## Planning Services Committee Meeting Minutes
**Monday 20 February 2012**

### CONTENTS

| 1. | Declaration of Opening | 4 |
| 2. | Record of Attendance/Apologies/Approved Leave of Absence | 4 |
| 3. | Responses to Previous Public Questions Taken on Notice | 4 |
| 4. | Public Question Time | 4 |
| 5. | Confirmation of Minutes of the Previous Meeting | 5 |
| 6. | Matters Arising from the Previous Minutes | 5 |
| 7. | Announcement by the Presiding Person without Discussion | 5 |
| 8. | Declaration of Member’s and Officer’s Interest | 5 |
| 9. | Petitions/Deputations/Presentations/Submissions | 5 |
| 10. | Matters for which the Meeting may be Closed | 5 |
| 11. | Bulletin Items | 6 |
| 12. | Agenda Items – Planning Services Committee | 6 |

#### Building Services

- **BS-001/12** Building Act 2011: Fee Structure for Provision of Certificates, Permits Information and Service Rendered
- **BS-002/12** Proposed Scheme Amendment – ‘Rural’ to ’Development’ Zone

#### Strategic Planning and Environment

- **SPE-001/12** Proposed Amendment to Planning Procedure 1.1 – Delegated Authority
- **SPE-002/12** Visual Landscape Evaluation - Singleton, Golden Bay and Secret Harbour

#### Statutory Planning

- **SP-001/12** Proposed Road Closure - Final Approval
- **SP-002/12** Proposed Road Closures - Final Approval
- **SP-003/12** Proposed Building Envelope Variation - Golden Bay
- **SP-004/12** Proposed Building Envelope Variation - Golden Bay
- **SP-005/12** Proposed Home Occupation - Dog Grooming
- **SP-006/12** Proposed Motor Cycle Detailing and Storage and Party Promotions Showroom
- **SP-007/12** Proposed Closure of Pedestrian Access Way - Radford Place and Waimea Road
- **SP-008/12** Proposed Scheme Amendment - ‘Rural’ to ’Development’ Zone
- **SP-010/12** Planning Procedure 1.12 – Development Compliance
- **SP-011/12** Proposed Amendments to Planning Policy 3.1.7 - *Heritage Conservation and Development Policy*
<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>13.</td>
<td>Reports of Councillors</td>
</tr>
<tr>
<td>14.</td>
<td>Addendum Agenda</td>
</tr>
<tr>
<td>15.</td>
<td>Motions of which Previous Notice has been given</td>
</tr>
<tr>
<td>16.</td>
<td>Notices of Motion for Consideration at the Following Meeting</td>
</tr>
<tr>
<td>17.</td>
<td>Urgent Business Approved by the Person Presiding or by Decision of the Committee</td>
</tr>
<tr>
<td>18.</td>
<td>Matters Behind Closed Doors</td>
</tr>
<tr>
<td>19.</td>
<td>Agenda Items – Planning Services Committee</td>
</tr>
<tr>
<td>20.</td>
<td>Date and Time of Next Meeting</td>
</tr>
<tr>
<td>21.</td>
<td>Closure</td>
</tr>
</tbody>
</table>

**Statutory Planning**

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<thead>
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<tbody>
<tr>
<td>SP-009/12</td>
<td>Proposed Scheme Amendment 112 - Change to Additional Use 22 - The Spud Shed</td>
</tr>
<tr>
<td><strong>Date and Time of Next Meeting</strong></td>
<td>153</td>
</tr>
<tr>
<td><strong>Closure</strong></td>
<td>153</td>
</tr>
</tbody>
</table>
City of Rockingham
Planning Services Committee Meeting Minutes
Monday 20 February 2012 - Council Boardroom

1. Declaration of Opening

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

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

<table>
<thead>
<tr>
<th>2.1 Councillors</th>
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<tbody>
<tr>
<td>Cr Richard Smith</td>
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<td>Cr Chris Elliott</td>
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<tr>
<td>Cr Leigh Liley</td>
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<td>Cr Allan Hill</td>
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<td>Chairperson</td>
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<th>2.2 Executive</th>
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<tr>
<td>Mr John Pearson</td>
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<td>Mr Robert Jeans</td>
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<td>Mr Jeff Bradbury</td>
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<td>Mr Richard Rodgers</td>
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<td>Mr Mike Ross</td>
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<td>Mr Rod Fielding</td>
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<td>Mr Peter Ricci</td>
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<tr>
<td>Ms Sharon Peacock</td>
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<td>Ms Julia Dick</td>
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<tr>
<td>A/Chief Executive Officer</td>
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<tr>
<td>Director Planning and Development Services</td>
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<td>A/Manager Strategic Planning and Environment</td>
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<td>Manager Building Services</td>
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<td>Manager Statutory Planning</td>
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<td>Manager Health Services</td>
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<td>Project Manager Keralup</td>
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<td>Senior Planning Administration Officer</td>
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<td>Health and Wellbeing Coordinator</td>
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| Members of the Public: | 4 |
| Press: | 2 |

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<th>2.3 Apologies:</th>
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<tr>
<td>Mr Andrew Hammond, Chief Executive Officer</td>
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</table>

| 2.4 Approved Leave of Absence: | Nil |

3. Responses to Previous Public Questions Taken on Notice

Nil

4. Public Question Time

Nil
5. **Confirmation of Minutes of the Previous Planning Services Committee Meeting**

**Moved Cr Hill, seconded Cr Elliott:**

That Council **CONFIRM** the Minutes of the Planning Services Standing Committee Meeting held on 5 December 2011, subject to the following amendment to Item SPE-035/11 Proposed Structure Plan - Golden Plan (Adoption), Proposed Modification to Planning Policy 6.3 - Local Commercial Strategy (Adoption), Proposed Foreshore Management Plan (Adoption):

Committee Recommendation Point 4:

4. **SUPPORT** the Foreshore Management Plan submitted pursuant to the requirements of the 1993 Ministerial Statement 297 issued by the Minister of Environment.

as a true and accurate record.

Committee Voting – 4/0

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

Nil.

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

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

8. **Declarations of Members and Officers Interests**

8.1 Item SP-007/12 Proposed Closure of Pedestrian Access Way - Radford Place and Waimea Road

Councillor/Officer: Mr Mike Ross, Manager Statutory Planning

Type of Interest: Impartiality Interest

Nature of Interest: Mr Blood is a former work colleague and friend

Extent of Interest (if applicable): Impartiality via Association

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

9.1 4.35pm Mr Ben Doyle, Planning Solutions attended the Planning Services Standing Committee Meeting to give a deputation on SP-009/12 Proposed Scheme Amendment 112 - Change to Additional Use 22 - The Spud Shed

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

Nil
# 11. Bulletin Items

**Planning Services Information Bulletin – February 2012**

### Health Services

1. Health Services Team Overview
2. Human Resource Update
3. Project Status Reports
   - 3.1 FoodSafe
   - 3.2 Industrial and Commercial Waste Monitoring
   - 3.3 Community Health & Wellbeing Plan
   - 3.4 Health Promotion
   - 3.5 North Rockingham Industrial Noise
   - 3.6 Ocean Water Sampling
4. Information Items
   - 4.1 Mosquito-Borne Disease Notifications
   - 4.2 Food Recalls
   - 4.3 Food Premises Inspections
   - 4.4 Public Building Inspections
   - 4.5 Outdoor Public Event Approvals - December 2011 and January 2012
   - 4.6 After Hours Noise and Smoke Nuisance Complaint Service
   - 4.7 Complaint - Information
   - 4.8 Building Plan Assessments
   - 4.9 Septic Tank Applications
   - 4.10 Demolitions
   - 4.11 Swimming Pool Samples
   - 4.12 Rabbit Processing
   - 4.13 Hairdressing and Skin Penetration Premises
   - 4.14 Family Day Care
   - 4.15 Prosecution - Eastwest Cuisine
   - 4.16 Prosecution - McDonalds Warnbro
   - 4.17 Prosecution - McDonalds Rockingham
   - 4.18 Healthy Communities Initiative

### Building Services

1. Building Services Team Overview
2. Human Resource Update
3. Project Status Reports
4. Legislation Update
   - 4.1 Private Swimming Pool and Spa Inspection Program
   - 4.2 Monthly Building Licence Approvals – (All Building Types)
   - 4.3 Certificates of Classification
   - 4.4 Demolition Licence
   - 4.5 Provisional Approval
4.6 Community Sign Approvals
4.7 Permanent Sign Licence
4.8 Building Approval Certificates for Unauthorised Building Works
4.9 Strata Title Certificates
4.10 Electric Fence Approvals
4.11 Monthly Caravan Park Site Approvals

**Strategic Planning and Environment**

1. Strategic Planning and Environment Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Policy Manual Review (LUP/1265)
   3.2 Local Planning Strategy (LUP/1352)
   3.3 Visual Landscape Study (LUP/1419)
   3.4 Dixon Road Area Assistance Grant (LUP/516)
   3.5 Amendment No.114 - Developer Contribution Plan No.2 (LUP/909)
   3.6 Local Biodiversity Strategy Review (EVM/22)
   3.7 Karnup District Water Management Strategy (EVM/136)
   3.8 Lake Richmond Water Quality Studies and Integrated Catchment Management Plan (EVM/135)
   3.9 Water Campaign (EVM/56-02)
4. Information Items
   4.1 Response to Terranovis representing landowners in Karnup seeking the City's response for the preparation of the Karnup District Structure Plan (LUP/1546)
   4.2 Submission on Draft Public Open Space Classification Framework (LUP/348)
   4.3 Proposed Structure Plan & Lifting of Urban Deferment – Lot 19 Sixty Eight Road, Baldivis (LUP/1542)
   4.4 East Rockingham Wastewater Treatment Plant (LUP/1399)
   4.5 City of Rockingham Recycling Programs (EVM/128)
   4.6 Public Environmental Review - Mangles Bay Marina Based Tourist Precinct

**Statutory Planning**

1. Statutory Planning Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 eDA (Planning Products via the Web)
4. Information Items
   4.1 Land Use - Planning Enforcement
   4.2 Subdivision/Development Approvals and Refusals by the WAPC
   4.3 Notifications & Gazettals
   4.4 Subdivision Clearances
   4.5 Subdivision Survey Approvals
   4.6 Delegated Development Approvals
<table>
<thead>
<tr>
<th>4.7</th>
<th>Delegated Development Refusals</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.8</td>
<td>Delegated Building Envelope Variations</td>
</tr>
<tr>
<td>4.9</td>
<td>Subdivision/Amalgamation Approved</td>
</tr>
<tr>
<td>4.10</td>
<td>Subdivision/Amalgamation Refused</td>
</tr>
<tr>
<td>4.11</td>
<td>Development Assessment Panel – Development Applications</td>
</tr>
<tr>
<td>4.12</td>
<td>Scheme Amendment No.106 - Golden Bay Development Area</td>
</tr>
<tr>
<td>4.13</td>
<td>Scheme Amendment No.110 – Holiday Homes</td>
</tr>
<tr>
<td>4.14</td>
<td>Planning and Development Act Prosecution - Aldwich Holdings Pty Ltd</td>
</tr>
<tr>
<td>4.15</td>
<td>Refusal of Amendment No.99 to <em>Town Planning Scheme No.2</em> - Proposed Additional Use of 'Communications Antennae - Commercial' on Lot 48 (No.335) Eighty Road, Baldivis</td>
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<td>4.16</td>
<td>Port Rockingham</td>
</tr>
<tr>
<td>4.17</td>
<td>Affordable Housing - Golden Bay and Settlers Hills</td>
</tr>
</tbody>
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**Director Planning and Development Services**

1. Director Planning and Development Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Administration Building Refurbishment/Fitout
   3.2 Rockingham Strategic Metropolitan Centre – Infrastructure Development Strategy
   3.3 Rockingham Primary Centre Infrastructure - Business Case
   3.4 Smart Village 1 Masterplan
   3.5 Keralup
   3.6 Karnup Station Transit Oriented Development
4. Information Items
   4.1 Liveable Cities Grant

**Appendices**

**Committee Recommendation:**

That Councillors acknowledge having read the Planning Services Information Bulletin – February 2012 and the contents be accepted.

Committee Voting – 4/0

| 12. | Agenda Items |
1. **Purpose of Report**

To set fees to be charged for services rendered by Building Services pursuant to the new Building Act 2011 (the Act).

2. **Background**

As previously reiterated in a Report to Council in September 2011, significant change to Western Australian building legislation and procedures is to be implemented with the introduction of the Act.
To date, the only provisions of the Act that are operational are Sections 1 & 2 (i.e. the name of the Act, and that other Sections of the Act will come into operation on a day fixed by proclamation, and that different days may be fixed for different provisions).

(Note: Sections 1 & 2 of the Act came into operation on the 23rd June 2011).

Uncertainty exists as to when the balance of the Act will be operational - the date now being entertained by the Building Commission is the 2nd April 2012, replacing the previous dates of 2nd January 2012 and 31st October 2011. The delay has been as a consequence of the lack of regulations and some revised process matters that are, by necessity, to be included in the new system (i.e. planning matters and ownership issues are the recent issues flagged).

With no adopted regulations for guidance and certainty, decisions are being made on draft regulations and the like to ensure that, by implementation date, the City is able to continue to operate by having fees set and processes created. Some of the fees mentioned in this Report may be required to be amended or added to as a consequence of adoption of these future regulations.

Changes may occur as the regulations are developed and feedback is received from various parties and it is apparent that the core duties of the local governments will change to some degree in line with the broader philosophy of the Act.

At the September Council Meeting, fees were adopted for the processing of "Certificates of Design Compliance" for Class 2-9 Buildings; further information to hand indicates a number of other fees and charges are required for performance of responsibilities under the Act.

3. Details

Some fees and charges already exist in draft regulations (statutory) - all fees have been listed so as to inform the Council of the complete fee set (including statutory). Statutory fees do not require determination by Council; they are listed for advice only and they generally do not attract a GST component.

It should also be noted that some of the processes and procedures revolving around those fees and charges may not necessarily be performed by the local government - the fee creating exercise is to ensure that all opportunities are covered by the adoption of fees. This course of action is borne of the requirement to have fees and charges in place by the expected implementation date of the Act (April 2012).

Statutory Fees

The following are the statutory fees (and are put for information only and are GST free):-

1.1 Application for Building Permit (Class 1 & 10)
   - Uncertified application - 0.32% of estimated value of building work but not less than $90.
   - Certified application - 0.19% of the estimated value of building work but not less than $90.

1.2 Application for Building Permit (Class 2-9) (within the City of Rockingham)
   - Certified application - 0.09% of estimated value of building work but not less than $90.

1.3 Application to amend a Building Permit - same calculation as for an application for Building Permit based on change in contract value but not less than $90.

1.4 Application for Demolition Permit for Class 1 & 10 building - $90.

1.5 Application for Demolition Permit for Class 2-9 building - $90 per storey.

1.6 Application to extend the time during which a building or demolition permit has effect - $90.

1.7 Application for an Occupancy Permit for completed Class 2-9 building - $90.

1.8 Application for Temporary Occupancy Permit for an incomplete building - $90.

1.9 Application for modification of Occupancy Permit for additional use of building on a temporary basis - $90.

1.10 Application for replacement Occupancy Permit for a permanent change of building use or classification - $90.
1.11 Application for Occupancy Permit or Building Approval Certificate for the registration of the strata scheme, plan of subdivision - $100 or $10 per unit whichever the greater.

1.12 Application for Occupancy Permit for an unauthorised Class 2-9 building - 0.18% of the estimated value of building work but not less than $90.

1.13 Building Approval Certificate for an Unauthorised Class 1 & 10 building - 0.38% of the estimated value of building work but less than $90.

1.14 Application for an Occupancy Permit for building with an existing authorisation - $90.

1.15 Application to replace an occupancy permit for an existing building - $90.

1.16 Application for Building Approval Certificate for building with existing authorisation Class 1 & 10 building - $90.

1.17 Building Services Levy – 0.09% of the estimated value of building work but not less than $40.50.

1.18 Construction Training Fund Levy – 0.2% of the estimated value of building work (Note: only applicable to work in excess of $20,000).

1.19 Fee for Extension of time for a (temporary) Occupancy Permit or (limited time) Building Approval Certificate (S65 of the Act) - $90.

**Fees that Require Adoption**

The following fees and charges are recommended for adoption, pursuant to the s6.16 Local Government Act 1995 (and are subject to GST of 10%), and to come into operation by the Act implementation dated (expected 2nd April 2012):-

2.1 **Certificate of Construction Compliance** - certificate issued by a registered building surveyor certifying that the building has been constructed in accordance the certificate of design compliance, the Building Permit and that the building is fit for occupation - proposed fee of $180 based on 2 hours officer time. Should officer time be in excess of 2 hours - $90 per hour there-after.

2.2 **Certificate of Building Compliance** - a certificate signed by a registered building surveyor certifying that an existing building complies with the relevant building standards (i.e. for older building issued under previous legislation, for buildings that are constructed without the necessary approvals and for strata titled buildings - to replace the Form 7 Strata Titles Regulations) - proposed fee of $180 based on 2 hours of officer time. Should officer time be in excess of 2 hours - $90 per hour there-after.

2.3 **Certificate of Design Compliance** for a building that is of any Class (2 fee categories - Class 1 & 10 and Class 2-9) (S16 of the Act) both within the district of the City of Rockingham or in an area outside the district of the City of Rockingham:-
- Class 1 & 10 Buildings - 0.13% of the estimated value of building work but not less than $90.
- Class 2-9 Buildings - 0.09% of the estimated value of building work but not less than $90.

2.4 **Fees for the provision of information and advice from Building Services regarding building matters** - $90 per hour for both clerical and technical officers.

2.5 **Fees for Codes Approval** pursuant to the Residential Design Codes:-
- Where an application requires the assessment of up to 2 variations to the Acceptable Development provisions, or that impact on 2 adjoining allotments, - $90, or
- Where an application requires assessment of 3 or more variations to the Acceptable Development provisions, or that impact on 3 or more allotments, - $180, and
- Application for a retrospective Residential Design Code variation - 2 x the application fee for a variation as specified above.
- Where confirmation is sought that the proposal complies with the “acceptable development” criteria - $90.

2.6 **Provision of copies of building records** (S129, S131 of the Act) - $90, plus copying charges.
2.7 Applications to install Park Homes and Annexes on Caravan Park and Camping Grounds
- Application to install a class 1a Park Home or Annexe, etc - 0.32% x contract value, minimum $90.

2.8 Request seeking confirmation that Planning, Environmental Health, Infrastructure etc requirements have been met - $90

4. Implications to Consider

a. Consultation with the Community
   Not Applicable

b. Consultation with Government Agencies
   There is no requirement to consult with government agencies, however, consultation has been ongoing with the Building Commission and various other local governments, particularly the City of Mandurah in the writing of this Report.

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

d. Policy
   Nil

e. Financial
   Fees will be required to be set by local government pursuant to S6.16 of the Local Government Act 1995 “Imposition of fees and charges”, for those as set out in this Report, however, other fees are to be set by statute (regulations are only at the "Draft" stage as at January 2012) and will come into operation as and when determined by the Building Commission - expected to be 2nd April 2012.
   The fees set by Council will be subject to a Goods and Services Tax (GST) of 10%.

f. Legal and Statutory
   S6.16 of the Local Government Act (LGAct 1995) allows for fees to be charged for a service provision, providing information or receiving an application, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate. (Section 6.16(2) (b), (c) & (d)).
   In determining the fee to be set consideration needs be given to the “cost of providing the service or goods”, (S 6.17(1)(a) LGAct 1995) and the “price at which the service or goods could be provided by an alternative provider” (S 6.17(1)(c) LGAct 1995).
   Local Government Act 1995 S 6.19 - If the local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local notice of-
   a) Its intention to do so; and
   b) The date from which it is proposed the fees or charges will be imposed.
   The proposed fees and charges will require advertising (ie. give local notice) prior to inception in the local paper, the City’s webpage and official noticeboards.
   Information provided by the Building Commission indicates that the document “Building Act 2011: proposed fee modelling for permit authorities” researched a number of areas to arrive at the fee structure proposed.
It should be noted that some of the matters for which fees are raised may, upon review by the Building Commission, no longer fit within the province of local government duties in which case those fees and charges will be removed from the Budget.

5. Comments

The Building Act 2011 has, in name only, been adopted to date and it is expected that the rest of the provisions will be implemented by the 2nd April 2012, however, this is subject to the Minister, the Building Commissioner and others to determine and may be subject to change. Hence the fees and charges may also be subject to change or addition/deletion.

Modifications will be tabled as and when required (should that occur) and a general review will be undertaken on an annual basis as required by the Local Government Act 1995.

6. Voting Requirements

Absolute Majority

7. Officer Recommendation

That Council ADOPT, pursuant to section 6.16 of the Local Government Act 1995, the following Building Services fees and charges required as a consequence of, and to be implemented by, the proclamation date of the Building Act 2011 (the Act) expected to be the 2nd April 2012:-

1. Certificate of Construction Compliance - certificate issued by a registered building surveyor certifying that the building has been constructed in accordance with the certificate of design compliance, the Building Permit and that the building is fit for occupation - proposed fee of $180 based on 2 hours officer time. Should officer time be in excess of 2 hours - $90 per hour there-after.

2. Certificate of Building Compliance - a certificate signed by a registered building surveyor certifying that an existing building complies with the relevant building standards (i.e. for older buildings issued under previous legislation, for buildings that are constructed without the necessary approvals and for strata titled buildings- to replace the Form 7 Strata Titles Regulations)- proposed fee of $180 based on 2 hours of officer time. Should officer time be in excess of 2 hours - $90 per hour there-after.

3. Certificate of Design Compliance - for a building that is of any Class (2 fee categories - Class 1 & 10, and Class 2-9) (S16 of the Act) both within the district of the City of Rockingham or in an area outside the district of the City of Rockingham:-
   - Class 1 & 10 Buildings - 0.13% of the estimated value of building work but not less than $90.
   - Class 2 - 9 Buildings - 0.09% of the estimated value of building work but not less than $90.

