;
- Lodging an intervention or objection with the Department of Racing, Gaming and Liquor.

If a complaint is to be lodged with the Department of Racing, Gaming and Liquor, the following procedure shall be followed:
- The objectors shall elect a committee of not more than six people which will include a minimum of one Councillor;
- This committee must elect a spokesperson to liaise with the Council;
- The Council will nominate an officer to deal with the matter;
- All contact between the Committee and City's solicitor (if a solicitor is instructed) must be via the nominated City Officer;
- If the City Officer is invited to attend a committee meeting, the City's solicitor can also be invited at the officer's discretion;
- If the Committee decides to proceed against the City Officer/solicitor's advice, the complaint will be referred back to the Council for resolution.

Residents or other license holders, are able to object to liquor license applications according to the grounds set out in Section 74 (1) of the Act.

8. Authority

This Planning Policy has been adopted by the Council and whilst it is not part of TPS2 and does not bind the Council in respect of any application for Development 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.

**Note:** Those aspects of this Planning Policy requiring the planning approval of the Council have been adopted under clause 4 of the deemed provisions.

9. Interpretations

For the purposes of this Policy, the following terms shall have the same meaning as in the Liquor Control Act 1988 (as amended):

**Liquor Control Act:** Western Australia's liquor law which regulates the sale, supply and consumption of liquor, the use of premises on which liquor is sold, and the services and facilities provided in conjunction with the sale of liquor.

**Section 39 Certificate:** A Section 39 Certificate confirms that the premises complies with all relevant requirements of:
- the Health Act 1911;
- the Food Act 2008;
- any written law applying to the sewerage or drainage of those premises;
- the Local Government Act 1995; and
- the Building Act 2011.

The Section 39 Certificate can also state the manner in which a premises can be made to comply with the relevant requirements or that the premises could not reasonably be made to comply.

**Section 40 Certificate:** A Section 40 Certificate confirms that the proposed use of the premises:
- will comply with the requirements of the relevant planning laws (i.e. Town Planning Scheme); or
- would comply with the requirements specified if consent were to be given by a specific authority (i.e. the Council), if it is known whether that authority will give the consent and what specified conditions or specifications should be, or are likely to be, imposed.

The Section 40 Certificate can also state that the premises would not comply for reasons specified.
House Management Policy: A policy that comprises a generic statement of intent about the way in which the licensee wishes to operate the premises. It should be supported by the Code of Conduct and the more detailed Management Plan. See Appendix 3 – Department of Racing, Gaming and Liquor – Harm Minimisation Policy.

Public Interest: an interest in common to the public at large or a significant portion of the public which may, or may not involve the personal or proprietary rights of individual people.

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

Council: means the Council of the City of Rockingham.

For the purposes of this Policy, the following other term shall have the following meaning:

Deemed Provisions: means the Schedule 2 - Deemed Provisions for local planning schemes in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.

10. Adoption

This Policy was adopted by the Council at its ordinary Meeting held on the _____.

11. Amendment

This Planning Policy was amended by the Council at its ordinary Meeting held on the _____.

12. Revocation

This Policy supersedes the Council’s Alcohol Policy and the Council’s Procedures for Assessing Applications for Liquor Licenses.

Appendices

1. Definitions and Permitted Trading Hours
2. Extended Trading Permits
3. Department of Racing, Gaming and Liquor - Harm Minimisation Policy
4. Conditions of Approval
5. Department of Racing, Gaming and Liquor - Public Interest Assessment

Committee Voting – 5/0

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

Not Applicable

Implications of the Changes to the Officer’s Recommendation

Not Applicable
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PDS-014/17 Proposed Modification to Building Envelope</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>DD024.2017.00000005.001</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Mr Zac Walton and Mrs Jamie Aitken</td>
</tr>
<tr>
<td>Owner:</td>
<td>Mr Zac Walton and Mrs Jamie Aitken</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Kevin Keyes, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr David Waller, Co-ordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>18 April 2017</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Site:</td>
<td>Lot 117 (No.3) Boothman Mews, Golden Bay</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>2,122m²</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Special Residential</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Rural</td>
</tr>
<tr>
<td>Attachments:</td>
<td></td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
</tr>
<tr>
<td>1. Location Plan</td>
<td></td>
</tr>
<tr>
<td>2. Aerial Photograph</td>
<td></td>
</tr>
<tr>
<td>3. Site Photograph</td>
<td></td>
</tr>
<tr>
<td>4. Existing and Proposed Building Envelope Plan</td>
<td></td>
</tr>
<tr>
<td>5. Consultation Plan</td>
<td></td>
</tr>
</tbody>
</table>
CONFIRMED AT A PLANNING AND ENGINEERING
SERVICES MEETING HELD ON MONDAY 15 MAY 2017
**Purpose of Report**

To consider an application to vary the approved Building Envelope at Lot 117 (No.3) Boothman Mews, Golden Bay.