4. Fees for the provision of information and advice from Building Services regarding building matters - $90 per hour for both clerical and technical officers.

5. Fees for R-Codes Approval pursuant to the Residential Design Codes:-
   - Where an application requires the assessment of up to 2 variations to the Acceptable Development provisions, or that impact on 2 adjoining allotments - $90, or
   - Where an application requires assessment of 3 or more variations to the Acceptable Development provisions, or that impact on 3 or more allotments, - $180, and
   - Application for a retrospective Residential Design Code variation - 2 x the application fee for a variation as specified above.
   - Where confirmation is sought that the proposal complies with the “acceptable development” criteria - $90.

6. Provision of copies of building records (S129, S131 of the Act) - $90, plus copying charges.
7. **Applications to install Park Homes and Annexes on Caravan Park and Camping Grounds**
   - Application to install a class 1a Park Home or Annexe, etc - 0.32% x contract value, minimum $90.

8. **Request seeking confirmation that Planning, Environmental Health, Infrastructure etc requirements have been met** - $90

Note: All the above fees are subject to GST of 10%

## 8. Committee Recommendation

That Council **ADOPT**, pursuant to section 6.16 of the Local Government Act 1995, the following Building Services fees and charges required as a consequence of, and to be implemented by, the proclamation date of the Building Act 2011 (the Act) expected to be the 2nd April 2012:-

1. **Certificate of Construction Compliance** - certificate issued by a registered building surveyor certifying that the building has been constructed in accordance the certificate of design compliance, the Building Permit and that the building is fit for occupation - proposed fee of $180 based on 2 hours officer time. Should officer time be in excess of 2 hours - $90 per hour there-after.

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8. **Request seeking confirmation that Planning, Environmental Health, Infrastructure etc requirements have been met** - $90

Note: All the above fees are subject to GST of 10%

Committee Voting – 4/0
9. The Committee's Reason for Varying the Officer's Recommendation

Not applicable

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

Not applicable

4.07pm - Mr Richard Rodgers, Manager Building Services, Mr Rod Fielding, Manager Health Services and Ms Julia Dick, Health and Wellbeing Coordinator left the Planning Services Standing Committee meeting.
### Purpose of Report

To consider amending Planning Procedure 1.1 - Delegated Authority in light of recent amendments to Planning Policy No.3.3.17 - Variations to Building Envelopes.

### Background

Nil
3. **Details**

Planning Procedure 1.1 - Delegated Authority outlines the decision-making powers that the Chief Executive Officer has delegated to nominated Officers under Section 5.44(1) of the Local Government Act 1995 and clause 8.10.2 of Town Planning Scheme No.2.

In this regard, the power to determine and vary the size and location of any approved building envelope under Schedule No's 4 and 5 of Town Planning Scheme No.2 has been delegated to nominated Officers, with the exception of building envelopes within the Warnbro Dunes Special Residential zone which are required to be referred to the Council for determination.

At its ordinary Meeting held on the 22nd November 2011, the Council resolved to adopt an amendment to Planning Policy No.3.3.17 - Variations to Building Envelopes. The intent of the amendment was to:

(i) State that in the case of the Golden Bay and Singleton Special Rural and Special Residential zones, the location of building envelopes was specifically intended to maintain the rural attributes and appearance of the land, looking westward from Mandurah Road and looking to the east from the townsites of Singleton and Golden Bay; and

(ii) Require that applications to vary building envelopes in the Golden Bay and Singleton Special Rural and Special Residential zones be referred to the Council for determination.

It is necessary to amend Planning Procedure 1.1 – Delegated Authority to reflect the abovementioned amendments to Planning Policy No.3.3.17.

4. **Implications to Consider**

   a. **Consultation with the Community**

   Planning Procedures deal with procedural matters and as such, are not normally subject to a process of community consultation.

   Should the Council support the proposed amendment to the Planning Procedure, it is normal practice to publish a notice in a local newspaper advising the public of the amendment.

   b. **Consultation with Government Agencies**

   Consultation with Government agencies is not required.

   c. **Strategic Community Plan**

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

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

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

   **Aspiration 16:** A Council which engages with all elements of the community in order to make decisions that respect Rockingham’s unique sense of place whilst positively contributing to its future prosperity.

   d. **Policy**

   Planning Policy No.3.3.17 - Variations to Building Envelopes

   The purpose of this Planning Policy is to set out the objectives and policy provisions which the City shall have due regard to in the assessment and determination of applications to vary the location and size of building envelopes. In this regard, the City will consider variations to existing building envelopes only where it can be demonstrated by the proponent that there is no adverse environmental impact and where the City's objectives for the locality are realised.
Where no substantiated objections have been received following community consultation, applications that comply in all respects with the objectives and provisions of the Planning Policy will be dealt with under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 - Delegated Authority. This delegation of authority does not apply to applications within the Singleton and Golden Bay Special Rural zones and the Singleton, Golden Bay and Warnbro Dunes Special Residential zones, which will be referred to the Council for determination.

e. Financial
Nil

f. Legal and Statutory
Planning Procedure 1.1 – Delegated Authority outlines the decision-making powers that the Chief Executive Officer has delegated to nominated Officers under Section 5.44(1) of the Local Government Act 1995 and clause 8.10.2 of Town Planning Scheme No.2.

5. Comments

It is recommended that the Council amend Planning Procedure 1.1 - Delegated Authority to state that the power to vary the location and size of any building envelopes under Schedule Nos.4 and 5 of Town Planning Scheme No.2 does not apply to applications within the Singleton and Golden Bay Special Rural and Special Residential zones, which will be referred to the Council for determination.

6. Officer Recommendation

That Council **ADOPT** the following Amendment to Planning Procedure 1.1 - Delegated Authority:-

**PLANNING PROCEDURE 1.1**

**DELEGATED AUTHORITY**

Red and underlined font means text proposed to be added

1. Introduction

The Council considers that the delegation of certain decision-making powers will expedite the processing of development applications, subdivision applications and associated administrative functions, to the benefit of ratepayers, the general public and the land development industry.

In this regard, section 5.42(1) of the Local Government Act 1995 (LG Act) states that a local government may delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the LG Act, other than those referred to in section 5.43.

Furthermore, 5.44(1) of the LG Act, states that a CEO may delegate to any employee of the local government the exercise of any of the CEO's duties under the LG Act, other than the power of delegation.

**Town Planning Scheme No.2:** Clause 8.10.1 of Town Planning Scheme No.2 (TPS2) provides for the Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under the Scheme.

Furthermore, clause 8.10.2 of TPS2 states that the CEO may delegate to any employee of the Council the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 8.10.1.

2. Statement of Intent

The purpose of this Planning Procedure is to outline the decision-making powers which the CEO has delegated to nominated Officers under Section 5.44(1) of the Local Government Act 1995 and clause 8.10.2 of Town Planning Scheme No.2.

The decision-making powers which have been delegated are those relating to the decisions under TPS2 which are set out in section 3.2 of this document and the administrative functions which are set out in section 3.3.

The delegations listed in sections 3.2 and 3.3 apply to the following Officers:-

- Director, Planning and Development Services;
3. Planning Procedure

3.1 Implementation

The delegations listed in sections 3.2 and 3.3 are subject to the following conditions:-

- The nominated Officers are only empowered to approve or conditionally approve applications within pre-determined guidelines contained within Town Planning Scheme No.2, adopted Council Policies and the Standards and Policies of the Western Australian Planning Commission which have been adopted by the Council.

- Standard conditions (as set out in Planning Policy No.3.3.15 - Standard Conditions for Development Applications and Planning Policy No.3.4.3 - Standard Conditions for Subdivision Applications) should generally be imposed, subject to any modification that is required after considering the nature of the particular application.

- Non-standard conditions may be imposed after considering the nature of the particular application, providing that the condition relates to the following criteria:
  
  (a) the built form of development;
  (b) amenity issues;
  (c) site planning issues;
  (d) subdivision design matters;
  (e) land use matters; and
  (f) landscaping matters.

- With regard to the delegation referred to in section 3.2.4(d), the Director, Planning and Development Services is the only Officer authorised to adopt a Structure Plan under clause 4.2.6.15 of Town Planning Scheme No.2.

- With regard to the delegation referred to in section 3.2.4(e), the Director, Planning and Development Services is the only Officer authorised to adopt a minor change to or departure from a Structure Plan under clause 4.2.7.1 of Town Planning Scheme No.2.

- With regard to the delegation referred to in section 3.2.6(b), the Director, Planning and Development Services is the only Officer authorised to negotiate a cash contribution in-lieu of carparking.

- The delegation referred to in section 3.2.14(a) does not apply to applications within Golden Bay and Singleton. In this regard, all applications to vary the location of building envelopes within the Golden Bay and Singleton Special Rural Zones will be referred to the Council for determination.

Note: Refer to Planning Policy No.3.3.17 - Variations to Building Envelopes for further information regarding the assessment of applications to vary the location of building envelopes within the Golden Bay and Singleton Special Rural Zones.

- The delegation referred to in section 3.2.15(a) does not apply to applications within the Warnbro Dunes, Golden Bay or Singleton. In this regard, all applications to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones will be referred to the Council for determination.

Note: Refer to Planning Policy No.3.3.17 - Variations to Building Envelopes for further information regarding the assessment of applications to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones.
- All matters that have been dealt with under the delegated authority referred to in this Planning Procedure are to be reported to the Council on a monthly basis as a Bulletin item to the Planning Services Committee.

- Where, in the opinion of a nominated Officer, in consultation with the Director of Planning and Development Services, an application should be referred to the Council for determination, that application will be excluded from the requirements of this Planning Procedure.

3.2 Decisions Under Town Planning Scheme No. 2

Under clause 8.10.2 of TPS2, the CEO has delegated to the nominated Officers the exercise of the following functions (refer to Appendix 1 for a copy of the Delegation of Authority).

3.2.1 Grant of Planning Approval

(a) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “P”, “D” or “IP”.

(b) The granting of planning approval with or without conditions under TPS2 to development on a Local Reserve under TPS2 for the purpose for which the land is reserved under TPS2.

(c) The granting of planning approval with or without conditions under TPS2 to development on land specified in Schedule No.2 (Additional Uses) of TPS2 for the purpose specified with respect to that land in Schedule No.2.

(d) The granting of planning approval with or without conditions under TPS2 to development on land specified in Schedule No.3 (Special Use Zones) of TPS2 for the purpose specified with respect to that land in Schedule No.3.

(e) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.4 (Special Rural Zones) of TPS2 and designated “P”, “D” or “IP”.

(f) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.5 (Special Residential Zones) of TPS2 and designated “P”, “D” or “IP”.

(g) The granting of planning approval with or without conditions under TPS2 to the erection, placement and display of advertisements and the use of land or buildings for that purpose under clause 5.3.1 of TPS2, unless the advertisement is exempt from the requirement to obtain planning approval under clause 5.3.4 of TPS2.

3.2.2 Discretion to Modify Development Standards

The authority to modify development standards under clause 4.20 of TPS2.

Note: Clause 4.20 of TPS2 states that if a development (except for development in respect of which the Residential Design Codes apply) is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding the non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

In considering an application for planning approval under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Council is to:

(a) Consult the affected parties by following one or more of the provisions for advertising uses under clause 6.3.3 of TPS2;

(b) Have regard to any expressed views prior to making its determination to grant the variation.

The power conferred by clause 4.20 may only be exercised if Council is satisfied that:

(a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 6.6 of TPS2;
3.2.3 Refusal of Planning Approval

The refusal of an application for planning approval under TPS2 to:

(a) Development for the purpose of a use mentioned in the Zoning Table of TPS2 and designated “X”; or

(b) Development in respect of which the Residential Design Codes (Codes) apply and where the development does not meet the ‘Minimum Site Area per Dwelling (m²)’ and ‘Minimum Lot Area/Rear Battleaxe (m²)’ as set out in Table 1 - General Site Requirements of the Codes and the ‘Housing Density Requirements’ set out in Clause 6.1 of the Codes.

3.2.4 Structure Plans

(a) The determination under clause 4.2.5(d) of TPS2 as to the detail to be contained in a Structure Plan.

(b) The determination under clause 4.2.5(e) of TPS2 as to whether to require the proponent to demonstrate the matters referred to in that clause.

(c) The determination under clause 4.2.6.2 of TPS2 concerning the advertising of a Proposed Structure Plan.

(d) The adoption of a proposed Structure Plan under clause 4.2.6.15 of the Scheme; and

(e) The adoption of a minor change to or departure from a Structure Plan under clause 4.2.7.1 of the Scheme.

3.2.5 Detailed Area Plans

The approval of a Detailed Area Plan with or without conditions under clause 4.23.1(c)(i) of TPS2.

3.2.6 Car Parking

(a) The determination under clause 4.15.2 of TPS2 as to the number of car parking bays to be provided on land where for a particular use a car parking requirement is not specified in Table 2 of TPS2.

(b) Where the Council has agreed to accept cash-in-lieu of carparking under clause 4.15.6 of TPS2, the power to negotiate the cash-in-lieu contribution in accordance with the criteria set out in Planning Policy No.3.3.4 - Cash-in-lieu of Carparking.

3.2.7 Licensed Premises Applications

The determination under clause 4.22.1 of TPS2 whether to waive any requirement of an application referred to in that clause.

3.2.8 Application for Planning Approval

The determination under clause 6.2.2 whether to waive any particular requirement of an application referred to in that clause.

3.2.9 Advertising of Applications

The determination under clause 6.3.2 whether to give the notice referred to in that clause.
3.2.10 Removal and Repair of Existing Advertisements

(a) The determination under clause 8.2.1 of TPS2 as to whether an existing advertisement is in conflict with the amenity of the locality.

(b) The determination under clause 8.2.2 of TPS2 as to whether to require the advertiser to take the action referred to in that clause.

3.2.11 Enforcement

(a) The determination under clause 8.5(a) of TPS2 whether to give notice referred to in that clause for compliance with conditions of planning approval.

(b) The determination under clause 8.5(b) of TPS2 whether to prosecute the owner or occupier of the land pursuant to Part 13 - Enforcement and Legal Proceedings of the Planning and Development Act 2005.

3.2.12 Directions by Responsible Authority regarding Unauthorised Development

The determination under section 214(2), 214(3) and 214(5) of the Planning and Development Act 2005 whether to give written direction referred to in that section.

3.2.13 Responsible Authority May Remove Or Alter Unauthorised Development

The determination under section 215(1) and 215(2) of the Planning and Development Act 2005 whether to remove or alter unauthorised development referred to in that section.

3.2.14 Special Rural Zones – Schedule No. 4

(a) The power to determine and vary the location and size of any building envelopes under Schedule No.4 of TPS2.

(b) The determination of an application for approval to removal indigenous trees or substantial vegetation under Schedule No. 4 of TPS2.

3.2.15 Special Residential Zones – Schedule No. 5

(a) The power to determine and vary the location and size of any building envelopes under Schedule No.5 of TPS2.

(b) The determination of an application for approval to removal indigenous trees or substantial vegetation under Schedule No.5 of TPS2.

3.3 Decisions Under the Local Government Act

Under clause 5.44(1) of the LG Act, the CEO has delegated to the nominated Officers the exercise of the following functions (refer to Appendix 2 for a copy of the Delegation of Authority).

3.3.1 Subdivision Applications

The authority to make recommendations as deemed appropriate to the Western Australian Planning Commission (WAPC) in respect to any application to subdivide, strata subdivide or amalgamate land in the district, subject to the following conditions:

(a) The nominated Officers may support an application to subdivide, strata subdivide or amalgamate land with or without conditions where the proposal is generally in conformity with TPS2, Residential Design Codes, Rural Land Strategy, Council Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Subdivision Guide Plan or Rural Concept Plan which has been approved by the Council as the basis for the subdivision of a defined area or precinct, subject to the imposition of the following:

(i) appropriate requirements and specifications under the Town Planning Scheme and any applicable Council Planning Policy;

(ii) any applicable conditions as set out under the Council’s Planning Policy No. 3.4.3 - Standard Conditions for Subdivision Applications; and

(iii) any other relevant non-standard conditions, subject to the criteria having regard to the subdivision design matters, land use matters, landscape matters and site planning and amenity issues.
(b) The nominated Officers may refuse to support an application to subdivide, strata subdivide or amalgamate land where the proposal is contrary to TPS2, Residential Design Codes, Rural Land Strategy, Council Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Subdivision Guide Plan or Rural Concept Plan.

3.3.2 Subdivision Clearances

The authority to issue a letter in support for subdivision clearance to the WAPC in respect to any application to subdivide or amalgamate land in the district, subject to the following conditions:

(a) Subdivision condition(s) imposed must be relevant to the City of Rockingham.

(b) The subdivision condition(s) must be fulfilled in accordance with all the Local Government conditions specified on the WAPC approval, to the satisfaction of the delegate, and the clearance advice is to be signed by the delegate.

(c) In the event of a dispute between the delegate and the applicant on the measures required to satisfy a condition, the matter must be referred to the WAPC for clearance, together with the City's advice on the matter.

3.3.3 Public Works Planning Applications

The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the development of land referred to the City of Rockingham by public authorities for public works.

3.3.4 Clause 32 Planning Applications

The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the use or development of land, which is of a type or in a locality the subject of a WAPC Notice of Clause 32 Declaration pursuant to the Metropolitan Region Scheme.

3.3.5 Licensed Premises Applications

The authority to issue a Section 40 Certificate (under the Liquor Control Act 1988) where the application is consistent with a Planning Approval (where applicable), and complies in all respects with the objectives and provisions of the Council's Alcohol Policy.

3.3.6 Street Naming

The authority to approve street names that are consistent with an approved street naming theme.

3.3.7 Notice Requiring Certain Things to be Done by Owner or Occupier of Land

The determination under section 3.25(1)(a) of the Local Government Act 1995 whether to give a person a notice referred to in that section.

3.3.8 Additional Powers when Notice Given

(a) The determination under section 3.26(2) under the Local Government Act 1995 whether to do anything that it considers necessary as referred to in that section.

(b) The determination under section 3.26(3) under the Local Government Act 1995 whether to recover costs as referred to in that section.

6. Adoption

This Planning Procedure was adopted by the Council at its ordinary Meeting held on the 24th March 2009.

7. Amendment

This Planning Procedure was amended by the Council at its ordinary Meeting held on the 28th February 2012.

8. Revocation

This Planning Procedure supersedes the Council's Statement of Planning Policy No.1.1 – Delegated Authority to Manager Statutory Planning.
Appendices

1. Delegation of Authority issued pursuant to clause 8.10 of the City of Rockingham Town Planning Scheme No.2.

2. Delegation of Authority issued pursuant to Sections 5.41 to 5.46 of the Local Government Act 1995.

8. Committee Recommendation

That Council ADOPT the following Amendment to Planning Procedure 1.1 - Delegated Authority:-

PLANNING PROCEDURE 1.1

DELEGATED AUTHORITY

1. Introduction

The Council considers that the delegation of certain decision-making powers will expedite the processing of development applications, subdivision applications and associated administrative functions, to the benefit of ratepayers, the general public and the land development industry.

In this regard, section 5.42(1) of the Local Government Act 1995 (LG Act) states that a local government may delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the LG Act, other than those referred to in section 5.43.

Furthermore, 5.44(1) of the LG Act, states that a CEO may delegate to any employee of the local government the exercise of any of the CEO's duties under the LG Act, other than the power of delegation.

Town Planning Scheme No.2: Clause 8.10.1 of Town Planning Scheme No.2 (TPS2) provides for the Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under the Scheme.

Furthermore, clause 8.10.2 of TPS2 states that the CEO may delegate to any employee of the Council the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 8.10.1.

2. Statement of Intent

The purpose of this Planning Procedure is to outline the decision-making powers which the CEO has delegated to nominated Officers under Section 5.44(1) of the Local Government Act 1995 and clause 8.10.2 of Town Planning Scheme No.2.

The decision-making powers which have been delegated are those relating to the decisions under TPS2 which are set out in section 3.2 of this document and the administrative functions which are set out in section 3.3.

The delegations listed in sections 3.2 and 3.3 apply to the following Officers:-

- Director, Planning and Development Services;
- Manager Strategic Planning and Environment;
- Manager Statutory Planning;
- Coordinator Strategic Planning; and
- Coordinator Statutory Planning.

3. Planning Procedure

3.1 Implementation

The delegations listed in sections 3.2 and 3.3 are subject to the following conditions:-

- The nominated Officers are only empowered to approve or conditionally approve applications within pre-determined guidelines contained within Town Planning Scheme No.2, adopted Council Policies and the Standards and Policies of the Western Australian Planning Commission which have been adopted by the Council.
- Standard conditions (as set out in Planning Policy No.3.3.15 - Standard Conditions for Development Applications and Planning Policy No.3.4.3 - Standard Conditions for Subdivision Applications) should generally be imposed, subject to any modification that is required after considering the nature of the particular application.

- Non-standard conditions may be imposed after considering the nature of the particular application, providing that the condition relates to the following criteria:
  (a) the built form of development;
  (b) amenity issues;
  (c) site planning issues;
  (d) subdivision design matters;
  (e) land use matters; and
  (f) landscaping matters.

- With regard to the delegation referred to in section 3.2.4(d), the Director, Planning and Development Services is the only Officer authorised to adopt a Structure Plan under clause 4.2.6.15 of Town Planning Scheme No.2.

- With regard to the delegation referred to in section 3.2.4(e), the Director, Planning and Development Services is the only Officer authorised to adopt a minor change to or departure from a Structure Plan under clause 4.2.7.1 of Town Planning Scheme No.2.

- With regard to the delegation referred to in section 3.2.6(b), the Director, Planning and Development Services is the only Officer authorised to negotiate a cash contribution in-lieu of carparking.

- The delegation referred to in section 3.2.14(a) does not apply to applications within Golden Bay and Singleton. In this regard, all applications to vary the location of building envelopes within the Golden Bay and Singleton Special Rural Zones will be referred to the Council for determination.

Note: Refer to Planning Policy No.3.3.17 - Variations to Building Envelopes for further information regarding the assessment of applications to vary the location of building envelopes within the Golden Bay and Singleton Special Rural Zones.

- The delegation referred to in section 3.2.15(a) does not apply to applications within the Warnbro Dunes, Golden Bay or Singleton. In this regard, all applications to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones will be referred to the Council for determination.

Note: Refer to Planning Policy No.3.3.17 - Variations to Building Envelopes for further information regarding the assessment of applications to vary the location of building envelopes within the Warnbro Dunes, Golden Bay and Singleton Special Residential Zones.

- All matters that have been dealt with under the delegated authority referred to in this Planning Procedure are to be reported to the Council on a monthly basis as a Bulletin item to the Planning Services Committee.

- Where, in the opinion of a nominated Officer, in consultation with the Director of Planning and Development Services, an application should be referred to the Council for determination, that application will be excluded from the requirements of this Planning Procedure.

3.2 Decisions Under Town Planning Scheme No.2

Under clause 8.10.2 of TPS2, the CEO has delegated to the nominated Officers the exercise of the following functions (refer to Appendix 1 for a copy of the Delegation of Authority).
3.2.1 Grant of Planning Approval

(a) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in the Zoning Table of TPS2 and designated “P”, “D” or “IP”.

(b) The granting of planning approval with or without conditions under TPS2 to development on a Local Reserve under TPS2 for the purpose for which the land is reserved under TPS2.

(c) The granting of planning approval with or without conditions under TPS2 to development on land specified in Schedule No.2 (Additional Uses) of TPS2 for the purpose specified with respect to that land in Schedule No.2.

(d) The granting of planning approval with or without conditions under TPS2 to development on land specified in Schedule No.3 (Special Use Zones) of TPS2 for the purpose specified with respect to that land in Schedule No.3.

(e) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.4 (Special Rural Zones) of TPS2 and designated “P”, “D” or “IP”.

(f) The granting of planning approval with or without conditions under TPS2 to development for the purpose of a use of land mentioned in Schedule No.5 (Special Residential Zones) of TPS2 and designated “P”, “D” or “IP”.

(g) The granting of planning approval with or without conditions under TPS2 to the erection, placement and display of advertisements and the use of land or buildings for that purpose under clause 5.3.1 of TPS2, unless the advertisement is exempt from the requirement to obtain planning approval under clause 5.3.4 of TPS2.

3.2.2 Discretion to Modify Development Standards

The authority to modify development standards under clause 4.20 of TPS2.

Note: Clause 4.20 of TPS2 states that if a development (except for development in respect of which the Residential Design Codes apply) is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding the non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

In considering an application for planning approval under this clause, where, in the opinion of the Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Council is to:

(a) Consult the affected parties by following one or more of the provisions for advertising uses under clause 6.3.3 of TPS2;

(b) Have regard to any expressed views prior to making its determination to grant the variation.

The power conferred by clause 4.20 may only be exercised if Council is satisfied that:-

(a) Approval of the proposed development would be appropriate having regard to the criteria set out in clause 6.6 of TPS2;

(b) Approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenity of the locality;

(c) The non-compliance will not have any adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality; and

(d) The spirit and purpose of the requirements or standards will not be unreasonably departed from.

3.2.3 Refusal of Planning Approval

The refusal of an application for planning approval under TPS2 to:
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 19 MARCH 2012

(a) Development for the purpose of a use mentioned in the Zoning Table of TPS2 and designated “X”; or

(b) Development in respect of which the Residential Design Codes (Codes) apply and where the development does not meet the ‘Minimum Site Area per Dwelling (m²)’ and ‘Minimum Lot Area/Rear Battleaxe (m²)’ as set out in Table 1 - General Site Requirements of the Codes and the ‘Housing Density Requirements’ set out in Clause 6.1 of the Codes.

3.2.4 Structure Plans

(a) The determination under clause 4.2.5(d) of TPS2 as to the detail to be contained in a Structure Plan.

(b) The determination under clause 4.2.5(e) of TPS2 as to whether to require the proponent to demonstrate the matters referred to in that clause.

(c) The determination under clause 4.2.6.2 of TPS2 concerning the advertising of a Proposed Structure Plan.

(d) The adoption of a proposed Structure Plan under clause 4.2.6.15 of the Scheme; and

(e) The adoption of a minor change to or departure from a Structure Plan under clause 4.2.7.1 of the Scheme.

3.2.5 Detailed Area Plans

The approval of a Detailed Area Plan with or without conditions under clause 4.23.1(c)(i) of TPS2.

3.2.6 Car Parking

(a) The determination under clause 4.15.2 of TPS2 as to the number of car parking bays to be provided on land where for a particular use a car parking requirement is not specified in Table 2 of TPS2.

(b) Where the Council has agreed to accept cash-in-lieu of carparking under clause 4.15.6 of TPS2, the power to negotiate the cash-in-lieu contribution in accordance with the criteria set out in Planning Policy No.3.3.4 - Cash-in-lieu of Carparking.

3.2.7 Licensed Premises Applications

The determination under clause 4.22.1 of TPS2 whether to waive any requirement of an application referred to in that clause.

3.2.8 Application for Planning Approval

The determination under clause 6.2.2 whether to waive any particular requirement of an application referred to in that clause.

3.2.9 Advertising of Applications

The determination under clause 6.3.2 whether to give the notice referred to in that clause.

3.2.10 Removal and Repair of Existing Advertisements

(a) The determination under clause 8.2.1 of TPS2 as to whether an existing advertisement is in conflict with the amenity of the locality.

(b) The determination under clause 8.2.2 of TPS2 as to whether to require the advertiser to take the action referred to in that clause.

3.2.11 Enforcement

(a) The determination under clause 8.5(a) of TPS2 whether to give notice referred to in that clause for compliance with conditions of planning approval.

(b) The determination under clause 8.5(b) of TPS2 whether to prosecute the owner or occupier of the land pursuant to Part 13 - Enforcement and Legal Proceedings of the Planning and Development Act 2005.
3.2.12 Directions by Responsible Authority regarding Unauthorised Development
The determination under section 214(2), 214(3) and 214(5) of the Planning and Development Act 2005 whether to give written direction referred to in that section.

3.2.13 Responsible Authority May Remove Or Alter Unauthorised Development
The determination under section 215(1) and 215(2) of the Planning and Development Act 2005 whether to remove or alter unauthorised development referred to in that section.

3.2.14 Special Rural Zones – Schedule No.4
(a) The power to determine and vary the location and size of any building envelopes under Schedule No.4 of TPS2.
(b) The determination of an application for approval to removal indigenous trees or substantial vegetation under Schedule No. 4 of TPS2.

3.2.15 Special Residential Zones – Schedule No. 5
(a) The power to determine and vary the location and size of any building envelopes under Schedule No.5 of TPS2.
(b) The determination of an application for approval to removal indigenous trees or substantial vegetation under Schedule No.5 of TPS2.

3.3 Decisions Under the Local Government Act
Under clause 5.44(1) of the LG Act, the CEO has delegated to the nominated Officers the exercise of the following functions (refer to Appendix 2 for a copy of the Delegation of Authority).

3.3.1 Subdivision Applications
The authority to make recommendations as deemed appropriate to the Western Australian Planning Commission (WAPC) in respect to any application to subdivide, strata subdivide or amalgamate land in the district, subject to the following conditions:
(a) The nominated Officers may support an application to subdivide, strata subdivide or amalgamate land with or without conditions where the proposal is generally in conformity with TPS2, Residential Design Codes, Rural Land Strategy, Council Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Subdivision Guide Plan or Rural Concept Plan which has been approved by the Council as the basis for the subdivision of a defined area or precinct, subject to the imposition of the following:-
(i) appropriate requirements and specifications under the Town Planning Scheme and any applicable Council Planning Policy;
(ii) any applicable conditions as set out under the Council's Planning Policy No. 3.4.3 - Standard Conditions for Subdivision Applications; and
(iii) any other relevant non-standard conditions, subject to the criteria having regard to the subdivision design matters, land use matters, landscape matters and site planning and amenity issues.
(b) The nominated Officers may refuse to support an application to subdivide, strata subdivide or amalgamate land where the proposal is contrary to TPS2, Residential Design Codes, Rural Land Strategy, Council Planning Policy, Comprehensive Development Plan, Structure Plan, Integrated Development Guide Plan, Subdivision Guide Plan or Rural Concept Plan.

3.3.2 Subdivision Clearances
The authority to issue a letter in support for subdivision clearance to the WAPC in respect to any application to subdivide or amalgamate land in the district, subject to the following conditions:
(a) Subdivision condition(s) imposed must be relevant to the City of Rockingham.
(b) The subdivision condition(s) must be fulfilled in accordance with all the Local Government conditions specified on the WAPC approval, to the satisfaction of the delegate, and the clearance advice is to be signed by the delegate.

(c) In the event of a dispute between the delegate and the applicant on the measures required to satisfy a condition, the matter must be referred to the WAPC for clearance, together with the City's advice on the matter.

3.3.3 Public Works Planning Applications
The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the development of land referred to the City of Rockingham by public authorities for public works.

3.3.4 Clause 32 Planning Applications
The authority to make recommendations as deemed appropriate to the WAPC in respect of applications for the use or development of land, which is of a type or in a locality the subject of a WAPC Notice of Clause 32 Declaration pursuant to the Metropolitan Region Scheme.

3.3.5 Licensed Premises Applications
The authority to issue a Section 40 Certificate (under the Liquor Control Act 1988) where the application is consistent with a Planning Approval (where applicable), and complies in all respects with the objectives and provisions of the Council's Alcohol Policy.

3.3.6 Street Naming
The authority to approve street names that are consistent with an approved street naming theme.

3.3.7 Notice Requiring Certain Things to be Done by Owner or Occupier of Land
The determination under section 3.25(1)(a) of the Local Government Act 1995 whether to give a person a notice referred to in that section.

3.3.8 Additional Powers when Notice Given
(a) The determination under section 3.26(2) under the Local Government Act 1995 whether to do anything that it considers necessary as referred to in that section.

(b) The determination under section 3.26(3) under the Local Government Act 1995 whether to recover costs as referred to in that section.

6. Adoption
This Planning Procedure was adopted by the Council at its ordinary Meeting held on the 24th March 2009.

7. Amendment
This Planning Procedure was amended by the Council at its ordinary Meeting held on the 28th February 2012.

8. Revocation
This Planning Procedure supersedes the Council's Statement of Planning Policy No.1.1 – Delegated Authority to Manager Statutory Planning.

Appendices
1. Delegation of Authority issued pursuant to clause 8.10 of the City of Rockingham Town Planning Scheme No.2.

2. Delegation of Authority issued pursuant to Sections 5.41 to 5.46 of the Local Government Act 1995.

Committee Voting – 4/0

9. The Committee's Reason for Varying the Officer's Recommendation
Not applicable
10. Implications of the Changes to the Officer’s Recommendation

Not applicable
# Planning Services

## Strategic Planning and Environment Services

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<thead>
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<th>Reference No &amp; Subject:</th>
<th>SPE-002/12 Visual Landscape Evaluation - Singleton, Golden Bay and Secret Harbour</th>
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<td>LUP/1419-03</td>
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<td>Proponent/s:</td>
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</tr>
<tr>
<td>Author:</td>
<td>Mr Jeff Bradbury, Coordinator Strategic Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Peter Ricci, Project Manager - Keralup</td>
</tr>
<tr>
<td></td>
<td>Mr Brett Ashby, Manager Strategic Planning and Environment</td>
</tr>
<tr>
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<td>20th February 2012</td>
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<td>Nature of Council’s Role in this Matter:</td>
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<tr>
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<td>LA Zoning:</td>
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<td>MRS Zoning</td>
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<td>Attachments:</td>
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## Maps/Diagrams:

1. Location Plan
2. Future Karnup Station and TOD
3. Landscape Character Units
4. Key Viewing Locations
5. Draft Visual Landscape Evaluation

## 1. Purpose of Report

To seek the Council’s adoption of the Visual Landscape Evaluation prepared for the land in proximity to Mandurah Road in Singleton, Golden Bay and Secret Harbour.

## 2. Background

The City's Planning Policy No.5.2 (Rural Land Strategy) seeks to retain the visual amenity (the rural viewshed along Mandurah Road) and the natural landscape features of the dune system of the Singleton and Golden Bay Special Rural/Special Residential Precincts by the retention of the existing 'Special Rural' and 'Special Residential' zonings.
The City’s current Policy position is being challenged by regional planning initiatives and applications that are inconsistent with the Rural Land Strategy. These include:-

- Sub-Regional strategic planning initiatives that are investigating urban expansion areas;
- Proposed amendments to the Metropolitan Region Scheme seeking to rezone land in Singleton and Golden Bay from 'Rural' to 'Urban'; and
- Plans for a Transit Orientated Development (TOD) at the future Karnup Rail Station.

Given that the City’s current Policy position is being challenged by the abovementioned regional planning initiatives and applications, the Council (at its November 2009 Meeting) resolved to review its Policy position regarding the rural vista along Mandurah Road by commissioning a Visual Landscape Evaluation.

At its ordinary Meeting held in February 2010, the Council resolved to endorse a Consultant's Brief for a Visual Landscape Evaluation, to enable quotations to be sought from suitable Consultants to undertake the Study. AECOM was subsequently appointed to undertake the preparation of the VLE in May 2010.

Study Area

The Visual Landscape Evaluation (VLE) is a localised study looking at the areas of Singleton and Golden Bay that are zoned 'Rural' in the Metropolitan Region Scheme and the section of Secret Harbour that is zoned 'Special Residential' in the City of Rockingham Town Planning Scheme No.2. Refer to the Location Plan (Attachment 1).

Study Purpose

The current land use and subdivision pattern in the Study Area reflects the Council’s existing statutory and policy position as set out in Town Planning Scheme No.2 and the Rural Land Strategy.

The objective of the VLE is to test the validity and appropriateness of the Council’s position regarding the rural vista along Mandurah Road.

The VLE will be used to inform the City’s consideration of regional and local planning initiatives and proposals. Furthermore, the City’s Rural Land Strategy will also be reviewed in light of the recommendations of the VLE.

Scope

The VLE is to address the following tasks:-

- Describe the Visual Landscape Character;
- Evaluate the Way the Visual Landscape Character is Viewed, Experienced and Valued. To include a consultation programme to evaluate the way the visual landscape character is viewed, experienced and valued by the community (including the owners of land within the Study Area);
- Develop Strategies for Managing Visual Landscape Character; and
- Implementation of Strategies into Planning Outcomes.

Outputs

Key outputs expected from the VLE include:-

- A broad written description of the Study Area’s landscape character, detailed description of the visual landscape character of each unit and graphics to illustrate the landscape character descriptions and units;
- A map of viewing experience and values, containing viewing locations, key views, viewsheds, screening, preferred and/or valued areas and individual landscape features;
- Documentation of the outcomes of the community consultation programme;
- An assessment of the success (to date) of the implementation of the City’s Policy position;
- Documentation of all visual management objectives and strategies for each character unit of the Study Area;
Recommended outcomes:
- Recommend where outcomes of the VLE should be incorporated into processes that influence planning direction and decision-making; and
- Preparation of a Checklist to be used by the City in its assessment of planning initiatives and applications.

Local Planning Context

Town Planning Scheme No.2: Town Planning Scheme No.2 (TPS No.2) states that in assessing applications for rezoning, planning approval and formulating comments and recommendations on applications for the subdivision of rural land, the Council shall take into account the objective for the particular Zone and the principles and policies as set out in the Rural Land Strategy.

The Study Area is predominantly zoned either Special Rural or Special Residential in TPS No.2 and provisions relating to these zones are set out in Schedule Nos.4 and 5 of the Scheme.

Planning Policy No.5.2 – Rural Land Strategy: The City of Rockingham Rural Land Strategy provides the basis for land use planning in the rural areas of the municipality. In particular, it provides the City with a framework for the assessment of proposals to rezone, subdivide, manage and develop rural land in the City.

The Rural Land Strategy considers the City’s rural land in terms of Planning Units that are further divided into planning precincts.

The Study Area is located within Planning Unit No.3 of the Rural Land Strategy. The primary objective for Planning Unit No.3 is to encourage ‘Special Rural/Special Residential’ development that is compatible with the land capability of the Quindalup dune system and that subdivision and development accords with landscape protection criteria for Mandurah Road. This is a long held Council policy position.

Note: The Secret Harbour land is not covered by the Rural Land Strategy because it is zoned Urban in the MRS, however, the intent of the Special Residential zoning in TPS No.2 is to set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.

The Special Residential/Special Rural zoning of the Singleton and Golden Bay precincts presently serves as a transition between the existing and future urban lands to the west and north and Mandurah Road to the east.

In terms of land capability, the Golden Bay precinct demonstrates the potential for closer subdivision and in this regard, a minimum lot size of 1ha is recommended. For Singleton, the recommended minimum lot size is 2ha, consistent with the prevailing lot sizes.

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

To summarise, the intent of the two local planning provisions described above and “Special Rural / Special Residential” zoning is to achieve the following:-
- Retain the existing rural landscape character of this landscape;
- Maintain a rural vista and viewshed from Mandurah Road;
- Provide a transitional landscape between existing and future urban lands;
- Protect this unique natural landscape assets of the Quindalup natural dune system; and
- Protect areas of highly valued ecological and biodiversity land.

Regional Planning Context

Metropolitan Region Scheme: Within the Study Area, the Singleton and Golden Bay areas are zoned Rural in the Metropolitan Region Scheme and the section of Secret Harbour is zoned Urban.

At its November 2009 Meeting, the Council considered two separate applications seeking approval to amend the MRS by rezoning land in Singleton and Golden Bay from 'Rural' to 'Urban'. In this regard, the Council resolved to advise the Department of Planning as follows:
• **Rezoning the land to facilitate urban development is inconsistent with the recommendations of the City of Rockingham Planning Policy No.5.2 - Rural Land Strategy, which identifies the areas for ‘Special Rural’ and ‘Special Residential’ subdivision in order to maintain the rural viewshed along Mandurah Road and natural landscape features of the dune system.**

• **The proposed MRS amendments are premature and consideration of the proposals should be deferred until such time as Directions 2031 and the draft Southern Metropolitan and Peel Sub-Regional Structure Plan are finalised and the status and meaning of ‘Urban Investigation Area’ is clarified.**

**Directions 2031 and Beyond (August 2010):** In August 2010, the Western Australian Planning Commission (WAPC) adopted Directions 2031 and Beyond as the broad spatial plan for the Perth and Peel regions.

**Draft Outer Metropolitan Perth and Peel Sub-Regional Strategy (August 2010):** The draft Outer Metropolitan Perth and Peel Sub-Regional Strategy (OMPPSRS) was released for public comment on the 30th August 2010. The draft Strategy was prepared by the WAPC to build on the broad objectives of Directions 2031 and inform the draft Southern Metropolitan Perth and Peel Sub-Regional Structure Plan (June 2009):

The draft OMPPSRS provides information about the levels of expected population growth by local government area, and highlights development opportunities and increased densities in greenfields areas throughout the five outer sub-regions of north-west, north-east, south-east and south-west Metropolitan Perth and Peel. Together with the draft Central Metropolitan Perth Sub-Regional Strategy, this strategy also promotes the achievement of the Directions 2031 housing targets.

The draft OMPPSRS (Spatial Framework Map) does not identify the Singleton and Golden Bay ‘Special Rural/Special Residential’ Precincts as ‘Urban Investigation’. In this regard, these areas are shown as Rural. The draft OMPPSRS states, however, that the draft urban expansion plan includes provision for the WAPC to consider new applications for rezoning for areas not currently indicated as urban expansion areas or investigation areas.

It is expected that the draft OMPPSRS will be adopted by the WAPC in mid-2012.

**Draft Southern Metropolitan and Peel Sub-Regional Structure Plan (June 2009):** The draft Southern Metropolitan Perth and Peel Sub-Regional Structure Plan (SMPSRSP) was released for public comment by the WAPC in June 2009 to provide a broad structure and framework for urban growth in the Southern Metropolitan and Peel region. Directions 2031 was released for public comment concurrently with the draft SMPSRSP and informed its content.

The SMPSRSP depicted specific areas to be considered for urban development as either:

- **Future Urban:** Land which is proposed in the draft Structure Plan for future urban development; or
- **Urban Investigation:** Land areas potentially suitable for future urban development, but with significant development constraints (drainage, water management, other environmental) that need to be assessed in order for the land to be considered for future urban development.

The draft SMPSRSP identified the Singleton and Golden Bay ‘Special Rural/Special Residential’ Precincts (i.e. parts of the Study Area) as ‘Urban Investigation’.

The City has been advised by the WAPC that it has been decided to not finalise the SMPSRSP in its current form and that a revised and longer-term structure plan is to be prepared (expected to be released for public comment in the second half of 2012).

Some of the issues raised in submissions on the draft SMPSRSP have been taken into account in the preparation of the draft Outer Metropolitan Perth and Peel Sub-Regional Strategy.

**Karnup Station:** In July 2011, the Council considered the matter of Transit Orientated Development (TOD) at the future Karnup Rail Station in the light of various design options and development principles that had been prepared by the City's Urban Design Consultant. In this regard, a portion of the Walkable Catchment of the TOD falls within the VLE Study Area (refer to Attachment 2).
The Council resolved to:

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

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

As part of its consideration, the Council was informed that various stakeholders, including the WAPC, Public Transport Authority and adjacent major landowners, had commenced investigations into the viability of TOD at the Karnup Station. The Council was also informed that in late 2010 the WAPC convened a Steering Committee, comprising the stakeholders including the City, to progress the TOD investigation and that a Design Workshop was hosted by the City in mid-2011.

### 3. Details

AECOM prepared a draft VLE Report that was advertised for public comment in February 2011 (refer to section 4a of this report). The intent of the consultation programme was to evaluate the way the visual landscape character is viewed, experienced and valued by the community (including the owners of land within the Study Area).

The VLE has now been finalised and a draft Final Report has been submitted to the City for its consideration.