**Background**

The site is located west of Mandurah Road, north of Dampier Drive, and east of Golden Bay Estate. The existing Building Envelope was created as part of the original subdivision of Secret Grove Estate. In 2005 the Building Envelope was approved for modification by the City.

The existing Building Envelope has an area of 740m² and is setback 11.4m from the primary street, 10.5m from the secondary street, 2.8m from the east boundary and 6.4m from the rear boundary.

**Details**

The applicant proposes to modify the Building Envelope for the purposes of extending the existing shed and to accommodate a future swimming pool to the rear of the existing Single House. The size of the Building Envelope will increase from 740m² to 751.2m².

3. Site Photograph
4. Existing and Proposed Building Envelope Plan

CONFIRMED AT A PLANNING AND ENGINEERING SERVICES MEETING HELD ON MONDAY 15 MAY 2017

PRESIDING MEMBER
Implications to Consider

a. Consultation with the Community

In accordance with clause 64 of the deemed provisions of Town Planning Scheme No.2 (TPS2) and Planning Policy 3.3.17 - Variations to Building Envelopes, Building Envelopes may be varied at the discretion of the Council, only after consultation with the owners of affected or adjoining properties. The application was referred to the adjacent landowners for comment for a period of 14 days, as shown on the Consultation Plan below. At the conclusion of the advertising period, two submissions were received in support of the proposal.

b. Consultation with Government Agencies

Not Applicable

c. Strategic Community Plan

This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2015-2025:

- **Aspiration D:** Sustainable Environment
- **Strategic Objective:** Land Use and Development Control - Planning for population growth and guiding development and land use to ensure that future generations enjoy a sustainable city and a genuinely desirable lifestyle.

d. Policy

Planning Policy 3.3.17 – Variations to Building Envelopes (PP3.3.17)

The following is an assessment against the relevant requirements of PP3.3.17:
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance with Schedule No.5 of TPS2.</td>
<td>Schedule No.5 of TPS2 provides that the size and location of an approved Building Envelope may be varied with the approval of Council.</td>
<td>Yes</td>
</tr>
<tr>
<td>The varied Building Envelope must not result in an adverse environmental impact.</td>
<td>No vegetation will be removed for the purposes of varying the Building Envelope.</td>
<td>Yes</td>
</tr>
<tr>
<td>The varied Building Envelope must not result in an unacceptable level of bushfire risk.</td>
<td>The proposed modification will not result in an increased level of bushfire risk.</td>
<td>Yes</td>
</tr>
<tr>
<td>No unacceptable amenity impacts to neighbours.</td>
<td>The proposal was referred to the adjoining neighbours and no objections were received. The modification is not considered to result in an adverse impact upon adjoining landowners.</td>
<td>Yes</td>
</tr>
<tr>
<td>The variation is a minor increase in the size of the approved Building Envelope. An increase up to a maximum of 10% of the area of the original approved Building Envelope will be considered.</td>
<td>The size of the original Building Envelope will be increased from 740m² to 751.2m², which is an increase of 1.5% and less than the permitted 10% increase in size.</td>
<td>Yes</td>
</tr>
<tr>
<td>Building Envelopes are to be of a regular shape and comprise one single contiguous area.</td>
<td>The Building Envelope is generally of a regular shape and will comprise a single contiguous area.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)**

The purpose of the proposed Building Envelope modification is for the future extension of the existing shed and to accommodate a future swimming pool to the rear of the existing Single House.

The adjoining western property (7 Boothman Mews), abutting verge areas and subject lot are all considered to be managed to a low-threat vegetation state in accordance with AS3959 and therefore will not cause of bushfire risk to the proposal. It is noted that the rear lot boundary setback is being reduced from 6.4m to 2.6m and there is classified scrubland vegetation on this adjoining lot boundary property (2 Lipscombe Close). The reduction in lot boundary setbacks will not increase or intensify the bushfire risk in this direction. Therefore, the proposal is considered to be compliant with the requirements of SPP 3.7.
e. Financial
Nil

f. Legal and Statutory
Schedule No.5 of TPS2 provides that the size and location of an approved Building Envelope may be varied with the approval of Council.

g. Risk
All Council decisions are subject to risk assessment according to the City’s Risk Framework.
Implications and comment will only be provided for the following assessed risks.
  Customer Service / Project management / Environment: High and Extreme Risks
  Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments
The proposed Building Envelope complies with TPS2 and PP3.3.17. The impact of the proposed Building Envelope on the amenity of neighbouring properties is considered minimal given no vegetation is required to be removed, the proposal will not result in an increased level of bushfire risk and no objections were received from adjoining owners. The proposed Building Envelope will not result in an adverse environmental impact or an increased bushfire risk.

It is recommended that the proposed Building Envelope be approved.