**Summary of Visual Landscape Evaluation (Draft Final Report)**

**Methodology:** The VLE methodology is guided by the WAPC’s document entitled “Visual Landscape Planning in Western Australia: A Manual for Evaluation, Assessment, Siting and Design” (November 2007) and two other international “best practice” guidance. These two documents are:

- Landscape Character Assessment Guidance for England and Scotland, Countryside Agency and Scottish Natural Heritage (2002): and

The VLE process broadly consisted of the following four steps:-

1. **Definition of the scope of the Visual Landscape Evaluation and setting the context.** This entailed determining the Study Area boundary, planning context and baseline visual and landscape context.

2. **Description of the visual landscape character.** This step identifies, maps and describes individual Landscape Character Units. Landscape Character Units are areas comprised of relative homogenous characteristics in terms of factors such as landform, soil types, vegetation, built form and/or land use.

3. **Evaluate the way the visual landscape character is viewed, experienced and valued.** This step is a visual analysis that identifies ‘how’ the landscape is viewed and experienced by others. The key outputs from this analysis are key views from and to the Study Area and determination of the significance of the view.

4. **Identify landscape and visual sensitivities and develop strategies for managing visual landscape character.** This step assesses of the constraints and opportunities affecting the Study Area, and develops a landscape management framework to address the opportunities and constraints identified.

**Landscape Character Units:** The VLE identified nine Landscape Character Units (LCU's) in the Study Area. These LCU’s illustrated on Attachment 3 and are summarised in the table below. This summary table identifies the key landscape elements that define the character of the LCU. The community values of these LCU’s were determined through the community consultation activities.
**Landscape Character Summary Table**

<table>
<thead>
<tr>
<th>Development Character</th>
<th>Vegetation</th>
<th>Visual Character</th>
<th>Landform</th>
<th>Community Consultation Value</th>
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</thead>
<tbody>
<tr>
<td>Abutting Residential</td>
<td>Rural Residential</td>
<td>Recreational and ecological</td>
<td>Remnant Tuarts</td>
<td>Scrub</td>
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<tr>
<td>LCU1 – Mandurah Road Remnant Roadside Buffer</td>
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<td>LCU2 – Rural Residential in Herdsman Lowland</td>
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<td>LCU4 – Rural Residential in Tuart Woodland</td>
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<td>LCU5 – Sawley Close Melaleuca Swamp</td>
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<td>LCU6 – Golden Bay Remnant Parabolic Dune</td>
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<td>LCU7 – Rural Residential on Remnant Dune</td>
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<td>LCU8 – Singleton Coastal Lowlands</td>
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<td>LCU9 – Singleton Coastal Scrub on Dune Edge</td>
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</tbody>
</table>

**Visual Analysis:** Four views within the Study Area and 18 views of (or to) the Study Area were identified through a combination of desktop analysis and site assessment. These views were selected to represent a range of key viewing locations and experiences and are illustrated on Attachment 4. For each view, the location, anticipated viewer type, viewing experience and “significance” has been determined.

The “significance” assessment has been conducted to ascertain which views are more important than others and rates the views (major, moderate, minor) based on a combination of two factors:

- Sensitivity of the viewer to any change in the view; and
- Quality and value of the view.

The community values of these views were determined through the community consultation activities and in particular, the Feedback Questionnaires that were completed.

The visual analysis considered that three out of the four views from the Study Area have a “major” significance rating. One of these views (viewpoint A of Turtle Swamp Sumpland) is a unique and intimate view, whilst the other three views (B-D) are long, expansive, panoramic views.
Regarding the 18 views of (or to) the Study Area, three types of views were identified:

- Views from the west of the Study Area: Singleton and Golden Bay (Views 1 – 6)
- Views from the east of the Study Area: Paganoni Road (View 7)
- Views from the east of the Study Area: Mandurah Road (Views 8-18)

Four of the ten views or “viewing experiences” to the Study Area have been assessed as having up to “major” significance.

Views from the west of Study Area illustrated that the remnant parabolic dune system of the Study Area (predominantly LCU's 6 and 7) is a highly visible element from some areas in the coastal suburbs of Singleton and Golden Bay. No key views were identified from publicly accessible places in Secret Harbour, although the community identified that there are general views from this area of the Study Area that are appreciated at a local level.

Typically the views are of the urban coastal landscape in the foreground, with the elevated parabolic dune system of the Study Area providing a more naturalistic and contrasting backdrop to the views. The most important views from Singleton and Golden Bay are considered to be those from public open spaces i.e. the static views for example viewpoint 3 from the Singleton foreshore dune.

The views or viewshed from Mandurah Road to the east of the Study Area is not from one fixed viewpoint, instead it is an overall “transient” or “sequential” viewing experience. Three viewing experiences from Mandurah Road were identified for the Study Area. Viewing experience 3 is considered a unique viewing experience from Mandurah to Rockingham (Views 14-18). This viewing experience is of the elevated, remnant parabolic dune system (LCU's 6 and 7) that provides a unique natural (and partially rural) “highlight” or viewing experience along the western side of Mandurah Road from Rockingham to Mandurah.

**Capacity to Absorb Change:** Each LCU was assessed for its capacity to absorb development change and assigned one of three capacity classes (“high”, “moderate”, “low” and “negligible”) over three typical categories of development density: “Special Rural”, “Special Residential” and “Residential”.

*Note: The term “development change” refers to alterations to a place usually associated with changes in land use or intensity of use. Development change is not limited to but may include any or all of the following factors: built form, urban density, landscape and visual environment.*

The following table summarises the capacity to absorb development change for each LCU and development density.

### Summary of Capacity to Absorb Development Change

<table>
<thead>
<tr>
<th>Landscape Character Area</th>
<th>Special Rural Density</th>
<th>Special Residential Density</th>
<th>Residential Density</th>
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<tr>
<td>LCU1: Mandurah Road Roadside Buffer</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
</tr>
<tr>
<td>LCU2: Rural Residential in Herdsman Lowland</td>
<td>High#</td>
<td>Moderate</td>
<td>Low</td>
</tr>
<tr>
<td>LCU3: Turtle Swamp Sumpland</td>
<td>Low</td>
<td>Negligible</td>
<td>Negligible</td>
</tr>
<tr>
<td>LCU4: Rural Residential in Tuart Woodland</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
</tr>
<tr>
<td>LCU5: Sawley Close Melaleuca Swamp</td>
<td>Low</td>
<td>Negligible</td>
<td>Negligible</td>
</tr>
</tbody>
</table>
LCU6: Golden Bay Remnant Parabolic Dune

| Character | Low | Negligible | Negligible |

LCU7: Rural Residential on Remnant Dune

| Character | Low | Negligible | Negligible |

LCU8: Singleton Coastal Lowlands

| Character | High | Moderate | Low |

LCU9: Singleton Coastal Scrub on Dune Edge

| Character | Low | Negligible | Negligible |

# This is based on the current (developed) situation and does not imply an additional capacity to accommodate further new development

VLE Conclusions: The VLE has assessed the landscape and visual character of the Study Area and this analysis has been complemented by an extensive community consultation process. The evaluation has revealed that:-

- The Study Area is not homogenous but comprises a series of distinctive Landscape Character Units (LCU's); 9 in total. These LCU's have varying landform, vegetation, built and visual characteristics that are valued by the community to a various extent. All LCU's have value to the community, however, some LCU's have particular value; notably LCU6: Golden Bay Parabolic Dune (highly valued by 63%), LCU7: Rural Residential on Remnant Dune (highly valued by 52%) and LCU4: Rural Residential in Tuart Woodland (highly valued by 59%).

- Some characteristics of the Study Area appear to make a particularly valuable contribution to visual character. These include the vegetation - particularly tuarts (highly valued by 96% of the respondents), woody vegetation (83%) and scrub (78%) - and landform features, particularly elevated landform (91%), undulating landform (81%), wetlands (80%), however, areas of low relief were also valued (61%).

- A number of significant vantage points have been noted and assessed. In total, four viewpoints from within the Study Area looking out were assessed. Key vantage points within the site are obtained from areas of Public Open Space and elevated locations affording extensive views over the dunal system.

- In total, 18 viewpoints of the Study Area as experienced from the surrounding landscape were assessed. Key views from the surrounding area include longer range views obtained from the Singleton/Golden Bay area to the west of the site, however, the key visual experiences of the site are considered to be obtained from Mandurah Road that forms the eastern boundary of the Study Area. There is no single fixed viewing point from which the site is experienced from the Mandurah Road, rather a series of views (many of which are highly valued by the community) looking into the site when travelling along Mandurah Road that collectively create a rural vista. Viewpoints containing natural features including tuarts, dunes, wetlands and undulating and elevated landform appear to be particularly valued. This 'vista' between Mandurah and Rockingham provides a sense of place and provides a break in urban character.

- Whilst undeveloped 'natural' landscapes and views are highly rated, the character of some of the Study Area that has already been developed appears to have been done in a visually sympathetic manner resulting in landscapes which are valued by the community. This includes LCU7: Rural Residential on Remnant Dune in which much of the original tuart vegetation has been successfully maintained.

- In some LCU's there is evidence that it is difficult to accommodate certain densities of development without adversely affecting the elements and character for which the landscape is valued. This is dependent upon the specific character and elements as described within the VLE.
On the basis of the specific LCU's identified and an assessment of their capacity for development, whilst maintaining valued visual landscape characteristics, it is concluded that there is some capacity for development across some parts of the Study Area. Key aspects determining development potential are the ability to retain: vegetation (particularly tuarts), natural landform, wetlands, and the ‘vista’ from the Mandurah Road.

The landscape of the Study Area has been (for the most part) successfully maintained through the current planning provisions and the Study Area remains of sufficiently high scenic value and rural character to warrant its continued and ongoing protection.

In conclusion, the character of the landscape retains a non-urban (rural/natural) character that enables the protection of the natural dune system and retains a positive natural/rural vista from Mandurah Road.

The principal conclusion of the Visual Landscape Evaluation in response to the brief is that the landscape continues to fulfil the criteria that led to its original inclusion within the Rural Land Strategy.

In light of the above analysis, the VLE has reached the following specific conclusions:-

1. Retaining the Existing Rural Landscape Character of this Landscape
   The landscape of the Study Area has been (for the most part) successfully maintained through the current planning and policy provisions and that the Study Area remains of sufficiently high scenic value and rural character to warrant its continued and ongoing protection.

2. Maintaining the Rural Vista and Viewshed from Mandurah Road
   The vista from Mandurah Road across the Study Area is worthy of retention, protection and ongoing management, particularly the area south of Paganoni Road that provides an important gateway viewing experience. Key aspects of the view that require consideration in future planning are the need to retain the tuart vegetation that creates a vegetated framework to the vista and the visibility of the locally distinctive dune systems.

3. Providing a Transitional Landscape Between Existing and Future Urban Lands
   The Study Area does provide a suitable transitional landscape between the intensively developed areas of the coastal strip to the west and more natural landscapes to the east.

4. Protecting the Unique Natural Landscape Assets of the Quindalup Natural Dune System
   The natural dune system of the Study Area is a highly valued and significant natural asset that is worthy of ongoing preservation. The elevated and undulating character is particularly valued by the local community who rated ‘dunes’ as a particularly important landscape element. The natural landform and associated dune vegetation is vulnerable to development due to the difficulty of establishing access roads and building pads without significant cut and fill that degrades the natural flowing contours of the landscape and destabilises natural vegetation systems.

5. Protecting the Visual Landscape Character Associated with Areas of Highly Valued Ecological and Biologically Diverse Land
   The Study Area includes land valued for its biodiversity values that will require protection and, where appropriate, sensitive integration within any development plans for the Study Area.

**VLE Recommendations**

On the basis of the VLE recommendations, several refinements and amendments to the Rural Land Strategy have been suggested. Key aspects of these recommendations include:-

1. Strengthening of the Landscape Policies with particular reference to ensuring that cut and fill activities do not degrade the natural landform (particularly of the dunes) and to ensure that important vegetation - particularly tuarts - can be successfully retained within the site; and

2. Enhanced description of the landscape attributes to be protected in the rural/natural vista from Mandurah Road.
Karnup TOD

A portion of the Walkable Catchment of the TOD falls within Landscape Character Unit 4 (LCU4) within the VLE. LCU4 is split into two sub units LCU4a and LCU4b. The key landscape and visual characters of LCU 4 are:

- Concentration of mature Tuart, Cottesloe and Karrakatta trees, which provide a leafy character and contribute (naturalistic) vistas from Mandurah Road;
- The well maintained rural residential character in LCU4a, evoking a “sense of civic pride” and “sense of place”;
- Highly visible from key vantage points including Viewpoint B: Mandurah Hill.

In essence, the VLE identifies that the subject area has a "low" capacity to absorb residential development as this intensity of development would result in the removal of the majority of the remnant Tuart vegetation. It also identifies that residential development could not be accommodated without significant adverse change.

It also identifies various key visual management strategies including:

- Retention of existing Tuart vegetation within remaining lots except within a limited footprint related to immediate dwelling footprint and access.
- Height limitations of development (i.e. below the tree line).

### 4. Implications to Consider

#### a. Consultation with the Community

The community consultation for the VLE was undertaken from 4th February 2011 to 4th March 2011.

**Advertising Methodology**

Advertising of the draft VLE was carried out in the following manner:-

- All landowners and occupants in Singleton, Golden Bay and Secret Harbour (approximately 6,500) were notified in writing and invited to complete a Feedback Questionnaire.
- Half-page 'Advertorials' were placed in the Weekend Courier newspaper on 4th February 2011 and the Sound Telegraph newspaper on 9th February 2011 and the VLE was also mentioned in the Council Column in the Weekend Courier newspaper on the 28th January 2011;
- Copies of the draft VLE Report and associated attachments, an Executive Summary, the 'Flyer' and the Feedback Questionnaire were placed on the City's website;
- A 'Community Drop-In Day' was held at the Coastal Community Centre in Golden Bay on Saturday, 12th February 2011 between 10:30am and 3:00pm. Approximately 100 - 150 residents attended the Drop-In Day and the majority completed a Feedback Questionnaire.

**Summary of Submissions**

Following the conclusion of the advertising period, 115 questionnaires had been completed and an additional seven written submissions were received. The draft VLE Report documents and analyses the feedback received.

#### b. Consultation with Government Agencies

Consultation with Government agencies is not required, however, it is open to the City to refer the VLE Report to relevant Government Agencies for information.

#### c. Strategic

**Community Plan**

This item addresses the Community's Vision for the future and specifically the following Aspirations contained in the Community Plan 2011:-
Aspiration 11: Planning for population growth to ensure that future development and land-uses contribute to a sustainable city that provides for a genuinely desirable lifestyle.

Aspiration 16: A Council which engages with all elements of the community in order to make decisions that respect Rockingham’s unique sense of place whilst positively contributing to its future prosperity.

d. Policy
Planning Policy No.5.2 – Rural Land Strategy: The City of Rockingham Rural Land Strategy provides the basis for land use planning in the rural areas of the municipality. In particular, it provides the City with a framework for the assessment of proposals to rezone, subdivide, manage and develop rural land in the City.

The VLE will be used to inform the City's consideration of regional and local planning initiatives and proposals. Furthermore, the City's Rural Land Strategy will also be reviewed in light of the recommendations of the VLE.

Planning Policy No.3.3.17 – Variations to Building Envelopes
The purpose of this Planning Policy is to set out the objectives and policy provisions which the City shall have due regard to in the assessment and determination of applications to vary the location and size of building envelopes. In this regard, the City will consider variations to existing building envelopes only where it can be demonstrated by the Proponent that there is no adverse environmental impact and where the City's objectives for the locality are realised.

The VLE will be used to inform the City to inform its assessment of applications to vary the location and size of building envelopes.

e. Financial
Preparation of the VLE is funded from account 210174.1299 Town Planning Scheme Review, which has a budget allocation of $230,000. The City has budgeted $86,703 to complete preparation of the VLE.

f. Legal and Statutory
Not applicable

5. Comments

Visual Landscape Evaluation
The objective of the VLE was to test the validity and appropriateness of the City's position regarding the rural vista along Mandurah Road.

The conclusions and recommendations as set out in the VLE are based on a detailed analysis of the landscape and visual character of the Study Area and have been complemented by an extensive community consultation process.

The VLE has concluded that the City's current statutory and policy position as set out in TPS No.2 and the Rural Land Strategy is sound and justified; and should be maintained. The landscape of the Study Area has considerable visual character and contains important natural elements, valued by the local community, which it is desirable to maintain. This particularly includes the vista obtained from Mandurah Road that provides a positive natural/rural outlook across much of the Study Area.

It is recommended that the VLE (refer to Attachment 5) be adopted by the Council and be used to inform the City’s consideration of regional and local planning initiatives and proposals.

It is further recommended that the City's Rural Land Strategy be reviewed in light of the recommendations of the VLE.
Karnup TOD

The VLE recommendations place limitations on the capacity of the subject area to accommodate the density of development that would normally be expected within a TOD Walkable Catchment.

The Council has the option of adopting the recommendations from the VLE for LCU4, and potentially restricting the scope of the TOD, or varying the recommendations of the VLE such that the design constraints for the TOD are removed. The latter option would be based on the premise that the wider benefits of TOD can justify the landscape value of the land being reduced.

The TOD process has not reached a stage where the Steering Committee has commenced conceptual designs against a set of agreed principles (for further information refer to the Progress Report in the Information Bulletin). A critical element to the design exercise will be the manner in which pedestrians will cross Mandurah Road to access the Station. Initial investigations have established that Main Roads WA will resist the function of Mandurah Road changing such that traffic speeds are reduced, thereby allowing pedestrians to more readily cross. There has been some suggestion that Mandurah Road will increase its capacity and potentially accommodate additional traffic lanes.

Unless it can be established that pedestrians can efficiently cross Mandurah Road, it is not possible to justify TOD densities in LCU4. As such, there is no immediate need for the Council to balance the benefit of TOD against the landscape value benefits.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council:

1. **ADOPT** the Visual Landscape Evaluation - Singleton, Golden Bay and Secret Harbour and that it be used to inform the City’s consideration of regional and local planning initiatives and proposals.


8. Committee Recommendation

That Council:

1. **ADOPT** the Visual Landscape Evaluation - Singleton, Golden Bay and Secret Harbour and that it be used to inform the City’s consideration of regional and local planning initiatives and proposals.


Committee Voting – 4/0

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

Not applicable

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

Not applicable
Planning Services
Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-001/12 Proposed Road Closure - Final Approval</th>
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<td>File No:</td>
<td>LUP/411-06</td>
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<tr>
<td>Proponent/s:</td>
<td>Cedar Woods</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr John-Paul MacDonagh, 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>
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<td>Date of Committee Meeting:</td>
<td>20th February 2012</td>
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<tr>
<td>Previously before Council:</td>
<td>October 2011 (SP-054/11)</td>
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<td>Executive Function</td>
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<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
</tr>
<tr>
<td></td>
<td>2. Rivergums East Structure Plan</td>
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</table>
1. **Purpose of Report**

To consider an application to close a portion of unnamed road reserve between Safety Bay Road and the Kwinana Freeway, Baldivis, following advertising.

2. **Background**

In October 2011, Council initiated road closure proceedings to close a portion of an unnamed road reserve between Safety Bay Road and the Kwinana Freeway, Baldivis.

3. **Details**

The closure of a portion of an unnamed road reserve will facilitate the development of the land in accordance with the approved Rivergums East Structure Plan.

The location of the road reserve within the Structure Plan is depicted below:-
4. Implications to Consider

a. Consultation with the Community

In accordance with the Land Administration Act 1997 (the Act), a Public Notice was placed in the Weekend Courier newspaper on the 16th December 2011, advertising the proposed road closure for a period of 35 days. No submissions were received from the community.

b. Consultation with Government Agencies

Submissions were received from Western Power, Telstra and the Water Corporation. No objections were raised, although Telstra advised that there were existing assets in the vicinity that may require relocation.

c. Strategic

Community Plan

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

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

d. Policy

Nil

e. Financial

Nil

f. Legal and Statutory

The City has complied with the administrative proceedings under Section 58 of the Act.

5. Comments

Response to Submissions

The Telstra submission advised that its assets exist in the vicinity of the road closure and may require relocation. The proponent has advised that it will liaise directly with Telstra in this regard. A condition requiring all costs to be borne by the proponent to facilitate closure is recommended.

Conclusion

It is recommended that the Council request the Minister for Lands to proceed with the road closure.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council REQUEST the Minister for Lands to proceed with the closure of a portion of unnamed road reserve between Safety Bay Road and the Kwinana Freeway, Baldivis subject to Cedar Woods paying for the cost of relocating Telstra infrastructure, as required.

8. Committee Recommendation

That Council REQUEST the Minister for Lands to proceed with the closure of a portion of unnamed road reserve between Safety Bay Road and the Kwinana Freeway, Baldivis subject to Cedar Woods paying for the cost of relocating Telstra infrastructure, as required.

Committee Voting – 4/0
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<td></td>
<td><strong>10. Implications of the Changes to the Officer’s Recommendation</strong></td>
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# Planning Services
## Statutory Planning Services

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<td>File No:</td>
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<tr>
<td>Proponent/s:</td>
<td>Gray and Lewis Land Use Planners</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
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<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
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<td>Date of Committee Meeting:</td>
<td>20th February 2012</td>
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<td>November 2011 (SP-056/11)</td>
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<td>Schedule of Submissions</td>
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<td>Maps/Diagrams:</td>
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</table>
1. **Purpose of Report**

To consider an application to close various portions of road reserves affected by the Perth to Mandurah Railway corridor, following advertising.

2. **Background**

In November 2011, Council initiated road closure proceedings to close various portions of road reserves affected by the Perth to Mandurah Railway corridor in Cooloongup, Hillman, Waikiki, Warnbro, Port Kennedy, Baldivis and Karnup.

3. **Details**

The proponent, acting on behalf of the Public Transport Authority (PTA), seeks the Council’s support to close road reserves that are affected by the Perth to Mandurah Railway corridor, for the purpose of amalgamating them into a consolidated land parcel to be held by the PTA.
4. Implications to Consider

a. Consultation with the Community
In accordance with Section 58 of the Land Administration Act 1997 (the Act), a Public Notice was placed in the Weekend Courier newspaper on the 16th December 2011, advertising the proposed road closures for a period of 35 days. No submissions were received from the community.

b. Consultation with Government Agencies
Submissions were received from the Western Australian Planning Commission, Main Roads, Telstra and the Water Corporation. No objections were raised to the proposed road closures, although Telstra advised that there were existing assets in the vicinity that may require relocation.