Voting Requirements
Simple Majority

Officer Recommendation
That Council APPROVES the application to vary the Building Envelope at Lot 117 (No.3) Boothman Mews, Golden Bay.

Committee Recommendation
Moved Cr Whitfield, seconded Cr Hamblin:
That Council APPROVES the application to vary the Building Envelope at Lot 117 (No.3) Boothman Mews, Golden Bay.

Committee Voting – 5/0

The Committee’s Reason for Varying the Officer’s Recommendation
Not Applicable

Implications of the Changes to the Officer’s Recommendation
Not Applicable
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PDS-015/17 Home Business - Massage Therapy</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>DD020.2017.00000064.001</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Mr Travis and Mrs Tanya Hawley</td>
</tr>
<tr>
<td>Owner:</td>
<td>Mr Travis and Mrs Tanya Hawley</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw, Senior Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>18 April 2017</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td></td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site:</th>
<th>Lot 1613 (No.99) Karri Street, Karnup</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area:</td>
<td>2ha</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Special Rural</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Rural</td>
</tr>
<tr>
<td>Attachments:</td>
<td></td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
</tr>
</tbody>
</table>

1. Location Plan
2. Aerial Photo
3. Site Plan
4. Access Arrangement
5. Access Arrangement Aerial
6. Consultation Plan
CONFIRMED AT A PLANNING AND ENGINEERING SERVICES MEETING HELD ON MONDAY 15 MAY 2017

PRESIDING MEMBER
**Purpose of Report**

To consider an application seeking Development Approval for a proposed Home Business (Massage Therapy) at Lot 1613 (No.99) Karri Street, Karnup.

**Background**

Nil

**Details**

The applicant seeks Development Approval to operate a Home Business (Massage Therapy). The Home Business is proposed to operate in the following manner:

- Provide massage therapy services from a proposed purpose built outbuilding (transportable);
- The transportable will be setback 55m from the southern boundary and 27m from the eastern boundary;
- The outbuilding will be 9.5m long by 6m wide (57m²) and 2.5m high, and will contain a waiting area, office, massage room, storage room and ablution facilities;
- The proposed hours of operation are 9:00am to 6:00pm, Mondays to Thursdays, 9:00am to 5:00pm on Fridays, 10:00am to 2:00pm on Saturdays and not at all on Sundays;
- A 400mm x 500mm advertising sign is proposed at the intersection of Karri Street and the driveway; and
- A maximum of five clients per day are proposed, with a maximum of one client attending the premises at any one time.

![Site Plan](image1)

3. Site Plan
The property currently has a reciprocal access arrangement with Lot 1614 via a 5m wide driveway which is constructed on the access leg to Lot 1614.
Implications to Consider

a. Consultation with the Community

In accordance with clause 64 of the deemed provisions of Town Planning Scheme No.2 (TPS2) and Planning Policy 3.3.10 - Home Occupations and Home Businesses, the application was referred to nearby and adjacent landowners for comment for a period of 17 days, concluding on 17 March 2017, as shown on the Consultation Plan below.
6. Consultation Plan

At the conclusion of the advertising period, one submission was received objecting to the proposal in terms of access to the site. This matter has been discussed further below:

**Traffic Volume**

**Submission:**
(i) Concerns with the additional maintenance required to the driveway as a result of the additional vehicles movements using the driveway as a result of the proposal.

**City's Comment:**
The applicant intends to construct a separate driveway on Lot 1613 for use of clients to access the property to address this concern. The maintenance and upkeep of the entirety of the driveway is the responsibility of both landowners regardless of the proposed development as it is burdened by an easement for reciprocal rights of access.

**Vehicle Sight Lines**

**Submission:**
(i) Concern that visibility access and egressing the driveway on Karri Street is poor, which, combined with the 80km/hr speed limit on Karri Street will result in accidents.

**City's Comment:**
The existing crossover to the site is to the access leg of Lot 1614. The crossover to the new driveway on the Lot 1613 access leg will need to be constructed. A maximum of five clients per day during the 8 hours the business is operating is equivalent to less than one client per hour. The volume of traffic associated with the business on the applicant's proposed driveway is considered sufficient to cater for the anticipated demand in traffic.

**Liability**

**Submission:**
(i) Concern that any vehicle accidents, injury or damage to property or persons occurring on the shared driveway would result in liability issues between owners.
b. Consultation with Government Agencies
Not Applicable

c. Strategic
Community Plan
This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2015-2025:

Aspiration D: Sustainable Environment

Strategic Objective: Land Use and Development Control - Planning for population growth and guiding development and land use to ensure that future generations enjoy a sustainable city and a genuinely desirable lifestyle.

d. Policy
State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)
In further assessment of the proposal, the City has identified that further assessment of bushfire risk is required before approval of the application can be granted.

SPP 3.7 seeks to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

The site has been designated bushfire prone under the Fire and Emergency Services Act 1998 (as amended) and therefore the requirements of SPP3.7 are applicable. These requirements are triggered given the proposed development constitutes an intensification of an existing land use within a Bushfire Prone Area, by virtue of the operation of a business from the premises.

The objectives of SPP3.7 are to:

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

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

Ensure that higher order strategic planning documents, strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.

Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change.”

The applicant has submitted a Bushfire Attack Level Assessment and an Assessment against the four Bushfire Criteria which has been deemed acceptable.

Guidelines for Planning in Bushfire Prone Areas (GfPBPA)
The GfPBPA provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP3.7. The application has been assessed against the four elements of the GfPBPA where it was found to be compliant. Conditions of Development Approval pertaining to the construction and maintenance of the driveway, construction to BAL-19 standards, water for firefighting purposes and an asset protection zone are recommended should the application be approved.
Planning Policy 3.1.1 - Rural Land Strategy (PP3.1.1)
The City’s PP3.1.1 provides the basis for land use planning in the rural area of the district. In particular, it provides Council with a planning framework for its assessment of proposals to rezone, subdivide, manage and develop rural land in the City.
The subject site is within Planning Unit No.2 of the City’s Rural Land Strategy (RLS).
The primary objective for this Planning Unit is to ensure that Special Rural development is compatible with the physical characteristics of the Spearwood Dune System and that subdivision/development maintains options for subsequent closer subdivision.
The proposed development is compliant with PP3.3.1 as it is consistent with the rural character of the area and will not compromise the ability of the site to be further subdivided or developed in the future.

Planning Policy 3.3.10 - Home Occupations and Home Businesses (PP3.3.10)
Planning Policy 3.3.10 - Home Occupations and Home Businesses (the Policy) sets out policy objectives and provisions which the Council must have regard to in the assessment and determination of applications for planning approval for Home Occupations and Home Businesses. The objectives of this Planning Policy are as follows:

“(a) To promote the orderly and proper development of land by making suitable provisions to guide applicants who wish to operate a Home Occupation or a Home Business from a dwelling;

(b) To secure the amenity, health and convenience of the neighbourhood through appropriate development requirements; and

(c) To provide for economic growth and employment opportunities by facilitating the development of home based businesses.”

The following is an assessment of the proposed development against the requirements of PP3.3.10:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Comment</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>The operation does not adversely affect the amenity of the neighbourhood.</td>
<td>Given the low anticipated client numbers and the nature of the operation, the amenity of the area is not likely to be compromised.</td>
<td>Yes</td>
</tr>
<tr>
<td>The operation does not include the retail sale, display or hire of goods (unless the retail of goods are ordered by customers via telephone or internet sales that are dispatched via post.)</td>
<td>No retail sale or hire of goods are proposed.</td>
<td>Yes</td>
</tr>
<tr>
<td>The operation does not involve provision for the fuelling, repair of maintenance of motor vehicles</td>
<td>No fuelling or repairs of motor vehicles is proposed.</td>
<td>Yes</td>
</tr>
<tr>
<td>The operation only operates between the following hours:</td>
<td>The proposed hours of operation are</td>
<td>(a) No</td>
</tr>
<tr>
<td>(a) 9:00am and 5:00pm on Mondays, Tuesdays, Wednesdays, Fridays and Saturdays;</td>
<td>(a) 9:00am - 6:00pm on Mondays to Thursdays, 9:00am to 5:00pm on Fridays;</td>
<td></td>
</tr>
<tr>
<td>(b) 9:00am and 7:00pm on Thursdays; and</td>
<td>(b) 10:00am to 2:00pm on Saturdays; and</td>
<td>(b) Yes</td>
</tr>
<tr>
<td>(c) not at all on Sundays and Public Holidays</td>
<td>(c) not at all on Sundays</td>
<td>(c) Yes</td>
</tr>
</tbody>
</table>
The additional hour of operation on Mondays to Wednesdays to 6:00pm is inconsistent with this requirement of PP3.3.10. A condition of development approval restricting operating hours in accordance with the requirements of PP3.3.10 is recommended.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Comment</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliveries of goods and equipment are not carried out at daily intervals.</td>
<td>No deliveries to the premises are proposed.</td>
<td>Yes</td>
</tr>
<tr>
<td>The Home Business does not employ more than 2 people not members of the occupier’s household.</td>
<td>The owner will be the sole operator of the business.</td>
<td>Yes</td>
</tr>
<tr>
<td>The Home Business does not occupy an area greater than 50m².</td>
<td>Whilst the transportable has a total area of 57m², the applicant has advised that a 7m² can be used for storage associated with the dwelling, and therefore the maximum area used for the Home Business will not exceed 50m².</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposal generally complies with the requirements of PP3.3.10, with the exception of operating hours. A condition of Development Approval restricting operating hours is recommended in compliance with PP3.3.10.

e. **Financial**

Nil

f. **Legal and Statutory**

**Town Planning Scheme No.2 (TPS2)**

Clause 3.2 - Zoning

A ‘Home Business’ is a use that is not permitted (‘A’) in the Special Rural Zone unless the Council has exercised its discretion by granting development approval after giving special notice in accordance with Clause 64 of the deemed provisions of TPS2.