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

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

d. Policy
Nil

e. Financial
Nil

f. Legal and Statutory
The City has complied with administrative procedures under Section 58 of the Act.

5. Comments

Response to Submissions
The Telstra submission advised that its assets are located in vicinity of the road closure areas which may require relocation. The proponent has advised that PTA will liaise directly with Telstra in this regard. A condition requiring all costs to be borne by the proponent to facilitate closure is recommended.

The Main Roads submission suggested that a redundant portion of Mandurah Road between the proposed closure and Ennis Avenue should be closed even though this portion of land is not the responsibility of Main Roads. This land was included in portions of road reserve to be closed when it was advertised and is under the control of the PTA.

Conclusion
It is recommended that the Council request the Minister for Lands to proceed with the road closures.

6. Voting Requirements
Simple Majority

7. Officer Recommendation
That Council REQUEST the Minister for Lands to proceed with the closure of various portions of road reserves affected by the Perth to Mandurah Railway corridor, subject to the Public Transport Authority paying for the cost of relocating Telstra infrastructure, as required.
8. **Committee Recommendation**

That Council *REQUEST* the Minister for Lands to proceed with the closure of various portions of road reserves affected by the Perth to Mandurah Railway corridor, subject to the Public Transport Authority paying for the cost of relocating Telstra infrastructure, as required.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
## Planning Services
### Statutory Planning Services

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<td>28/5863</td>
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<tr>
<td>Proponent/s:</td>
<td>Mr W Lilleyman</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Regan Travers, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
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<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
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<td>Date of Committee Meeting:</td>
<td>20th February 2012</td>
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<td>3. Consultation Plan</td>
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<td>4. 3D House Plan - View looking West</td>
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<tr>
<td></td>
<td>5. 3D House Plan - View looking East</td>
</tr>
<tr>
<td></td>
<td>6. Existing Vegetation and Landform - View looking East</td>
</tr>
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<td></td>
<td>7. Existing Vegetation and Landform - View looking North</td>
</tr>
<tr>
<td></td>
<td>8. Cross Section</td>
</tr>
</tbody>
</table>
1. **Purpose of Report**

To consider an application seeking Planning Approval to vary the location of the Building Envelope for Lot 804 (No.16) Figtree Lane, Golden Bay.

2. **Background**

In October 2007, Amendment No.4 to Town Planning Scheme No.2 was gazetted rezoning Lots 200 and 300 Dampier Drive, Golden Bay from ‘Special Rural’ to ‘Special Residential’, which facilitated the creation of the subject site and the introduction of a Building Envelope.

3. **Details**

The proponent seeks approval to relocate the Building Envelope from the south west of the property towards the north western corner. The subject lot is on the southern side of a large dune. There is no change to the area of the Building Envelope of 1,000m².

The current Building Envelope is located in the south western section of the property on contours ranging from 2.5m to 7.53m, while the proposed location further to the north ranges in height from 4.8m up to 14.5m.
2. Existing and Proposed Building Envelopes

The proponent has advised that moving the Building Envelope to the northwest of the block will enable the retention of a large tree within the Building Envelope and avoid future drainage issues associated with building at the low point of the dune.

The proposal is supported by an indicative house design for a split two level building, with a usable rooftop and driveway access following the eastern boundary.

The City requested additional information from the applicant on the 8th June 2011 including the following:

- Information demonstrating compliance with the Fire Management Plan approved on the 12th May 2009;
- Information demonstrating that the proposal will not have an adverse environmental impact, prepared by an environmental consultant. The report should include a tree survey;
- Information demonstrating that the requirements of AS 4970-2009, *Protection of trees on development sites* can be met for any future development within the Building Envelope;
- Information demonstrating that the proposed development will comply with Planning Policy 3.3.6, *Development Guidelines for Special Residential zones*; and
- Cross section and elevations of the proposed development.

At a meeting held on the 31st August 2011, the proponent advised that other than providing the cross section and elevations plans, the information requirements were too onerous. In November 2011 the City received the cross section and elevations; however, no further information was received.

On the 16th November 2011, the City commenced advertising of the proposal to adjoining neighbours. Advertising closed on the 1st December 2011.

At its ordinary meeting held on the 22nd November 2011 the Council resolved to make a number modifications to *Planning Policy 3.3.17 - Variations to Building Envelopes*, including the delegation to City Officer's.

### 4. Implications to Consider

#### a. Consultation with the Community

In accordance with clause 6.3.3 of Town Planning Scheme No.2 (‘TPS2’) and Planning Policy 3.3.17 - *Variations to Building Envelopes*, in the Golden Bay Special Residential Zone, 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 four nearby owners and occupiers for comment, for a period of 14 days.

At the close of the advertising period, no submissions were received.

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**Key:**

- **Consulted Land**
- **Subject Site**

3. Consultation Plan

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*CONFIRMED AT A PLANNING SERVICES MEETING HELD ON MONDAY, 19 MARCH 2012*
b. Consultation with Government Agencies
Consultation with Government Agencies was not required.

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

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

d. Policy
Planning Policy 3.3.17 – Variations to Building Envelopes

*Planning Policy 3.3.17 – Variations to Building Envelopes* (BE Policy) applies to the application. The BE Policy requires Building Envelopes to be located based upon environmental conditions, landform and vegetation characteristics, the possible form of residential development and the impact of future development on the visual amenity of the locality.

In the Assessment Criteria of the BE Policy it notes that:-

“The Council will consider variations to existing Building Envelopes only where it can be demonstrated by the Proponent that there is no adverse environmental impact and where then Council’s objectives for the locality are realised; and

The Council may also require a report from a qualified and experienced Environmental Consultant substantiating that there is no adverse environmental impact.”

The proposal is not supported by an Environmental Report or supplementary letter prepared by an Environmental Consultant demonstrating that the relocation of the Building Envelope is unlikely to result in any adverse environmental impact.

Planning Policy 3.3.6 - Development Guidelines for Special Residential Zones

*Planning Policy 3.3.6 - Development Guidelines for Special Residential Zones* (SR Policy) also applies to the application. The SR Policy guides development of lots with the Special Residential zones that are affected by steep topography by the implementation of special housing design requirements, which are necessary to minimise the amount of site earthworks to protect the landscape character of each lot.

The application has been assessed with regard to the following SR Policy objectives:-

- **The need to seek a balance between cutting and filling in attaining the proposed finished levels of the property; and**

- **The need to retain significant stands of native vegetation.**

Clause 4.1(d) of the SR Policy states:-

- **“Avoid cutting into natural soil where possible, and retain as much of the natural vegetation as possible.”**

The proposal does not provide for a balance of cut and fill due to the elevated position of the Building Envelope requiring significant cutting into the dune to reduce the height of the future dwelling.

e. Financial
Nil

f. Legal and Statutory
The objective of the Special Residential zone under TPS2 is to ensure that the rural landscape and amenity is conserved and the natural environment is enhanced.

Under TPS2 the following requirements apply:-

Clause 19 of Schedule No.5 - Planning Unit No.3
- All buildings and outbuildings are to be sympathetic in design, materials and colour to complement surrounding landscape elements and be sited away from focal points and located where screening vegetation or landform can be utilised.

Clause 20 of Schedule No.5 - Planning Unit No.3

- Any development on those lots marked ‘S’ on the Subdivision Guide Plan (Which includes the subject site) are subject to special housing design requirements as specified in the Council’s SR Policy. These requirements are necessary in order to minimise the amount of site earthworks to protect the landscape character of each lot.

The proponent has failed to demonstrate that the proposal and subsequent development will comply with the Special Residential zone objectives in TPS2.

5. Comments

Landscape Character

The proposed Building Envelope location needs to be considered in the context of a house being built in this location and its potential impact on the landscape character of the dune system and rural viewshed.

In the case of Golden Bay the location of the Building Envelopes was specifically intended to maintain the rural attributes and appearance of the land, looking westward from Mandurah Road and looking to the east from the townsit of Golden Bay.

4. 3D House Plans – View looking West
5. 3D House Plans – View looking East

It is acknowledged that there would be no impacts on views from Mandurah Road or the Townsite to the west, given its proposed location lower than the top of the dune as demonstrated by figures No.3 and No.4.

It is considered that the proposal represents an acceptable modification due to specific efforts made to limit the visual impact of the proposal by restricting development height to below the dune ridge.

Environmental Impacts

As an Environmental Report has not been submitted demonstrating that the proposal will not have an adverse affect on the native vegetation and landforms, the proponent has not demonstrated how this key policy criteria has been satisfied.

The City’s assessment notes that the vegetation within the proposed Building Envelope is similar in composition and condition to the existing envelope, although more understorey will be removed. The proponent has stated that no mature trees will be removed in the new Building Envelope, compared to the removal of one mature tree in the existing Building Envelope.

6. Existing Vegetation and Landform - View looking East
7. Existing Vegetation and Landform - View looking North

The City's investigations and liaison with South Metropolitan Coastcare indicate that the major environmental risk would be erosion associated with cutting into the steep dune. This cutting could cause a sand blow out associated with wind mobilising sand that has been exposed through clearing and other degradation, which may smother other vegetation as well as cause a nuisance to the owner and neighbours. The full impacts of the proposal will only be known if specialist advice was sought by the proponent on the proposal as well as stabilisation and revegetation post construction.

8. Cross Section

The relocated Building Envelope does not present a case for less clearing of remnant vegetation, nor does it provide for an overall environmental benefit. Accordingly, it is considered that the proposal fails to satisfy the Policy requirements for the Building Envelope variation to demonstrate that no adverse environmental impact will occur.
Conclusion
The City considers that the proposed Building Envelope variation does not satisfy the key Policy requirement, which is to demonstrate that there will be no adverse environmental impact. The proposal also fails to comply with the TPS2 objectives for the Special Residential Zone, which is to ensure the natural environment is enhanced.

The Building Envelope Variation has the potential to impact upon the coastal landform, increase erosion risk associated with a higher position, require significant earthworks and would impact upon the amenity of adjoining properties. It is also considered that it would be difficult to achieve a balanced ratio of cut to fill upon building a house, because of its proposed elevated position.

It is recommended that Council refuse the proposed Building Envelope variation.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council **REFUSE** the application to vary the Building Envelope on Lot 804 (No.16) Figtree Lane, Golden Bay for the following reasons:-

1. The proposed building envelope modification does not satisfy the key criteria of Planning Policy 3.1.7 - Applications to Vary the Location of Building Envelopes and Town Planning Scheme No.2, which demonstrates that there will be no adverse environmental impact. The proposed variation has the potential for significant erosion associated with cutting into the steep dune.

2. The proposal fails to comply with objectives of the ‘Special Residential’ Zone to ensure the natural environment is enhanced. The proposal represents an intrusion into the coastal landform and vegetation complex of the Golden Bay.

3. The proposed building envelope location does not achieve a balanced ratio of cut to fill for the proposed dwelling and it does note retain as much of the natural vegetation as possible. The proposal therefore fails to comply with Planning Policy 3.3.6 - Development Guidelines for Special Residential Zones.

8. Committee Recommendation

That Council **REFUSE** the application to vary the Building Envelope on Lot 804 (No.16) Figtree Lane, Golden Bay for the following reasons:-

1. The proposed building envelope modification does not satisfy the key criteria of Planning Policy 3.1.7 - Applications to Vary the Location of Building Envelopes and Town Planning Scheme No.2, which demonstrates that there will be no adverse environmental impact. The proposed variation has the potential for significant erosion associated with cutting into the steep dune.

2. The proposal fails to comply with objectives of the ‘Special Residential’ Zone to ensure the natural environment is enhanced. The proposal represents an intrusion into the coastal landform and vegetation complex of the Golden Bay.

3. The proposed building envelope location does not achieve a balanced ratio of cut to fill for the proposed dwelling and it does note retain as much of the natural vegetation as possible. The proposal therefore fails to comply with Planning Policy 3.3.6 - Development Guidelines for Special Residential Zones.

Committee Voting – 4/0

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

Not applicable
10. Implications of the Changes to the Officer's Recommendation

Not applicable
## Planning Services

### Statutory Planning Services

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<tr>
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<td>28/4544</td>
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<tr>
<td>Proponent/s:</td>
<td>Mr P J Smith</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw, 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>
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<td></td>
<td>2. Existing Building Envelope</td>
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<td>3. Proposed Building Envelope</td>
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<td></td>
<td>4. Consultation Plan</td>
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1. Location Plan

1. **Purpose of Report**

To consider an application seeking Planning Approval to vary the location of the Building Envelope for Lot 118 (No.7) Boothman Mews, Golden Bay.

2. **Background**

In November 2011, Council amended Planning Policy No.3.3.17 - Variations to Building Envelopes, to require that applications to vary building envelopes in the Singleton Special Rural and Special Residential zones be referred to Council for determination.

3. **Details**

The proponent seeks approval to modify the location of the existing Building Envelope to allow for the future development of a shed and pool. A total of 28m² of the existing envelope will be relocated to a new position and therefore only the location, not the total area, of the Building Envelope will change.

More useable space within the Building Envelope has been obtained due to the proponent removing the existing Eco Max waste disposal system and the associated disposal cells, which previously occupied a portion of the Building Envelope. This system has been replaced by the installation of a Fuji Clean system, which utilizes irrigation pipes. The City has previously permitted irrigation pipes to be located outside of the Building Envelope, similar to a sprinkler irrigation system.
2. Existing Building Envelope

3. Proposed Building Envelope
4. **Implications to Consider**

a. **Consultation with the Community**

In accordance with clause 6.3.3 of Town Planning Scheme No.2 (TPS2) and Planning Policy 3.3.17 - Variations to Building Envelopes (the Policy), 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 five nearby owners and occupiers for comment, for a period of 14 days, as shown on the Consultation Plan. At the completion of the public comment period, no submissions were received.

![4. Consultation Plan](image)

b. **Consultation with Government Agencies**

Consultation with Government agencies is not required.

c. **Strategic Community Plan**

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

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

d. **Policy**

Planning Policy 3.3.17 – Variations to Building Envelopes

The Policy provides guidance for the consideration of applications to relocate Building Envelopes. The Policy requires building envelopes to be located based upon environmental conditions, landform and vegetation characteristics, the possible form of residential development and the impact of future development on the visual amenity of the locality. Unless otherwise approved by the Council, only minor increases to the size of Building Envelopes will be considered to a maximum of 10% of the area of the original Building Envelope.

*CONFIRMED AT A PLANNING SERVICES MEETING HELD ON MONDAY, 19 MARCH 2012*
All Building Envelopes are also required to be of a regular shape and comprise a single contiguous area. The proposal is considered to be compliant with the intent and objectives of the Policy in every regard.

e. **Financial**
   Nil

f. **Legal and Statutory**
   In dealing with applications to vary the location and size of an approved Building Envelope, the Council must be satisfied that the proposal will accommodate development that is consistent with the Special Residential zone. The objective of the Special Residential zone under the TPS2 is to ensure that the rural landscape and amenity is conserved and the natural environment is enhanced. The proposed Building Envelope variation is considered to have no impact on the rural landscape and amenity. There are no environmental impacts associated with the proposed Building Envelope, as it is within an area where there is no remnant vegetation.

5. **Comments**

**Consultation**
The required community consultation of affected or adjoining properties was undertaken by the City and there were no objections raised to the proposal by adjoining owners.

**Conclusion**
The proposed Building Envelope modification complies with TPS2 and the Policy. It is recommended that the proposed Building Envelope variation be approved.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council **APPROVE** the planning application to vary the Building Envelope on Lot 118 (No.7) Boothman Mews, Golden Bay.

8. **Committee Recommendation**

That Council **APPROVE** the planning application to vary the Building Envelope on Lot 118 (No.7) Boothman Mews, Golden Bay.

   Committee Voting – 4/0

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

   Not applicable

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

   Not applicable
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<thead>
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<tr>
<td><strong>File No:</strong></td>
<td>28/2897</td>
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<tr>
<td><strong>Proponent/s:</strong></td>
<td>Mr and Mrs Moore</td>
</tr>
<tr>
<td><strong>Author:</strong></td>
<td>Miss Donna Shaw, Planning Officer</td>
</tr>
<tr>
<td><strong>Other Contributors:</strong></td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
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<td>Mr Mike Ross, Manager Statutory Planning</td>
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<td><strong>Site:</strong></td>
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<td><strong>Lot Area</strong></td>
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<td>1. Schedule of Submissions</td>
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<td>2. Proponents letter dated 16th January 2012</td>
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<td>1. Location Plan</td>
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<td></td>
<td>2. Consultation Plan</td>
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1. Location Plan - Lot 373 (No.54) Arcadia Drive, Shoalwater

1. **Purpose of Report**

To consider an application seeking Planning Approval for a Home Occupation (Dog Grooming) at Lot 373 (No.54) Arcadia Drive, Shoalwater.

2. **Background**

Nil

3. **Details**

The proponent seeks approval to operate a dog grooming business from the premises. The proponent is the occupier of the dwelling. Dog grooming activities are proposed to be undertaken in the laundry.

The hours of operation are proposed between 8:00am and 4:00pm, four days per week, which are variable and can include weekends. Clients will attend the premises on an appointment only basis, with a 15 minute interval between clients. The proponent anticipates a maximum of five clients per day.

4. **Implications to Consider**

a. **Consultation with the Community**

In accordance with clause 6.3.3 of Town Planning Scheme No.2 ('TPS2') and Planning Procedure 1.3 - Community Consultation, the application was referred to four surrounding owners for comment for a period of 14 days.

At the close of the advertising period, three submissions objecting to the proposal were received. It should be noted that of these three submissions, two provided conditional support for the proposal if reasons for objection were adequately addressed.

The submissioners raised the following concerns:-
(i) Enforcement: The proposed conditions being adhered to;
(ii) Parking/Traffic Impacts: Parking of customer vehicles in adjoining neighbours properties;
(iii) Trespassing: Dogs trespassing and being a nuisance to neighbours and transferring diseases to other dogs;
(v) Land Use: The use not being appropriate to a Residential zone and should be in an Industrial zone.
(vi) Noise: Created from dogs barking.

The proponent has prepared a letter in response to the concerns raised by the submissioners (Attachment 2).

2. Consultation Plan

b. Consultation with Government Agencies

Consultation with Government Agencies is not required.

c. Strategic

Community Plan

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

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

d. Policy

Planning Policy 3.3.10 - Home Occupations 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 the 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 Policy assessment criteria include the:-

(i) Method of Operation – The operation of the Home Occupation must not cause injury to or adversely affect the amenity of the neighbourhood.

(ii) Scale of Operation – The Home Occupation:–
- does not employ any person not a member of the occupier’s household;
- does not occupy an area greater than 20m²; and
- does not involve the use of an essential service of greater capacity than normally required in the zone.

(iii) Traffic Generation - The traffic generated by the Home Occupation must not have the potential to adversely affect the amenity of the neighbourhood. All visits to the site must be controlled i.e. by appointment only. If the Home Occupation is likely to have an adverse impact on the existing nature of the street or its amenity, the Council is unlikely to approve the proposal.

(iv) Car Parking - The Home Occupation must not result in the requirement for a greater number of parking facilities than normally required for a single dwelling.

(v) Advertising Signs - The maximum permitted signage size is 0.2m² for a Home Occupation and no more than one sign is permitted on the land.

(vi) Health Requirements - Where commercial food is prepared the provisions of the Health (Food Hygiene) Regulations 1993 apply.

The proposed Home Occupation was assessed against the above Policy and is considered to be complaint.

e. Financial

Nil

f. Legal and Statutory

A Home Occupation is a (‘D’) use that is not permitted in the Residential Zone, unless the Council has exercised its discretion by granting Planning Approval.

The TPS2 interpretation for Home Occupation is as follows:-

“Home Occupation:
means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

(a) does not employ any person not a member 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 20 square metres;
(d) does not display a sign exceeding 0.2 square metres;
(e) does not involve the retail sale, display or hire of goods of any nature.
(f) In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair, or maintenance of motor vehicles; and
(g) Does not involve the use of an essential service of greater capacity than normally required in the zone.”

Clause 4.16.1 of TPS2 similarly states that Council will only permit the operation of a Home Occupation within a dwelling or property, where it is satisfied that the operation:-
“(i) does not employ any person not a member of the occupier’s household;
(ii) will not cause injury to or adversely affect the amenity of the neighbourhood;
(iii) does not occupy an area greater than 20 square metres.
(iv) does not display a sign exceeding 0.2 square metres;
(v) does not involve the retail sale, display or hire of goods of any nature;
(vi) in relation to vehicles and parking, does not result in parking facilities normally required for a single dwelling;
(vii) does not involve the use or an essential service of greater capacity than normally required in the zone.”

The Council must also consider specific issues including the method and hours of operation, the potential for nuisance to neighbours, hours of operation, traffic, car parking and location of storage areas.

The proposed Home Occupation was assessed against the above TPS2 requirements and is considered to be complaint.

Noise Controls
Noise from dogs is controlled by dogs being groomed in the laundry of the house and the proponent agreeing control dog behaviour at all times and not agreeing to customers returning their dogs if they present a noise problem. Noise from dogs is also controlled under the Dog Act 1997 which is enforceable by the City's Ranger Services.

5. Comments

Response to Submissions
With respect to the issues raised in the submissions, the following comments are made:

Enforcement
If the proposed Home Occupation (dog grooming) is approved, the proponent is legally required to comply with all of the conditions of approval. Failure to comply with any conditions of approval means that the business is in breach of TPS2, which may result in enforcement action by the City.

Parking/Traffic
The proposal complies with the Policy requirements that traffic generated must not have any adverse impacts on the amenity of the neighbourhood. The small number of clients visiting the premises will ensure that traffic impacts are minimised. The applicant will also require clients to make appointments before visiting, which is a Policy requirement.

The Policy requires that car parking numbers are not greater than would be required for a single dwelling. There is sufficient car parking on-site for two visitor cars. No extra car parking is required beyond the existing parking arrangements.

Trespassing Dogs
A condition of Planning Approval can be added to ensure that client's dogs must be restrained when attending the premises. This condition will also address the submissioner’s concerns in relation to the spread of contagious diseases, as many diseases affecting dogs, such as worms and canine parvovirus, can only be spread through direct contact with other dogs or their faeces.

Land Use
TPS2 and the Policy permits small businesses to be carried out from a dwelling, provided that it does not adversely affect the amenity of the locality. The Council has previously approved a number of Dog Grooming Home Occupations within the Residential zone. It is considered that the proposal is unlikely to impact upon the residential amenity of the area and is an appropriate land use within the Residential zone, provided the impacts are managed by the proponent.
Noise
As previously mentioned, noise from dogs is controlled by grooming occurring within the laundry of the house and given the small scale of the proposal and response from the proponent, any impact on residential amenity is expected to be limited.

Conclusion
The proposal is consistent with the Home Occupation requirements of TPS2 and the Policy. On balance of the issues raised in the submissions and the merits of the proposal, it is recommended that Council approve the application for the dog grooming Home Occupation.

6. Voting Requirements
Simple Majority

7. Officer Recommendation
That Council APPROVE application 20.2011.275 seeking Planning Approval for a Home Occupation (Dog Grooming) at Lot 373 (No.54) Arcadia Drive, Shoalwater, subject to the following conditions:-
1. All materials and/or equipment used in relation to the Home Occupation must be stored within the residence, shed and/or rear yard, behind property fences, at all times.
2. Clients must not be permitted to attend the premises except by appointment and with an interval of at least 15 minutes between clients.
3. The washing of dogs must only occur in the laundry.
4. Only one dog is permitted to be groomed at the premises at any time.
5. The business must only operate between the hours of 8:00am and 4:00pm and not on Sundays and Public Holidays.
6. All clients attending the premises must park on the driveway of the premises.
7. All dogs attending the premises must be restrained at all times when entering and leaving the premises and are not permitted to trespass on adjacent properties.
8. All wastewater must be disposed of into the Water Corporation sewer.
9. The Home Occupation must comply with all of the standards and requirements of City Planning Policy 3.3.10 – Home Occupations and Home Businesses, at all times.

Footnote:
1. The development should comply with Planning Policy 3.3.10 - Home Occupations and Home Businesses, a copy of which is attached to this approval.

8. Committee Recommendation
That Council APPROVE application 20.2011.275 seeking Planning Approval for a Home Occupation (Dog Grooming) at Lot 373 (No.54) Arcadia Drive, Shoalwater, subject to the following conditions:-
1. All materials and/or equipment used in relation to the Home Occupation must be stored within the residence, shed and/or rear yard, behind property fences, at all times.
2. Clients must not be permitted to attend the premises except by appointment and with an interval of at least 15 minutes between clients.
3. The washing of dogs must only occur in the laundry.
4. Only one dog is permitted to be groomed at the premises at any time.
5. The business must only operate between the hours of 8:00am and 4:00pm and not on Sundays and Public Holidays.
6. All clients attending the premises must park on the driveway of the premises.
7. All dogs attending the premises must be restrained at all times when entering and leaving the premises and are not permitted to trespass on adjacent properties.

8. All wastewater must be disposed of into the Water Corporation sewer.

9. The Home Occupation must comply with all of the standards and requirements of City Planning Policy 3.3.10 – Home Occupations and Home Businesses, at all times.

Footnote:
1. The development should comply with Planning Policy 3.3.10 - Home Occupations and Home Businesses, a copy of which is attached to this approval.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
### Planning Services
#### Statutory Planning Services

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<tr>
<td>File No:</td>
<td>28/5446</td>
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<tr>
<td>Proponent/s:</td>
<td>Norman Brooks Architectural Draughting</td>
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<td>Author:</td>
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<td>20th February 2012</td>
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<td>Tribunal</td>
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<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
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</table>

| Site:                   | Lot 410, Strata Lot 2 (Unit 2/3) Toynbee Way, Port Kennedy                        |
| Lot Area                | 1,678m²                                                                            |
| LA Zoning               | Port Kennedy Business Enterprise                                                   |
| MRS Zoning              | Industry                                                                          |
| Attachments:            | Site and Elevations plans                                                          |
| Maps/Diagrams:          | 1. Location Plan                                                                   |
|                         | 2. Photo - Bar                                                                     |
|                         | 3. Photo - Booths                                                                   |
|                         | 4. Photo - Fridges                                                                  |
1. Location Plan - Lot 410, Strata Lot 2 (Unit 2/3) Toynbee Way, Port Kennedy

1. **Purpose of Report**

To consider an application seeking Planning Approval for a Motor Cycle Detailing and Storage and Party Promotions Showroom at Lot 410, Strata Lot 2 (No.2/3) Toynbee Way, Port Kennedy.

2. **Background**

In April 2010, the City received a complaint from the WA Police that the Industrial Unit was being occupied by the Outlaw Motorcycle Club (Club).

In May 2010, the City wrote to the Club advising that Planning Approval pursuant to Town Planning Scheme No.2 (TPS.2) had not been granted to occupy the unit as a ‘Club Premises’ and instructed the activity to cease.

In July 2010, the City’s solicitors wrote to the owner of the property (A.C.N 069 744 823 Pty Ltd) advising that a prosecution would be commenced for undertaking a change of use without having obtained Planning Approval first.

In December 2010, City Officers, with support of the WA Police, conducted a site inspection of the property which revealed that it was being used as a Club Premises. Photos taken during the inspection are shown below.
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 19 MARCH 2012

1. Bar

2. Booths
3. Area behind bar

In March 2011, a Direction Notice pursuant to section 214 (2) of the Planning and Development Act 2005 (the Act) was issued to the owners, instructing them to immediately cease the Club use of the unit and not to recommence the use.

In April 2011, the owner’s solicitor advised that the Unit was no longer being used and that the activity has ceased. Information provided by the WA Police confirmed that the activity has not recommenced.

In May 2011, the City received an application for Planning Approval. The description of the proposed use on the application form described it as ‘Motor Cycle Detailing and Storage and Party Promotions Showroom’.

The City requested on two occasions that the proponent confirm that the site is not intended to be occupied by as a Club Premises for the Outlaw Motorcycle Club and sought clarification in respect to a number of other matters in order to determine its land use classification.

In response, the following description of the proposed activity was provided by the proponent:-

“My client instructs as follows:-

1. The premises are to be used for business purposes;
2. The predominant activity is to be the business of Black and White Motorcycles Party Promotions Showroom and White Motorcycles Detailing;
3. Negotiations are still being undertaken with wholesalers of various products including pool tables. These items are not being sold from the premises but hired;
4. The days and hours of operation are proposed to be between the hours of Monday to Saturday 7:30am to 5:00pm and by appointment only;
5. There will be no servicing of motorcycles at the premises;
6. Goods to be hired will be those from the Party Promotions business; and
7. There will be no motorcycle maintenance and therefore no wash-down bay is required.”

4. Implications to Consider

a. Consultation with the Community
   Not Applicable

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 contained in the Community Plan 2011:-
   **Aspiration 11:** Planning for population growth to ensure that future development and
   land-uses contribute to a sustainable city that provides for a genuinely desirable lifestyle.

d. Policy
   Nil

e. Financial
   Nil

f. Legal and Statutory
   The City considers that the proposed use ‘Motor Cycle Detailing and Storage and Party
   Promotions Showroom’ is not a bona fide application and that it has only been submitted to
   obtain Planning Approval to allow the premises to be used as a the Club Premises for the
   Outlaw Motorcycle Club.
   The application is considered a non-genuine application for the following reasons:-
   - The uses proposed are considered consistent with those activities that would be
     undertaken by a Motorcycle Club.
   - No details of the goods intended to be hired have been provided other than those
     goods that were present at the time of the compliance inspection (i.e. pool table,
     chairs and tables). Party Hire Business normally include a far wider range of
     products such as... glasses, Jukeboxes, Marquees, cocktail machines, BBQs,
     lighting effects, tarp, crockery, cutlery, catering equipment, linen etc.
   - The bar observed during the compliance inspection is to be retained as a ‘serving
     counter’ as shown on the plans received 9th November 2011;
   - The seating areas observed at the compliance inspection are to be retained as
     ‘waiting booths’ as shown on the plans received 9th November 2011;
   - No detail has been provided in relation to the number of staff;
   - The removal of internal building works for the bar and booths is not proposed; and
   - The proponent has not confirmed that the premises will not be occupied by the
     Outlaw Motorcycle Club for the purposes of a Club premises;
   TPS2 defines a Club Premises as “premises used or designed for use by a legally
   constituted club or association or other body of persons united by a common interest”. On
   the above basis, the City believes that the proper classification of the land use is a ‘Club
   Premises’ under TPS2, which is a (‘X’) use that is not permitted in the Port Kennedy
   Business Enterprise zone.
The proposal is also considered to be inconsistent with the objective of the Port Kennedy Business Enterprise zone which is ‘to promote service commercial and office land uses within the area to service the demands of the locality and in recognition of the Council’s regional responsibility to provide light industrial land within the region, encourage development of light industrial land uses in an orderly and proper manner’.

The proper interpretation of the proposal is Club Premises for the Outlaw Motorcycle Club, which does not provide a service that would meet the demands of the locality.

5. Comments

The City is not satisfied that the proposal is a genuine proposal and that it would be contrary to orderly and proper planning, to grant planning approval in the circumstances.

The proponent has not adequately demonstrated that the application is for a bona fide use and on the basis of the history the site being used as the Club Premises. The development compliance inspection, when balanced against the proposal presented, suggests to the City that the underlying intent is for the Outlaw Motorcycle Club to operate a Club Premises. It would also be difficult for City Officers to ensure that the application presented would not be unlawfully used as a Club Premises given the proponent's intention not make any substantial changes to the physical layout of the premises.

Given that a ‘Club Premises’ is a land use which cannot be legally approved by the Council within the Port Kennedy Business Enterprise zone, ‘the application must be refused.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council REFUSE application 20.2011.103.1 seeking planning approval for a Motor Cycle Detailing and Storage and Party Promotions Showroom at Lot 410, Strata Lot 2 (No.2/3) Toynbee Way, Port Kennedy as the application is not for a bona fide use of the premises; the use of a ‘Club Premises’ is an (‘X’) use, that is not permitted within the Port Kennedy Business Enterprise Zone.

8. Committee Recommendation

That Council REFUSE application 20.2011.103.1 seeking planning approval for a Motor Cycle Detailing and Storage and Party Promotions Showroom at Lot 410, Strata Lot 2 (No.2/3) Toynbee Way, Port Kennedy as the application is not for a bona fide use of the premises; the use of a ‘Club Premises’ is an (‘X’) use, that is not permitted within the Port Kennedy Business Enterprise Zone.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
## Planning Services

### Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-007/12 Proposed Closure of Pedestrian Access Way - Radford Place and Waimea Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/1576</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Mr D Svillicic, Mr V Krummel, Mr A Blood</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Regan Travers, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>20th February 2012</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Mr Mike Ross declared an Impartiality Interest in Item SP-007/12 - Proposed Closure of Pedestrian Access Way - Radford Place and Waimea Road as detailed within Clause 3.3 of Council’s Code of Conduct and Regulation 34C of the Local Government (Administration) Regulations 1996, as Mr Blood is a former work colleague and friend.</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Site:</td>
<td>Public Access Way (PAW) joining Radford Place and Waimea Road (SB341)</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>269m²</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Unzoned</td>
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<tr>
<td>MRS Zoning:</td>
<td>Urban</td>
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</tbody>
</table>
| Attachments:            | 1. Schedule of Submissions  
2. Petition  
3. Extract from Public Access Way Strategy - SB341 |
| Maps/Diagrams:         | 1. Location Plan  
2. Consultation Plan  
3. Submission Plan  
4. Site Photo West towards Radford Place  
5. Site Photo East towards Waimea Road |
1. Purpose of Report

To consider the proposed closure of the Pedestrian Access Way (PAW) linking Radford Place and Waimea Road, Safety Bay, in light of the submissions received during the advertising period.

2. Background

In February 2010, the Council adopted the Pedestrian Access Way Strategy (the Strategy) which was subsequently endorsed by the Western Australian Planning Commission in December 2010. As part of the Strategy preparation, each PAW was inspected to determine its physical attributes, history of vandalism etc. and each was assigned one of the following connectivity gradings:-

- E (Essential);
- R (Retain); and
- NE (Non-essential).

The subject PAW is coded SB341 in the Strategy, where the Council has adopted the grading of R – Retain. PAW’s graded R (Retain) are preferably to be kept open, as they have some significance in the local pedestrian and cycle movement network. Closure may be acceptable if prompted by significant local community support and clear evidence of considerable anti-social and/or criminal behaviour associated with the PAW.

3. Details

An application has been received from the owners of Lots 191 and 197 Radford Place and Lot 194 Waimea Road, Safety Bay seeking closure of the PAW, which abuts their properties.
The request is based on general anti-social behaviour including:-
- Graffiti;
- Theft;
- Excessive noise;
- Substance abuse;
- Unlawful use by motorbikes; and
- Litter.

The proponents advise that the abovementioned problems have been ongoing for a number of years and feel that the closure of the PAW is the only solution.

### 4. Implications to Consider

#### a. Consultation with the Community

In accordance with the WAPC, Planning Bulletin No.57, which details the manner in which the closure of PAW’s are assessed and the City’s Planning Procedure 1.5 – Closure of Pedestrian Access Ways (the Procedure), the application was advertised in the following manner:-

- An advertisement detailing the proposal was placed in the Public Notices section of the Weekend Courier;
- Information including a report detailing the issues relating to the proposed closure were placed on the City’s Website for the duration of advertising.
- A total of 310 owners and occupiers who generally live within a 400m radius of the PAW; and
- Relevant Service Authorities.

Following the close of the advertising period, 27 submissions and 1 petition with signatories from 34 different addresses were received.
2. Consultation Plan

3. Submission Plan

Key:
- Advertised
- Subject Site
- Support
- Oppose
- Petition
- Petition and Individual Submission
Summary of Submissions
The following points generally summarise the issues of concern raised in submissions opposing the proposed PAW closure:-

- Loss of easy access to shops, beach, school and community facilities;
- Regularly used by local residents, children and the elderly for recreation and travel;
- Would allow for subdivision of lots which abut the PAW; and
- Anti-social issues not a major concern.

This report should be read in conjunction with the Schedule of Submissions included as Attachment 1 to this report.

b. Consultation with Government Agencies
The application was referred for comment to Western Power, ATCO Gas (previously Alinta), Telstra and Water Corporation.

ATCO Gas, Western Power and Telstra offered no objection to the proposal.

The Water Corporation referred to a water main located within the PAW that is unable to be cut and capped because it provides a direct supply to larger mains within the reticulation system. The Water Corporation also noted that the removal of this water main would lead to complaints of poor pressure and flows during peak periods, with the properties along Safety Bay Road losing supply in the event of a burst. Due to their nature of being under pressure, water mains cannot remain on private property protected by an easement due to damage to buildings in the event of a main failure.

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

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

d. Policy
Nil

e. Financial
Nil

f. Legal and Statutory
The process for dealing with the closure of Pedestrian Access Ways is based upon section 87 of the Land Administration Act 1997 as referenced in Planning Bulletin 57/2009A.

5. Comments

Response to Submissions
Movement Network

Submissions opposing the closure of the PAW noted that its closure would have an adverse impact on pedestrian movement to places such as the Bayside Shopping Centre, nearby school and community facilities such as the library and tennis courts. It was also noted that the PAW provided a shortcut to the beach.

The proponents suggested in their application that key destinations such as the School and Shopping Centre were outside the 400m walkable catchment, as noted in WAPC Bulletin No.57 and the Procedure.
Submissions received demonstrate that residents in Radford Place and McClure Road are most affected by the proposal as shown in Figure No.4 – Submission Plan. Submissioners note that they travel to the beach, shops and school even though these distances extend beyond the 400m walkable catchment.

The City believes that the opposition to the proposed PAW Closure from residents and landowners on Radford Place and McClure Road demonstrates that the PAW is considered an important link for residents within a 300m radius of the PAW, who use it to travel beyond the 400m walkable catchment.

**Future Subdivision**

None of the lots abutting the subject PAW would become subdividable with the amalgamation of the PAW once closed due to the Residential (R15) zoning. There are currently no plans to change the R-Codes for this area.

**Antisocial Issues**

Submissioners abutting the subject PAW were concerned with ongoing social issues, however, submissioners further away from the PAW were not deterred from using the PAW due to antisocial behaviour, with children and elderly persons using the PAW to get to school or nearby facilities.

A site inspection revealed that the PAW was in good condition with minimal graffiti and rubbish and high levels of perceived safety as a result. The proponents claims regarding antisocial behaviour in the vicinity of the PAW are noted, however, this must be balanced against the PAW being used by local residents as part of the pedestrian movement network.
5. PAW looking East towards Waimea Road

Water Corporation Comment
Comments received from the Water Corporation mean that closure of the PAW and amalgamation of the land into adjoining lots is not possible for servicing and safety reasons.

Other Comments
The proponents advised in their submission that if the Water Main was unable to be cut and capped, they would request that the PAW be closed and turned into a Public Utilities Services Reserve. This would involve the PAW being fenced off and closed to pedestrians, only being accessible to Water Corporation personnel for servicing and maintenance purposes. Due to submissioners demonstrating their desire for the PAW to remain open, creating a Public Utilities Services Reserve is not the best outcome for the community. The City’s Procedure also notes that the creation of such a reserve is generally not favoured for the following reasons:-

- "All costs associated with the creation of a ‘Public Utilities Service Reserve’ are borne by the City. That is, the initial costs of installing fencing and gates and the ongoing maintenance, which would include regular mowing; and"
- "The presence of the fencing and gates can have a negative impact on the residential Streetscape."

As public access needs to be maintained, the creation of a ‘Public Utilities Services Reserve’ is not a feasible way of closing the PAW.

Conclusion
The City considers that the proposed PAW closure does not satisfy the key requirement, which is to demonstrate significant community support for the closure of the PAW and support by Government Agencies.

It is recommended that Council not support the proposed closure of PAW.

6. Voting Requirements
Simple Majority
7. **Officer Recommendation**

That Council **NOT SUPPORT** the closure of the Pedestrian Access Way joining Radford Place and Waimea Road, Safety Bay, for the following reasons:-

1. The Pedestrian Access Way Strategy adopted by the Council refers to the subject access way as 'R' (Retain) and being preferably kept open as it has some significance in the local pedestrian and cycle network. The submissions and petition received during advertising demonstrate that the subject PAW is regularly used by local residents, providing efficient access to nearby commercial, recreational and school facilities.

2. The Water Corporation has advised that a water main located within the Pedestrian Access Way cannot be modified and must be maintained. The water mains cannot remain on private property protected by an easement due to damage to buildings in the event of a main failure.

8. **Committee Recommendation**

That Council **NOT SUPPORT** the closure of the Pedestrian Access Way joining Radford Place and Waimea Road, Safety Bay, for the following reasons:-

1. The Pedestrian Access Way Strategy adopted by the Council refers to the subject access way as 'R' (Retain) and being preferably kept open as it has some significance in the local pedestrian and cycle network. The submissions and petition received during advertising demonstrate that the subject PAW is regularly used by local residents, providing efficient access to nearby commercial, recreational and school facilities.

2. The Water Corporation has advised that a water main located within the Pedestrian Access Way cannot be modified and must be maintained. The water mains cannot remain on private property protected by an easement due to damage to buildings in the event of a main failure.

**Committee Voting – 4/0**

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

Not applicable

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

Not applicable
### Planning Services

#### Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-008/12 Proposed Scheme Amendment – ‘Rural’ to ‘Development’ Zone</th>
</tr>
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<tbody>
<tr>
<td>File No:</td>
<td>LUP/1611</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>TPG, Planning Consultant</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw, Planning Officer</td>
</tr>
</tbody>
</table>
| Other Contributors:    | Mr Dave Waller, Coordinator Statutory Planning
|                        | Mr Mike Ross, Manager Statutory Planning                      |
| Date of Committee Meeting: | 20th February 2012                                            |
| Previously before Council: | September 2010 (PD89/9/10)                                   |
| Nature of Council’s Role in this Matter: | Legislative                                                  |

- **Site:** Lot 9000 Crystaluna Drive, Golden Bay
- **Lot Area:** 7,524m²
- **LA Zoning:** Rural
- **MRS Zoning:** Urban

#### Attachments:
- 1. Location Plan
- 2. View of site looking west
- 3. View of site looking south
- 4. View of site looking east
- 5. Proposed Subdivision Guide Plan

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**CONFIRMED AT A PLANNING SERVICES MEETING HELD ON MONDAY, 19 MARCH 2012**

**PRESIDENT MEMBER**
1. Purpose of Report

To consider a request to initiate a Scheme Amendment to Town Planning Scheme No.2 (TPS2) to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Residential (R5/20)’.

2. Background

In September 2010, Council considered Metropolitan Region Scheme (MRS) Omnibus Amendment No.1193/57, which in part sought to rezone Lot 9000 Crystaluna Drive, Golden Bay and Lot 501 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Urban’. Council resolved not to support the Amendment on the grounds that rezoning the land to facilitate urban development is inconsistent with Planning Policy No.5.2 – Rural Land Strategy (‘the Policy’), which requires the proponent to demonstrate that the landscape values of the region will not be compromised. The land was also identified as a transition area between the existing and future urban land to the west and Mandurah Road to the east.

Contrary to Council’s resolution, in August 2011 the Minister for Planning granted Final Approval to Amendment 1193/57 to the MRS to rezone Lot 9000 and Lot 501 Crystaluna Drive, Golden Bay, from ‘Rural’ to ‘Urban’.

3. Details

The proponent seeks Council approval to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Residential R5/20’. The Amendment seeks to facilitate the subdivision of the site into seven lots with direct access onto Crystaluna Drive. The proposed lots range in size from 889m² to 1,303m² (averaging 1068m²), as shown on the proposed Subdivision Guide Plan (‘SGP’) (Map 5).