TPS2 defines a Home Business as follows:

*means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:

(a) does not employ more than 2 people not members of the occupier’s household;

(b) will not cause injury to or adversely affect the amenity of the neighbourhood;

(c) does not occupy an area greater than 50 square metres;

(d) does not involve the retail sale, display or hire of goods of any nature;

(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and

(f) does not involve the use of an essential service of greater capacity than normally required in the zone.
Clause 4.12.1 - Special Rural Zone Objectives

The objectives of the Special Rural zone are as follows:

(a) To identify areas within which co-ordinated subdivision can occur for the purposes of providing a rural lifestyle that is not associated with large scale, intensive rural activities, whilst also allowing for the effective management of the land to ensure the retention of the rural landscape and amenity and conserve and enhance the natural environment.

(b) To ensure that all development within Special Rural zones is in accordance with the Provisions Relating to Specified Areas as set out in Schedule No.4 of the Scheme that has due regard to the objectives and principles outlined in the Rural Land Strategy and supported by any other Plan or Policy that the Council may adopt from time to time as a guide to future development within the Zone.

The proposed development is considered to comply with the objectives of the Special Rural zone, as the proposed development does not result in the loss of natural vegetation and is not considered to compromise the amenity of the Special Rural locality. The following is an assessment of the proposed development against the relevant provisions of Schedule No.4 of TPS2.

<table>
<thead>
<tr>
<th>Provision</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The following uses are not permitted, unless the Council, at its discretion, permit the use after notice of application has been given in accordance with Clause 6.3 (‘A’): (ii) Home Business</td>
<td>The application has been advertised in accordance with clause 64 of the deemed provisions of TPS2 as discussed in the Consultation section of this report.</td>
<td>Yes</td>
</tr>
<tr>
<td>8. Where no building envelopes are required, all development, including the clearing of land, (except for firebreaks), shall comply with the following setbacks unless otherwise specified by the Council: (a) 30 metres from other subdivisional roads (primary setback); and (b) 10 metres from all other boundaries.</td>
<td>The proposed development is setback 14m from the northern boundary, 39m from the eastern boundary and 51m from the southern boundary.</td>
<td>Yes</td>
</tr>
<tr>
<td>12. Stormwater drainage shall be contained on-site to the satisfaction and specifications of the Council.</td>
<td>All stormwater is proposed to be contained and disposed of on-site.</td>
<td>Yes</td>
</tr>
<tr>
<td>13. With the intention of preserving the existing natural vegetation and mature trees and preventing land use practices detrimental to the amenity of the locality, the approval of the Council is required for the use and development of land.</td>
<td>This application constitutes an application for Development Approval. No vegetation is proposed to be removed.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
The Council will have regard to limits on stocking, the limited groundwater resources, tree and vegetation preservation and the effects on the environment of the locality and residents of the estate when considering the application and may, should approval be granted, impose any conditions as practical and may modify or vary such conditions to take account of seasonal changes.

<table>
<thead>
<tr>
<th>Provision</th>
<th>Provided</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>18. All buildings and outbuildings are to be sympathetic in design,</td>
<td>The transportable is creamed coloured colorbond which is sympathetic with</td>
<td>Yes</td>
</tr>
<tr>
<td>materials and colour to compliment surrounding landscape elements and be</td>
<td>the colour and materials of other buildings on site.</td>
<td></td>
</tr>
<tr>
<td>sited away from focal points and located where screening vegetation or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>landform can be utilised.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The proposal is considered to comply with the requirements of TPS2.

g. Risk

All Council decisions are subject to risk assessment according to the City’s Risk Framework. Implications and comment will only be provided for the following assessed risks.

- Customer Service / Project management / Environment: High and Extreme Risks
- Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

The submission objecting to¹ the proposal is on the basis of anticipated traffic impacts. These matters can be adequately addressed via the construction of the unconstructed portion of driveway for the use of clients attending the premises. This will ensure client traffic occurs on the new driveway on Lot 1613 (applicant’s lot) only. The submissioners (Lot 1614) accessway will not be used by clients, which avoids any traffic impacts. With the exception of hours of operation, which can be limited via a condition of Development Approval, the proposed development is compliant with the requirements of TPS2 and Policy.

Voting Requirements

Simple Majority

Officer Recommendation

That Council APPROVES the application for the Home Business (Massage Therapy) at Lot 1613 (No.99) Karri Street, Karnup, subject to the following conditions:

---

¹ Correction to typographical error
1. Clients must not be permitted to attend the premises except by appointment and, with an interval of at least 15 minutes between clients.

2. No more than two people are to be employed in connection with the Home Business if they are not members of the occupier's household at any time.

3. The retail display, sale or hire of goods directly to customers is not permitted on-site.

4. The Home Business must only be operated from a floor space of 50m$^2$ within the transportable, with the balance area of 7m$^2$ used as storage for the house.

5. A maximum of one advertising sign is permitted. The advertising sign must not exceed 0.2 square metres in area.

6. The Home Business must only operate between the hours of 9:00am and 5:00pm, Monday, Tuesday, Wednesday, Friday and Saturday and between the hours of 9:00am and 7:00pm on Thursday and not at all on any Sundays or public holidays.

7. Acupuncture and Skin Penetration/Beauty Procedures are not to be undertaken without separate approval from the City's Health Services.

8. Prior to the occupation of the development, the driveway and crossover must be constructed in the location marked in RED on the approved site plan, in accordance with the following requirements:
   (a) minimum trafficable surface of 4 metres;
   (b) minimum horizontal clearance of 6 metres;
   (c) minimum vertical clearance of 4.5 metres;
   (d) maximum grade over 50 metres or less of 1 in 10;
   (e) minimum weight capacity of 15 tonnes;
   (f) maximum crossfall of 1 in 33; and
   (g) all weather surface (i.e. compacted gravel, limestone or sealed).

   The driveway must be maintained in accordance with these requirements and in a good and safe condition for the duration of the development.

9. Prior to occupation of the development, a water tank with a minimum capacity of 10,000 litres, reserved solely for the purpose of fire fighting, must be installed on-site. The tank must:
   (a) be sited above ground and constructed of concrete or metal;
   (b) be located within 60 metres of the outer edge of the development;
   (c) be fitted with both a 55mm cam-lock fitting with a full-flow valve and a 125mm Storz coupling with a full-flow valve;
   (d) have all above ground water pipes constructed of non-corrodible and non-combustible materials;
   (e) have a hardstand turn around area, suitable for a 3.4 Urban Tanker fire appliance, provided within 3 metres of the water tank; and
   (f) be readily identifiable from the building or appropriate signage be provided pointing to the location of the water supply.

   If the water tank has a tank stand, that stand must be constructed of non-combustible materials and heat shielding of the stand must be provided.

   The water tank must be maintained in accordance with these requirements and be in working condition for the duration of the development.

10. The development must be designed, constructed and maintained to BAL19 as specified in Australian Standard AS3959-2009: Construction of Buildings in Bushfire-Prone Areas (AS3959).

    Prior to the occupation of the development, amended plans must be submitted to the City of Rockingham demonstrating the building has been designed to the required BAL as specified in AS3959. The building must be maintained in accordance with the specified requirements of the BAL for the duration of the development.
11. Prior to occupation of the development, the Asset Protection Zone (APZ), as depicted on Page 2 of the Bushfire Attack Level Assessment prepared by WABAL, dated 17.03.2017, must be installed on the site in accordance with the following requirements:

(a) maximum Fine Fuel Load of 2 tonnes per hectare;
(b) tree crowns must be a minimum of 10 metres apart, not located within 2 metres of a building or overhanging a building, with no dead material being within the tree crowns or on the boles;
(c) shrubs must not be located within 2 metres of a building;
(d) fences and sheds must be constructed of non-combustible material; and
(e) sheds must not contain flammable materials.

The APZ must be maintained in accordance with these requirements and in a good and safe condition for the duration of the development.

Footnotes:

(i) The existing effluent disposal system servicing the dwelling and transportable may need to be upgraded or a separate system installed; the applicant and owner should liaise with the City's Health Services in this regard.

(ii) In respect to Condition No.9, the City acknowledges the existing water tanks on-site which may be modified in accordance with the requirements of Condition No.9 to fulfil the requirements of this condition.

**Committee Recommendation**

Moved Cr Whitfield, seconded Cr Sammels:

That Council APPROVES the application for the Home Business (Massage Therapy) at Lot 1613 (No.99) Karri Street, Karnup, subject to the following conditions:

1. Clients must not be permitted to attend the premises except by appointment and, with an interval of at least 15 minutes between clients.
2. No more than two people are to be employed in connection with the Home Business if they are not members of the occupier's household at any time.
3. The retail display, sale or hire of goods directly to customers is not permitted on-site.
4. The Home Business must only be operated from a floor space of 50m² within the transportable, with the balance area of 7m² used as storage for the house.
5. A maximum of one advertising sign is permitted. The advertising sign must not exceed 0.2 square metres in area.
6. The Home Business must only operate between the hours of 9:00am and 5:00pm, Monday, Tuesday, Wednesday, Friday and Saturday and between the hours of 9:00am and 7:00pm on Thursday and not at all on any Sundays or public holidays.
7. Acupuncture and Skin Penetration/Beauty Procedures are not to be undertaken without separate approval from the City's Health Services.
8. Prior to the occupation of the development, the driveway and crossover must be constructed in the location marked in RED on the approved site plan, in accordance with the following requirements:

(a) minimum trafficable surface of 4 metres;
(b) minimum horizontal clearance of 6 metres;
(c) minimum vertical clearance of 4.5 metres;
(d) maximum grade over 50 metres or less of 1 in 10;
(e) minimum weight capacity of 15 tonnes;
(f) maximum crossfall of 1 in 33; and
(g) all weather surface (i.e. compacted gravel, limestone or sealed).