The proponent has provided justification for the Amendment as follows:

- “Lot 9000 is strategically located in close proximity to the Singleton and Golden Bay foreshores and the established R5/20 coded residential development to the west;

- The site is located in close proximity to existing local retail services on Fitch Street. Community facilities include the Singleton Primary School on Navigator Drive. The addition of residential land use within this pocket will therefore be well serviced by the existing community facilities and the public transport infrastructure.”
- A review of the established lot sizes immediately to the west and the north confirms lot sizes are generally between 620m² to approximately 800m² which is similar to the intended lot sizes for this site."

Lot 9000 ranges in height from 20m to 30m AHD, with a deep depression down to 20 in the middle of the property. The site also rises substantially over a short distance to its eastern boundary.

The subject site is currently vacant and contains some cleared areas including off-road vehicle access tracks and inter-dispersed patches of Cottesloe complex vegetation, as shown in photographs 2 and 3. The surface geology of the site is Safety Bay Sand (Leolian and Beach Lime sand), which are well drained sandy soils.
4. View of site looking east

5. Proposed Subdivision Guide Plan
4. Implications to Consider

a. Consultation with the Community

If the Scheme Amendment is initiated by Council, it is required to be advertised in accordance with the Town Planning Regulations 1967 for a minimum period of 42 days from the date of publication of an advertisement in a newspaper circulating in the area.

b. Consultation with Government Agencies

Consultation with relevant Government Agencies will only occur if the Scheme Amendment is initiated by the Council. Referrals can then be undertaken in accordance with the Town Planning Regulations 1967.

c. Strategic Community Plan

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

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

d. Policy

Nil

e. Financial

Nil

f. Legal and Statutory

Planning and Development Act 2005

Part 9 Clause 124 (2) of the Planning and Development Act 2005 states that:

“If a region planning scheme is inconsistent with a local planning scheme, the local government of the district in which the land directly affected is situated is to, not later than 90 days after the day on which the region planning scheme has effect, resolve to prepare —

(a) a local planning scheme which is consistent with the region planning scheme; or

(b) an amendment to the local planning scheme which renders the local planning scheme consistent with the region planning scheme, and which does not contain or removes, as the case requires, any provision which would be likely to impede the implementation of the region planning scheme.”

As such, the TPS2 is required to be updated to be consistent with the modified MRS.

Town Planning Regulations 1967

In accordance with Regulation 13 of the Town Planning Regulations 1967, the Council is required to resolve to either Adopt the Scheme Amendment or Not Proceed with a Scheme Amendment and notify the WAPC in writing of its decision.

5. Comments

Site Context

The site has a steep gradient sloping to the east. The report for Amendment 1193/57 to the MRS noted that future development should not prejudice the existing development in the locality and must retain the existing landform wherever possible.

Given the site constraints, it is considered appropriate that the proponent demonstrate how development will occur.
Proposed Subdivision Guide Plan
The proposed SGP provides for a transition of lot sizes, ranging from larger lot sizes towards the rural land to the east to smaller lot sizes to the urban land to the west of the site. It is apparent that cutting/filling of the land will be required. Further details with regards to earthworks are required.

Traffic Comments
The proposed SGP shows all seven new lots with direct access onto Crystaluna Drive. The section of Crystaluna Drive that adjoins the subject site rises up to its highest point in close proximity to the sites eastern boundary at the crest of the road.

The City’s Engineering Services has raised concerns in relation to the proximity to vehicle access, especially for the proposed lots located in close proximity to the crest of Crystaluna Drive. This poses a number of safety issues including speed from on-coming vehicles, volume of traffic and traffic sight line concerns. The vertical alignment of this section of Crystaluna Drive does not provide for a safe traffic environment which would allow vehicles to reverse out onto the carriageway. To address this concern, a service road would need to be considered along the frontage of the properties.

The proposed SGP does not however, address issues relating to access to the site. A Structure Plan should be provided to demonstrate how safe access to the site can be achieved.

Draft Visual Landscape Study
A draft Visual Landscape Evaluation (VLE) was commissioned to test the validity and appropriateness of the City’s Planning Policy 5.2 - Rural Land Strategy (the Policy) planning position in relation to this precinct. This matter is the subject of a separate report included in this agenda. The subject land is included in the study area in Precinct 7. The Policy seeks to retain the visual amenity of the precinct by the retention of Special Rural zoning. The draft VLE confirms this Policy position and notes that new residential development should be in line with the Policy requirements for Special Rural development.

As the site was rezoned Urban under the MRS, Special Rural development is not possible, however; the draft VLE provides possible landscape and visual management strategies for the site, including limitations and vetting of development plans to restrict cut/fill levels, restrictions on the siting of the built form so that the roof line falls sufficiently below the ridge line and endemic planting schemes.

The applicant has advised that earthworks, including cut and fill and retaining walls, will be minimised where possible to lessen visual intrusion. More detailed information regarding development will be required with a Structure Plan to demonstrate how development should minimise its impact on the visual amenity of the precinct.

Zoning
As the site requires comprehensive planning, it is recommended that it be rezoned from Rural to Development, as opposed to Residential. The rezoning of the site to ‘Development’ will require the proponent to prepare a Structure Plan, which will allow for the coordination of subdivision and development of the site.

Fire Management
Given the context of the site and the proximity of rural land to the east, it is considered appropriate that a Fire Management Plan be provided. Detailed information with regards to proposed Fire Management can be requested with a Structure Plan and its outcomes could impact upon the subdivision design and layout of development.

Conclusion
Given the matters raised it is recommended that Council initiate the rezoning of the site to Development as opposed to Residential (R5/20), to require the preparation of a Structure Plan by the proponent.

6. Voting Requirements
Simple Majority
7. **Officer Recommendation**

That Council:-

1. **ADOPT** to initiate Amendment No.121 to Town Planning Scheme No.2, to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Development’ subject to the following modification *(in bold)*:-

(i) **Amend** Schedule No.9 to Town Planning Scheme No.2 to include new Development Area D40 as set out below:-

<table>
<thead>
<tr>
<th>Reference No.</th>
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<tr>
<td>DA40</td>
<td>Lot 9000 Crystaluna Drive, Golden Bay</td>
<td>An approved Structure Plan together with all approved amendments and Detailed Area Plans, where applicable, shall apply to the land in order to guide subdivision and development</td>
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8. **Committee Recommendation**

That Council:-

1. **ADOPT** to initiate Amendment No.121 to Town Planning Scheme No.2, to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Development’ subject to the following modification *(in bold)*:-

(i) **Amend** Schedule No.9 to Town Planning Scheme No.2 to include new Development Area D40 as set out below:-

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Committee Voting – 4/0

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

Not applicable

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

Not applicable
1. Purpose of Report

For Council to consider adopting Planning Procedure 1.12 – Development Compliance.

2. Background

The City Development Compliance Officers have the responsibility to ensure that all development within the district is compliant with Town Planning Scheme No.2 (TPS2). Development Compliance is directly related to the specific objectives of TPS2, which include the orderly and proper development of land and securing the amenity, health and convenience for the inhabitants thereof. Development Compliance is therefore required to ensure that land use activities are undertaken in accordance with Planning Approvals and TPS2, so as not to cause a nuisance or be in breach of legislation.

3. Details

The purpose of this Planning Procedure is to provide the guidelines and procedures on:
(a) How the City assesses whether complaints of unlawful activity require investigation;
The Planning Procedure also sets out the rights of the individuals in receipt of a City Notice or Notice of Complaint and the involvement of City Officers to ensure an open and reasoned approach is undertaken. The Planning Procedure should be read in conjunction with Planning Procedure 1.7 – Infringement Notices (Planning Procedure 1.7).

4. Implications to Consider

a. Consultation with the Community
Given that the Planning Procedure deals with procedural matters, a process of community consultation is not considered necessary. A notice will be published in a Local Newspaper, upon the Council’s adoption of Planning Procedure 1.12 – Development Compliance.

b. Consultation with Government Agencies
The City is not required to consult with Government Agencies, but it will forward a copy of the adopted Planning Procedure to the Department of Planning for information.

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

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

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

d. Policy
Nil

e. Financial
Nil

f. Legal and Statutory
The City is responsible for ensuring that all development within the district is compliant with TPS2. Part 8 of TPS2 includes enforcement provisions, and Part 13 of the Planning and Development Act 2005 (the Act) includes enforcement and legal proceedings.

The City’s Solicitors have assisted in the preparation of this Planning Procedure.

5. Comments

The Planning Procedure brings together the development enforcement provisions of TPS2, the Act, the Local Government Act 1995, and Planning Procedure 1.7, into one document that describes the guidelines and procedures for City Officer’s undertaking development compliance.

It is recommended that the draft Planning Procedure 1.12 – Development Compliance be adopted.

6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council ADOPT Planning Procedure 1.12 - Development Compliance, as follows:-
1. Introduction

The City is responsible for enforcing Town Planning Scheme No.2 (TPS2), which includes the Planning Approvals granted within the district. Part 13 of the Planning and Development Act 2005 (PD Act) includes enforcement and legal proceedings. Likewise Part 8 of TPS2 includes enforcement provisions specific to the district.

The City has a legal responsibility to ensure that all development within the district is compliant with TPS2. Development compliance relates to the specific objectives of TPS2, which include the orderly and proper development of land and securing the amenity, health and convenience for the inhabitants thereof. Development Compliance is therefore required to ensure that land use activities are undertaken in accordance with Planning Approvals and TPS2, so as not to cause a nuisance or be in breach of legislation.

The PD Act includes a range of powers to be applied for a prescribed offence such as serving Direction Notices to stop work or to bring the land into compliance with TPS2, or restore the land as nearly as practicable to its condition immediately before the development started.

The Western Australian Planning Commission released Planning Bulletin No. 98 – Planning and Development Regulations 2009 in June 2009, from which this Planning Procedure has been prepared.

2. Statement of Intent

The purpose of this Planning Procedure is to provide the guidelines and procedures on:

(a) How the City assesses whether complaints of unlawful activity require investigation;
(b) The City's options for dealing with unlawful activity;
(c) When the City decides enforcement activity is warranted.

The City seeks to provide consistency in enforcement action in matters of non-compliance and to ensure transparency; procedural fairness and natural justice principles are followed.

This Planning Procedure also identifies the rights of individuals in receipt of a City Notice or Notice of Complaint.

The City has a minimal tolerance approach to unlawful activity.

This Planning Procedure should be read in conjunction with Planning Procedure 1.7 – Infringement Notices.

3. Planning Procedure

3.1 Complaint

Any person who is aggrieved by a land use or development matter may lodge either their complaint in person, fax, e-mail or in writing. The City will record the complaint and post an acknowledgement letter to the complainant. Complainant particulars will be kept confidential and will not be released to offenders without the consent of the complainant.

All notifications of alleged unlawful activity will be recorded by the City on the Customer Request Management (CRM) System and must be made in writing. The City will not respond to any anonymous complaints as it has no way of determining the validity of a complaint. All outcomes of requests are reported and filed on the CRM system.

If the complaint matter can be resolved by City Officers in accordance with the TPS2 requirements, the complaint will be closed and no further action will be undertaken, unless there is a subsequent occurrence of non-compliance with the TPS2.

If the complaint involves multiple issues that relate to various City Departments, the matter will be coordinated to ensure a joint site inspection with City Officers, to reduce the inconvenience and confusion to owners and occupiers.

3.2 Investigating Unlawful Activity

The City will investigate all complaints and alleged unlawful land use activity, unless:

- The matter has already been investigated and resolved;
- The City has no jurisdiction. i.e. there is no lawful provision for Council to take action;
- The activity is deemed to be lawful without an investigation;
- Where the matter is the sole responsibility of another Government Agency; and
- Where the matter is the subject of an anonymous complaint.

If the City determines that there is no legal breach of any operative City legislation in the circumstance, it will explain in writing to the complainant the reasons why it is unable to act on the complaint.

3.3 Managing Expectations

It is not always possible for the City to ensure that a complainant is satisfied with the outcome of a complaint. The City must consider a range of factors when determining whether it will warrant enquiry/investigation but if a decision is made not to investigate a complaint or matter, then the decision must be recorded with clear reasons why. The complainant must then be advised of the decision and the reasons for no action.

The City is bound by legislative, local law and policy requirements, which mean that it will not always be possible to give the complainant the outcome they were looking for. In some cases, the best the City can do is to ensure that it has investigated the matter and satisfy itself that the development is compliant with TPS2 requirements.

3.4 Responding to Complaints

Complaints received by the City will be investigated and actioned in accordance with the serious nature of the complaint.

Priority 1: Urgent and dangerous matters are a priority and should be actioned on the day of the complaint is received or the day immediately following. Complaints include those which pose an immediate risk to the environment and safety.

Priority 2: General compliance matters. Examples include but are not limited to: alleged unlawful uses, unlawful works, works on carried out in accordance with Planning Approval, unlawful commercial vehicle parking;

Priority 3: Nuisance matters. Examples include overgrown land, disused materials, and unregistered vehicles.

3.5 Powers of Entry

Clause 8.1.2 of TPS2 authorises an employee of the City authorised by Council to enter any building or land for the purpose of ascertaining at all reasonable times, whether the provisions of the TPS2 are being observed.

The City views the power to enter private property very seriously and will ensure that the exercise of these functions is strictly in accordance with TPS2.

The City’s Delegated Authority only enables authorised City Officers, as above, to legally enter property for them to carry out their investigative duties and take necessary action. Authorised City Officers who carry out inspections on private land for regulatory purposes, will carry photographic identification.

An owner is not required to be present when an authorised City Officer undertakes an investigative inspection.

When property entry can not be obtained, or is denied the City may either:

(a) seek a WA Police escort; or
(b) by Warrant obtained pursuant to s3.33 of the Local Government Act enter any building or land, together with any other persons described in the Warrant, or a Police Officer using such force as is necessary.

3.6 Planning Approvals

All Planning Approvals granted by the City in accordance with clause 6.7.1 of the TPS2, will be inspected by City’s Development Compliance Officers. If a development is being carried out otherwise than in accordance with the Planning Approval, the owner or responsible person carrying out the development commits an offence pursuant to section 218 of the PD Act.

3.7 Enforcement Mechanisms

The enforcement mechanisms available to the City are:

(a) Issuing a direction notice to stop unauthorised development;
Planning Services Committee Minutes
Monday 20 February 2012

CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 19 MARCH 2012

PRESIDING MEMBER

(b) Issuing a direction notice to remove, pull down, take up or alter an unauthorised development;
(c) Issuing an Infringement Notice which is an ‘on-the-spot’ modified penalty for minor offences where a development breach has occurred but may not warrant prosecuting an offender.
(d) Prosecuting an offender for an alleged contravention of TPS2 or other planning instrument or approval; and
(e) Issuing a LG Act notice requiring certain things to be done by the owner or occupier.

3.8 Options for Dealing with Unlawful Activity

When acting upon and resolving planning breaches, City Officers will consider a range of different options depending upon the circumstances of the matter. Some or all of the following options may be explored by a City Officer with a person/s undertaking an unlawful activity.

(a) Negotiation

Negotiations can be a worthwhile approach to foster relationships and build trust in the community and demonstrate reasonableness to the community. Negotiation can often be the least time consuming approach in achieving an acceptable outcome, however, it is dependent upon the seriousness of the breach and willingness of the offender to comply. Negotiation is an important tool but cannot always be relied upon to achieve the desired outcome.

(b) Education

Alleged offenders may be counselled or cautioned, with the purpose of educating them on the relevant requirements. The City recognises that educational incentives may lead to compliance being achieved without enforcement action in some circumstances.

(c) Planning Application

Any person is entitled at any time to apply for planning approval for an existing use or retrospective approval of an unlawful construction. Such an application must include the applicable fee, plus twice the applicable fee by way of a penalty. The City may consider not commencing formal enforcement proceedings where a planning application is made to formalise the unlawful development that complies with the standards and requirements of the Scheme.

(d) Notice

Issuing a written notice or caution requiring the activity/work to cease or modify the development in order to comply. This is not a direction notice under the PD Act. Notices may be issued by the City for any development compliance matter.

3.9 Enforcement Action

Where formal enforcement is considered necessary, the City will take action with a minimal tolerance approach. The City may take the following enforcement action as it deems necessary, considering the circumstances:

(a) Issuing Direction Notice – Stop Work

Section 214(2) of the PD Act allows the City to give a direction to stop development undertaken in contravention of TPS2. If an owner or any other person undertaking the development does not comply with the direction, they commit an offence against the PD Act.

(b) Direction Notice – Restore Land

Section 214(3) of the PD Act allows the City to give a direction that requires a person to remove, pull down, take up, or alter any building or work or cease any development. If an owner or any other person undertaking the development does not comply with the direction, they commit an offence against the PD Act.

(c) Infringement Notice

Infringement Notices may be issued by designated person(s) under section 234 of the PD Act for the following offences:

(i) Failing to comply with a direction given by the Council regarding unauthorised development: section 214 PD Act.
(ii) Contravening the City’s Town Planning Scheme.
(iii) Commencing, continuing or carrying out development in a Planning Control Area without obtaining prior approval; section 220;
(iv) Contravening an Interim Development Order; section 221;
(v) Undertaking a prohibited activity on State Land; part 2 of the Regulations; and
(vi) Contravening a road access condition; Regulation 31.

(d) Prosecution Proceedings
The City may commence prosecution proceedings in a Magistrates Court for offences under the Local Government Act 1995 and Planning and Development Act 2005. Those offences include the failure to comply with a statutory notice and carrying out development without or contrary to a planning approval granted by the City.

(e) Notice requiring certain things to be done
Section 3.25(1) of the LG Act authorises the City to issue a notice to an owner or occupier of land, requiring the person to do anything specified in the notice that is prescribed in Schedule 3.1, Division 1 or to remedy any offence prescribed in Schedule 3.1, Division 2.

Schedule 3.1 includes powers under notices to owners or occupiers of land which applies to overgrown vegetation, rubbish, or disused materials as specified, that the City considers to be untidy.

3.10 Penalty for Offence
A person who commits an offence under the PD Act is liable to a penalty of $200,000 together with daily fines of $25,000 for each day during which the offence continues. The maximum penalty for a corporation is $1,000,000 with a daily penalty of $125,000 for every day during which the offence continues.

A person may be prosecuted for an offence under Division 3 of the PD Act irrespective of whether or not a direction has been given under Section 214.

3.11 Fines Enforcement
Where an alleged offender elects not to pay the prescribed penalty specified on an Infringement Notice, those outstanding fines will be referred by the City to Fines Enforcement Registry. Once matters are lodged with the Fines Enforcement Registry, they are responsible for recovering outstanding fines.

3.12 Service Complaint
If any person is dissatisfied with the service offered or provided by the City, a complaint may be made by completing a ‘Service Complaint Form’. The City welcomes service complaints as a form of valuable feedback that will assist in ultimately improving services provided to the community. All complaints will be investigated in accordance with the City’s Service Complaints Policy.

3.13 Legislation and References
This procedure assists in the compliance and enforcement implementation of the following legislation, in force at the time this procedure was adopted:
- Local Government Act 1995;
- Planning and Development Act 2005;
- Planning and Development Regulations 2009; and
- Town Planning Scheme No.2 (GG 19/11/2004)

4. Interpretations
For the purposes of this Planning Procedure, the following terms shall have the same meaning as in Town Planning TPS2 No.2:-

*Council* means the Council of the City of Rockingham.

For the purpose of this Planning Procedure, the following terms are defined as follows:


*PD Act* means the Planning and Development Act 2005.
Regulations means Planning and Development Regulations 2009.

TPS2 means City of Rockingham Town Planning Scheme No.2

5. Delegation

Delegations for the determination under clause 8.1.2, 8.5(a) and 8.5(b) of TPS2 are pursuant to Planning Procedure 1.1 - Delegated Authority.

6. Adoption

This Planning Procedure was adopted by the Council at its ordinary Meeting held on the ________.

8. Committee Recommendation

That Council ADOPT Planning Procedure 1.12 - Development Compliance, as follows:-

PLANNING PROCEDURE 1.12
DEVELOPMENT COMPLIANCE

1. Introduction

The City is responsible for enforcing Town Planning Scheme No.2 (TPS2), which includes the Planning Approvals granted within the district. Part 13 of the Planning and Development Act 2005 (PD Act) includes enforcement and legal proceedings. Likewise Part 8 of TPS2 includes enforcement provisions specific to the district.

The City has a legal responsibility to ensure that all development within the district is compliant with TPS2. Development compliance relates to the specific objectives of TPS2, which include the orderly and proper development of land and securing the amenity, health and convenience for the inhabitants thereof. Development Compliance is therefore required to ensure that land use activities are undertaken in accordance with Planning Approvals and TPS2, so as not to cause a nuisance or be in breach of legislation.

The PD Act includes a range of powers to be applied for a prescribed offence such as serving Direction Notices to stop work or to bring the land into compliance with TPS2, or restore the land as nearly as practicable to its condition immediately before the development started.

The Western Australian Planning Commission released Planning Bulletin No. 98 – Planning and Development Regulations 2009 in June 2009, from which this Planning Procedure has been prepared.

2. Statement of Intent

The purpose of this Planning Procedure is to provide the guidelines and procedures on:

(d) How the City assesses whether complaints of unlawful activity require investigation;
(e) The City’s options for dealing with unlawful activity;
(f) When the City decides enforcement activity is warranted.

The City seeks to provide consistency in enforcement action in matters of non-compliance and to ensure transparency; procedural fairness and natural justice principles are followed.

This Planning Procedure also identifies the rights of individuals in receipt of a City Notice or Notice of Complaint.

The City has a minimal tolerance approach to unlawful activity.

This Planning Procedure should be read in conjunction with Planning Procedure 1.7 – Infringement Notices.

3. Planning Procedure

3.1 Complaint

Any person who is aggrieved by a land use or development matter may lodge either their complaint in person, fax, e-mail or in writing. The City will record the complaint and post an acknowledgement letter to the complainant. Complainant particulars will be kept confidential and will not be released to offenders without the consent of the complainant.
All notifications of alleged unlawful activity will be recorded by the City on the Customer Request Management (CRM) System and must be made in writing. The City will not respond to any anonymous complaints as it has no way of determining the validity of a complaint. All outcomes of requests are reported and filed on the CRM system.