The driveway must be maintained in accordance with these requirements and in a good and safe condition for the duration of the development.
9. Prior to occupation of the development, a water tank with a minimum capacity of 10,000 litres, reserved solely for the purpose of fire fighting, must be installed on-site. The tank must:
   (a) be sited above ground and constructed of concrete or metal;
   (b) be located within 60 metres of the outer edge of the development;
   (c) be fitted with both a 55mm cam-lock fitting with a full-flow valve and a 125mm Storz coupling with a full-flow valve;
   (d) have all above ground water pipes constructed of non-corrodible and non-combustible materials;
   (e) have a hardstand turn around area, suitable for a 3.4 Urban Tanker fire appliance, provided within 3 metres of the water tank; and
   (f) be readily identifiable from the building or appropriate signage be provided pointing to the location of the water supply.

If the water tank has a tank stand, that stand must be constructed of non-combustible materials and heat shielding of the stand must be provided.

The water tank must be maintained in accordance with these requirements and be in working condition for the duration of the development.

10. The development must be designed, constructed and maintained to BAL19 as specified in Australian Standard AS3959-2009: Construction of Buildings in Bushfire-Prone Areas (AS3959).

Prior to the occupation of the development, amended plans must be submitted to the City of Rockingham demonstrating the building has been designed to the required BAL as specified in AS3959. The building must be maintained in accordance with the specified requirements of the BAL for the duration of the development.

11. Prior to occupation of the development, the Asset Protection Zone (APZ), as depicted on Page 2 of the Bushfire Attack Level Assessment prepared by WABAL, dated 17.03.2017, must be installed on the site in accordance with the following requirements:
   (a) maximum Fine Fuel Load of 2 tonnes per hectare;
   (b) tree crowns must be a minimum of 10 metres apart, not located within 2 metres of a building or overhanging a building, with no dead material being within the tree crowns or on the boles;
   (c) shrubs must not be located within 2 metres of a building;
   (d) fences and sheds must be constructed of non-combustible material; and
   (e) sheds must not contain flammable materials.

The APZ must be maintained in accordance with these requirements and in a good and safe condition for the duration of the development.

Footnotes:
(i) The existing effluent disposal system servicing the dwelling and transportable may need to be upgraded or a separate system installed; the applicant and owner should liaise with the City's Health Services in this regard.
(ii) In respect to Condition No.9, the City acknowledges the existing water tanks on-site which may be modified in accordance with the requirements of Condition No.9 to fulfil the requirements of this condition.

Committee Voting – 5/0

The Committee’s Reason for Varying the Officer’s Recommendation
Not Applicable

Implications of the Changes to the Officer’s Recommendation
Not Applicable
<table>
<thead>
<tr>
<th></th>
<th>Reports of Councillors</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Addendum Agenda</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>
15. **Motions of which Previous Notice has been given**

**Planning and Development Services**

<table>
<thead>
<tr>
<th>Planning and Development Services</th>
<th>Strategic Planning and Environment Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reference No &amp; Subject:</td>
<td>PDS-016/17 Notice of Motion - Ban on Hydraulic Fracturing within the Perth Metropolitan, Peel and South West Regions</td>
</tr>
<tr>
<td>File No:</td>
<td>EVM/94</td>
</tr>
<tr>
<td>Applicant:</td>
<td></td>
</tr>
<tr>
<td>Owner:</td>
<td></td>
</tr>
<tr>
<td>Author:</td>
<td>Ms Kim Byrnes, Environmental Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Ms Natalie Elliott, Coordinator Sustainability and Environment</td>
</tr>
<tr>
<td></td>
<td>Mr Brett Ashby, Manager Strategic Planning and Environment</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>18 April 2017</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>
</tr>
<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></td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
</tr>
</tbody>
</table>

**Purpose of Report**

To provide Officer comment and advice on Cr Leigh Liley’s Notice of Motion, regarding a ban on hydraulic fracturing, commonly referred to as ‘fracking’.

**Background**

Cr Liley submitted the following motion for consideration at the April 2017 Council meeting:

“That Council **Supports** the ban of fracking within the Perth metropolitan, Peel and South West regions, as proposed by WA Labor State Government position.”
Hydraulic fracturing is the process of injecting a high pressure mix of water, sand and chemicals into underground rock formations, in order to stimulate and release oil and gas resources.

In October 2016, WA Labor Leader Mark McGowan announced his party’s position to ban fracking in the Perth metropolitan, Peel and South West regions, noting that:

“Because of the unique natural environment, high population density, land use patterns and deep aquifers in these regions, fracking presents an unacceptable risk to farming, tourism and the South West’s unique biodiversity.”

Both the State and Commonwealth Governments are responsible for the regulation of natural gas exploration and production, guided by various legislation including the Petroleum and Geothermal Energy Resources Act 1967 (State), Petroleum Pipelines Act 1969 (State), Environmental Protection Act 1986 (State), National Greenhouse and Energy Reporting Act 2007 (Commonwealth) and the Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth).

The Department of Mines and Petroleum is the lead agency in Western Australia. Other State Departments include Agriculture and Food, Environment Regulation, Health, Parks and Wildlife, State Development and Water which are responsible for upholding the State’s values to protect public health, the environment, water resources and equitable land use.

At a Federal level, the Department of Environment and Energy, Clean Energy Regulator and National Native Title Tribunal are also involved in the assessment and regulation of the onshore oil and gas industry.

Collectively, these agencies assess potential environmental impacts for hydraulic fracturing proposals, relating to:

- hydrological processes;
- water quality;
- terrestrial environmental quality;
- air quality;
- human health; and
- rehabilitation and closure.

Any proposals which could potentially have a significant impact on the environment must also be referred to the Environmental Protection Authority (EPA) for independent assessment. Consistent with EPA Bulletin No.22 Hydraulic fracturing for onshore natural gas from shale and tight rocks, proponents are required to undertake an Environmental Impact Assessment and submit an Environment Management Plan, Safety Management System and public disclosure of all chemicals used for all well operations, for review by the EPA.

**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 and Strategic Objective contained in the Community Plan 2015-2025:

   **Aspiration D:** Sustainable Environment
   
   **Strategic Objective:** Land Use and Development Control - Planning for population growth and guiding development and land use to ensure that future generations enjoy a sustainable city and genuinely desirable lifestyle.
d. Policy
Nil

e. Financial
Should Council seek to prepare a discussion paper to establish a position, the cost of engaging a suitably qualified external consultant, given the City does not have in-house expertise relating to hydraulic fracturing, is estimated at $20,000 - $30,000.

f. Legal and Statutory
Council has no jurisdiction or statutory role in the determination of hydraulic fracturing proposals. The EPA may request that the City provide comment on associated Environmental Impact Assessments, however, any such assessment would be considered on its merit and would not be influenced by a Council position to support a ban on hydraulic fracturing.

g. Risk
All Council decisions are subject to risk assessment according to the City’s Risk Framework.

Implications and comment will only be provided for the following assessed risks:
- Customer Service / Project management / Environment: High and Extreme Risks
- Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments
As outlined above, there is an existing statutory framework in place to guide relevant State and Federal government departments in the assessment of any proposal, on a case by case basis.

The City does not have any in-house expertise relating to hydraulic fracturing and other natural resource exploration techniques and is unable to make a qualified assessment or recommendation without engaging a suitably qualified external consultant to critically evaluate proposed actions and determine potential impacts.

Further, given the risks associated with any proposal will vary according to the particular site and proposal characteristics, it is difficult to support a blanket prohibition of fracking activities.

Any assessment would need to be site specific to enable a comprehensive review of the associated risks relative to the surrounding environment.

On this basis, the Notice of Motion is not supported.

Voting Requirements
Simple Majority

Officer Recommendation
That Cr Leigh Liley’s Notice of Motion not be supported.

Notice of Motion from Cr Leigh Liley
That Council SUPPORTS the ban of fracking within the Perth metropolitan, Peel and South-West regions, as proposed by WA Labor State Government position.

Committee Recommendation
Moved Cr Whitfield, seconded Cr Sammels:
That Cr Leigh Liley’s Notice of Motion not be supported.

Committee Voting – 3/2
(Crs Summers and Hamblin voted against)
<table>
<thead>
<tr>
<th><strong>The Committee’s Reason for Varying the Officer's Recommendation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Implications of the Changes to the Officer’s Recommendation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Applicable</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>16.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Urgent Business Approved by the Person Presiding or by Decision of the Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.</td>
<td>Nil</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Matters Behind Closed Doors</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.</td>
<td>Nil</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Date and Time of Next Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.</td>
<td>The next Planning and Engineering Services Committee Meeting will be held on Monday 15 May 2017 in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Closure</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.</td>
<td>There being no further business, the Chairperson thanked those persons present for attending the Planning and Engineering Services Committee meeting, and declared the meeting closed at 4.45pm.</td>
</tr>
</tbody>
</table>