If the complaint matter can be resolved by City Officers in accordance with the TPS2 requirements, the complaint will be closed and no further action will be undertaken, unless there is a subsequent occurrence of non-compliance with the TPS2.

If the complaint involves multiple issues that relate to various City Departments, the matter will be coordinated to ensure a joint site inspection with City Officers, to reduce the inconvenience and confusion to owners and occupiers.

3.2 Investigating Unlawful Activity

The City will investigate all complaints and alleged unlawful land use activity, unless:

- The matter has already been investigated and resolved;
- The City has no jurisdiction. i.e. there is no lawful provision for Council to take action;
- The activity is deemed to be lawful without an investigation;
- Where the matter is the sole responsibility of another Government Agency; and
- Where the matter is the subject of an anonymous complaint.

If the City determines that there is no legal breach of any operative City legislation in the circumstance, it will explain in writing to the complainant the reasons why it is unable to act on the complaint.

3.3 Managing Expectations

It is not always possible for the City to ensure that a complainant is satisfied with the outcome of a complaint. The City must consider a range of factors when determining whether it will warrant enquiry/investigation but if a decision is made not to investigate a complaint or matter, then the decision must be recorded with clear reasons why. The complainant must then be advised of the decision and the reasons for no action.

The City is bound by legislative, local law and policy requirements, which mean that it will not always be possible to give the complainant the outcome they were looking for. In some cases, the best the City can do is to ensure that it has investigated the matter and satisfy itself that the development is compliant with TPS2 requirements.

3.4 Responding to Complaints

Complaints received by the City will be investigated and actioned in accordance with the serious nature of the complaint.

Priority 1: Urgent and dangerous matters are a priority and should be actioned on the day of the complaint is received or the day immediately following. Complaints include those which pose an immediate risk to the environment and safety.

Priority 2: General compliance matters. Examples include but are not limited to: alleged unlawful uses, unlawful works, works on carried out in accordance with Planning Approval, unlawful commercial vehicle parking;

Priority 3: Nuisance matters. Examples include overgrown land, disused materials, and unregistered vehicles.

3.5 Powers of Entry

Clause 8.1.2 of TPS2 authorises an employee of the City authorised by Council to enter any building or land for the purpose of ascertaining at all reasonable times, whether the provisions of the TPS2 are being observed.

The City views the power to enter private property very seriously and will ensure that the exercise of these functions is strictly in accordance with TPS2.

The City’s Delegated Authority only enables authorised City Officers, as above, to legally enter property for them to carry out their investigative duties and take necessary action. Authorised City Officers who carry out inspections on private land for regulatory purposes, will carry photographic identification.
An owner is not required to be present when an authorised City Officer undertakes an investigative inspection.

When property entry cannot be obtained, or is denied the City may either:

(c) seek a WA Police escort; or
(d) by Warrant obtained pursuant to s3.33 of the Local Government Act enter any building or land, together with any other persons described in the Warrant, or a Police Officer using such force as is necessary.

3.6 Planning Approvals

All Planning Approvals granted by the City in accordance with clause 6.7.1 of the TPS2, will be inspected by City’s Development Compliance Officers. If a development is being carried out otherwise than in accordance with the Planning Approval, the owner or responsible person carrying out the development commits an offence pursuant to section 218 of the PD Act.

3.7 Enforcement Mechanisms

The enforcement mechanisms available to the City are:

(f) Issuing a direction notice to stop unauthorised development;

(g) Issuing a direction notice to remove, pull down, take up or alter an unauthorised development;

(h) Issuing an Infringement Notice which is an ‘on-the-spot’ modified penalty for minor offences where a development breach has occurred but may not warrant prosecuting an offender.

(i) Prosecuting an offender for an alleged contravention of TPS2 or other planning instrument or approval; and

(j) Issuing a LG Act notice requiring certain things to be done by the owner or occupier.

3.9 Options for Dealing with Unlawful Activity

When acting upon and resolving planning breaches, City Officers will consider a range of different options depending upon the circumstances of the matter. Some or all of the following options may be explored by a City Officer with a person/s undertaking an unlawful activity.

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Negotiations can be a worthwhile approach to foster relationships and build trust in the community and demonstrate reasonableness to the community. Negotiation can often be the least time consuming approach in achieving an acceptable outcome, however, it is dependent upon the seriousness of the breach and willingness of the offender to comply. Negotiation is an important tool but cannot always be relied upon to achieve the desired outcome.

(b) Education

Alleged offenders may be counselled or cautioned, with the purpose of educating them on the relevant requirements. The City recognises that educational incentives may lead to compliance being achieved without enforcement action in some circumstances.

(c) Planning Application

Any person is entitled at any time to apply for planning approval for an existing use or retrospective approval of an unlawful construction. Such an application must include the applicable fee, plus twice the applicable fee by way of a penalty. The City may consider not commencing formal enforcement proceedings where a planning application is made to formalise the unlawful development that complies with the standards and requirements of the Scheme.

(d) Notice

Issuing a written notice or caution requiring the activity/work to cease or modify the development in order to comply. This is not a direction notice under the PD Act. Notices may be issued by the City for any development compliance matter.
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Where formal enforcement is considered necessary, the City will take action with a minimal tolerance approach. The City may take the following enforcement action as it deems necessary, considering the circumstances:

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Section 214(2) of the PD Act allows the City to give a direction to stop development undertaken in contravention of TPS2. If an owner or any other person undertaking the development does not comply with the direction, they commit an offence against the PD Act.

(b) Direction Notice – Restore Land

Section 214(3) of the PD Act allows the City to give a direction that requires a person to remove, pull down, take up, or alter any building or work or cease any development. If an owner or any other person undertaking the development does not comply with the direction, they commit an offence against the PD Act.

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(iii) Commencing, continuing or carrying out development in a Planning Control Area without obtaining prior approval; section 220;
(iv) Contravening an Interim Development Order; section 221;
(v) Undertaking a prohibited activity on State Land; part 2 of the Regulations; and
(vi) Contravening a road access condition; Regulation 31.

(d) Prosecution Proceedings

The City may commence prosecution proceedings in a Magistrates Court for offences under the Local Government Act 1995 and Planning and Development Act 2005. Those offences include the failure to comply with a statutory notice and carrying out development without or contrary to a planning approval granted by the City.

(e) Notice requiring certain things to be done

Section 3.25(1) of the LG Act authorises the City to issue a notice to an owner or occupier of land, requiring the person to do anything specified in the notice that is prescribed in Schedule 3.1, Division 1 or to remedy any offence prescribed in Schedule 3.1, Division 2.

Schedule 3.1 includes powers under notices to owners or occupiers of land which applies to overgrown vegetation, rubbish, or disused materials as specified, that the City considers to be untidy.

3.14 Penalty for Offence

A person who commits an offence under the PD Act is liable to a penalty of $200,000 together with daily fines of $25,000 for each day during which the offence continues. The maximum penalty for a corporation is $1,000,000 with a daily penalty of $125,000 for every day during which the offence continues.

A person may be prosecuted for an offence under Division 3 of the PD Act irrespective of whether or not a direction has been given under Section 214.

3.15 Fines Enforcement

Where an alleged offender elects not to pay the prescribed penalty specified on an Infringement Notice, those outstanding fines will be referred by the City to Fines Enforcement Registry. Once matters are lodged with the Fines Enforcement Registry, they are responsible for recovering outstanding fines.
3.16 Service Complaint
If any person is dissatisfied with the service offered or provided by the City, a complaint may be
made by completing a ‘Service Complaint Form’. The City welcomes service complaints as a form
of valuable feedback that will assist in ultimately improving services provided to the community. All
complaints will be investigated in accordance with the City’s Service Complaints Policy.

3.17 Legislation and References
This procedure assists in the compliance and enforcement implementation of the following
legislation, in force at the time this procedure was adopted:
- Local Government Act 1995;
- Planning and Development Act 2005;
- Planning and Development Regulations 2009; and
- Town Planning Scheme No.2 (GG 19/11/2004)

4. Interpretations
For the purposes of this Planning Procedure, the following terms shall have the same meaning as
in Town Planning TPS2 No.2:-

Council means the Council of the City of Rockingham.

For the purpose of this Planning Procedure, the following terms are defined as follows:


PD Act means the Planning and Development Act 2005.

Regulations means Planning and Development Regulations 2009.

TPS2 means City of Rockingham Town Planning Scheme No.2

5. Delegation
Delegations for the determination under clause 8.1.2, 8.5(a) and 8.5(b) of TPS2 are pursuant to
Planning Procedure 1.1 - Delegated Authority.

6. Adoption
This Planning Procedure was adopted by the Council at its ordinary Meeting held on the _______.

Committee Voting – 4/0

9. The Committee’s Reason for Varying the Officer’s Recommendation
Not applicable

10. Implications of the Changes to the Officer’s Recommendation
Not applicable
## Purpose of Report

To consider an amendment to Planning Policy 3.1.7 - *Heritage Conservation and Development Policy* (the Policy) to provide incentives to encourage the retention of heritage places.

### Background

In March 2008, the Policy was adopted by the Council. It includes a section on incentives that are available to owners, including:

- variations to the development standards of *Town Planning Scheme No.2* (TPS2) including site area, open space and plot ratio;
- waiving of planning and building fees relating to conservation works; and
- information on grants available from other organisations.
In December 2010, the Council resolved to review the Policy, in close liaison with the owners of Heritage Listed places, to examine whether further incentives could be applied to encourage the retention of places.

3. Details

Incentives for heritage places are largely of three types: financial incentives (such as grants or rebates), development incentives (such as height and plot ratio bonuses) and assistance (such as access to a heritage consultant). The manner in which these three types of incentives could be applied is considered below.

Financial Incentives

The Policy does not mention Minor Grants that are available from the City under the Community Grants Program Policy which can be used for heritage and conservation incentives:

"Grants from $501 - $20,000 are available through four designated funding rounds each year in line with the events grants program. Applicants must complete the Community Grants Program application form."

The Grants are only available for not-for-profit clubs, groups and other organisations that are providing economic, social, community or environmental services, infrastructure and benefits to the Rockingham community. In this regard, private owners of heritage-listed places cannot make an application for Community Infrastructure Planning and Development Grants directly, but may make an application via an eligible organisation, such as the Rockingham District Historical Society. The Policy is proposed to be amended to make reference to the availability of these grants.

The current Policy states that the CEO can waive planning and building fees for the amount relating to conservation works for heritage-listed places. The CEO does not, however, have the delegated authority to waive planning or building fees, and so another method of reimbursement of fees needs to be put into place. The Community Grants Program Policy provides for Sundry Donations, which is another method for the City to donate the fee amount:

"Small grants up to $500 can be applied for at any time through a written request and application form addressed to the Chief Executive Officer outlining details of how the funds will be utilised. The request will be provided to the relevant Officer for comment and recommendation and a response will be forthcoming to the applicant in a short timeframe. The Chief Executive Officer will be granted delegated authority to approve sundry donations, and report the donations to Council via the monthly Bulletin."

The Policy is proposed to be amended to require applicants to apply a refund of planning and building fees relating to conservation works as a sundry donation under the Community Grants Program Policy.

Another method of financial incentives used by other local governments, including the Cities of Perth and Bunbury, is a rate rebate scheme. Other such schemes allow for the rebate of rates up to a maximum amount over five or six years, where the owner enters into an agreement with the local government to undertake conservation works. Rate rebate schemes can be difficult to administer, and it is considered that financial incentives are more easily administered via a grant scheme. A rate rebate incentive is therefore not considered appropriate.

Development incentives

The Policy currently provides for development incentives under TPS2 by way of site area, open space and plot ratio concessions. These concessions are not finite, and the City can consider other development incentives where appropriate.

Assistance

The City was formerly part of the Regional Heritage Advisory Service, which made available a qualified heritage consultant to answer enquiries from the community. The Service, which was jointly funded with the Heritage Council of Western Australia, was cancelled by the Heritage Council, and the City no longer has a qualified heritage consultant available to answer enquiries. It is proposed that the Policy be amended to remove reference to the Regional Heritage Advisory Service.
Owners may require technical assistance to consider what options are available for the maintenance, improvement and redevelopment of a heritage place. In this regard where assistance is required, owners can, via a community organisation, apply for grants to obtain technical advice from a heritage consultant under the Community Grants Program Policy. It is proposed to amend the Policy to include information about obtaining funding for technical advice.

**Formatting**

The Policy is proposed to be amended to make the following minor formatting changes:

- The number of the Policy is to be changed from "3.1.7" to "3.3.21" to reflect the nature of the policy as a statutory policy document, rather than strategic.
- The title of the Policy is to be altered to remove the final word "Policy" which is unnecessary.
- Change the reference to plot ratio concessions in section 4.4 from "Table 1" to "Table 4", to reflect recent amendments to State Planning Policy 3.1 - *Residential Design Codes* which moved the plot ratio requirements.
- Appendix 1, being the Management Categories Table, is to be deleted and the Table moved to Section 4.3 of the Policy, as it forms part of the Policy. Appendix 2 (Heritage List) is to be renumbered as Appendix 1.
- Remove reference to the proposed Planning Policy for the East Rockingham Heritage Area, which was not proceeded with by the City.

A full list of changes proposed to the Policy is included in the Officer Recommendation section below.

### 4. Implications to Consider

**a. Consultation with the Community**

In May 2011, the City invited comment from owners of all heritage-listed places to determine whether further incentives could be applied to encourage the retention of heritage-listed places. The City received two written submissions in response to the request. One submissioner provided the following comment:

"Measures such as financial assistance with over-roofing the asbestos with Color-bond, paint maintenance of walls are examples of appearance enhancement of a house such as ours and prolong its "heritage status". In addition, financial assistance to obtain the services of a "heritage architect" which I understand is mandatory for any modification etc. Rate assistance is an obvious attraction."

The other submission advised that it did not support the listing of the Rockingham Masonic Hall, and provided no comment relating to incentives.

**b. Consultation with Government Agencies**

If the City resolves to prepare amendments to the Policy, it will seek comment from the Office of Heritage.

**c. Strategic Community Plan**

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

**Aspiration 14:** Economic development opportunities that make visiting, living, working and investing in the City of Rockingham an attractive proposition

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

**d. Policy**

State Planning Policy 3.5 - *Historic Heritage Conservation* (SPP3.5) notes that effective heritage protection requires an integrated approach involving not only regulation, but also promotion and incentives. The proposed amendments to the Policy provide owners with information on available incentives, and are therefore consistent with the intent of SPP3.5.
e. **Financial**

As the proposed financial incentives makes reference to the *Community Grants Program Policy* and does not propose any changes to it, there are no further financial implications.

f. **Legal and Statutory**

If the City resolves to prepare an amendment to the Policy, it must follow the advertising procedures under clause 8.9.4 of TPS2. This requires a notice of the proposed amendments to the Policy to be published in a local newspaper once a week for two consecutive weeks with submissions invited within a period being not less than 21 days. The City will also invite comment from the owners and occupiers of all heritage-listed properties.

After the expiry of the period within which submissions may be made, the Council is to review the proposed Policy in the light of any submissions made and resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

5. **Comments**

The proposed amendments to the Policy insert information about the existing *Community Infrastructure Grants Program* from which funding is available to community organisations for heritage and conservation incentives, and it also clarifies that sundry donations are available for the reimbursement of planning and building fees associated with conservation works. Other minor changes are also proposed to the format of the Policy.

It is recommended that the Council endorse the preparation of the amendments to the Policy.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council **ENDORSE** the publishing of a notice that the following amendments have been prepared for Planning Policy 3.1.7 - *Heritage Conservation and Development Policy*:

- Proposed additions shown in red and underline
- Proposed deletions shown in red and strikethrough

**PLANNING POLICY 3.1.7-3.3.21**

**HERITAGE CONSERVATION AND DEVELOPMENT POLICY**

1. **Introduction**

The City of Rockingham contains a significant collection of heritage places as identified in its *Municipal Heritage Inventory*. Heritage places are identified as places having cultural heritage significance to the local community.

Places considered worthy of protection are identified on the Heritage List established under *Town Planning Scheme No.2*. A copy of the Heritage List is attached as Appendix 21.

This Policy:

- Applies the development control principles contained in the State Planning Policy 3.5 *Historic Heritage Conservation*;
- Provides development and design guidance for development of places in the Heritage List established pursuant to the City of Rockingham *Town Planning Scheme No.2*; and
- Details procedures for making applications for approval of heritage-related development.

2. **Policy Application**

This Policy applies to all places entered in the Heritage List pursuant to *Town Planning Scheme No.2*. 
This Policy should also be read in conjunction with Planning Policy No.3.1.8 - East Rockingham Heritage Conservation and Development Policy (draft) for development affecting places on the Heritage List along Mandurah and Day Roads in East Rockingham.

Aboriginal heritage is protected by the Aboriginal Heritage Act 1972. This Policy does not apply to the conservation of aboriginal heritage, except in cases where aboriginal heritage places are entered into the Heritage List or a designated Heritage Area.

3. Policy Objectives

The objectives of the policy are:

(i) To conserve and protect places of cultural heritage significance within the City of Rockingham;

(ii) To ensure that development does not adversely affect the significance of heritage places;

(iii) To ensure that heritage significance is given due weight in decision making for applications for planning approval; and

(iv) To provide greater certainty to landowners and the community about the planning processes for heritage identification and protection in the City of Rockingham.

4. Policy Statement

4.1 Relevant Considerations for Development Assessment

In considering any planning applications in relation to a place entered in the Heritage List, the City will apply and have regard to:-

(i) the conservation and protection of any place or area that has been registered in the State Register of Heritage Places under the Heritage of Western Australia Act 1990, or is the subject of a Conservation Order under the Act;

(ii) the conservation and protection of any place which is included in the Heritage List under clause 5.4.2 of the City of Rockingham Town Planning Scheme No.2;

(iii) whether the proposed development will adversely affect the significance of any heritage place, including adverse affect resulting from the location, bulk, form or appearance of the proposed development;

(iv) the level of heritage significance of the place, based on a relevant heritage assessment;

(v) measures proposed to conserve the heritage significance of the place and its setting;

(vi) the structural condition of a place, and whether a place is reasonably capable of conservation;

(vii) whether the place is capable of adaptation to a new use which will enable its retention and conservation; and

(viii) State Planning Policy 3.5 - Historic Heritage Conservation.

4.2 Development Control Principles

The following 'development control principles' must be applied in considering applications for planning approval in relation to a place entered in the Heritage List under the City of Rockingham Town Planning Scheme No.2. The weight given to heritage as a consideration will vary, depending on the degree of significance of a place or area, and relevant economic, social or environmental factors that may apply.

Alterations, extensions or change of use affecting a heritage place

(i) Development should conserve and protect the cultural heritage significance of a heritage place based on respect for the existing building or structure, and the least possible change to the significant fabric.
(ii) Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to work with the original fabric rather than simply copying or mimicking it.

(iii) In some cases, the conservation and protection of a heritage place may require a change of use to ensure a reasonable beneficial use or return. Sympathetic adaptation and change of use should be supported in such cases.

(iv) Development should be in accordance with any Planning Policies relating to heritage.

(v) Where a Conservation Plan has been prepared for a place, development must be in accordance with the conservation policies under the Conservation Plan.

Demolition of a heritage place (including a place within a heritage area)

(i) Demolition of a heritage place with exceptional or considerable significance is rarely appropriate and should require the strongest justification. Demolition of a heritage place with moderate or low significance should be avoided wherever possible, although there may be circumstances where demolition is justified. The onus rests with the applicant to provide a clear justification.

(ii) Demolition approval should not be expected simply because redevelopment is a more attractive economic proposition, or because a building has been neglected. Consideration of a demolition proposal should be based upon the significance of the building or place; the feasibility of restoring or adapting it, or incorporating it into new development; and the extent to which the community would benefit from the proposed redevelopment.

Any person or organisation who is considering or proposing to develop or alter a heritage place should seek advice from a qualified heritage architect or heritage consultant prior to progressing any application. The City's Regional Heritage Advisor may also be contacted to provide advice on appropriate development of heritage places; the Regional Heritage Advisor can be sought by contacting the City's Planning Services.

4.3 Levels of Significance

The level of heritage significance of a place is one of the matters considered in determining an application.

A level of significance, based on the Management Categories of the Municipal Heritage Inventory, has been applied to each place on the Heritage List. The requirements for each Management Category is included at Appendix 1 to this Policy in the following table.

<table>
<thead>
<tr>
<th>Management Category</th>
<th>Level of Significance</th>
<th>Description</th>
<th>Required outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>State significance</td>
<td>Already recognised at the highest level - the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in the Heritage Council's opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with both the Heritage Council and the City of Rockingham. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place).</td>
</tr>
<tr>
<td>Management Category</td>
<td>Level of Significance</td>
<td>Description</td>
<td>Required outcome</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------</td>
<td>-------------</td>
<td>------------------</td>
</tr>
<tr>
<td>A</td>
<td>Exceptional significance</td>
<td>Worthy of the highest level of protection - recommended for entry into the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in Council's opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with the City of Rockingham. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment.</td>
</tr>
<tr>
<td>B</td>
<td>Considerable significance</td>
<td>Worthy of a high level of protection.</td>
<td>Conservation of the place is highly desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition.</td>
</tr>
<tr>
<td>C</td>
<td>Some/Moderate significance</td>
<td>Retain and conserve if possible.</td>
<td>Conservation of the place is desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition. If demolition or major redevelopment is approved, an archival record will be required, in accordance with Heritage Council standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>D</td>
<td>Little significance</td>
<td>Significant, but not essential to an understanding of the history of the district.</td>
<td>If demolition or major redevelopment is approved by Council, an archival record will be required, in accordance with Heritage Council standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>Management Category</td>
<td>Level of Significance</td>
<td>Description</td>
<td>Required outcome</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------------</td>
<td>-------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>E</td>
<td>Site of significance</td>
<td>Historic site. Not included in Heritage List.</td>
<td>Recognise/interpret heritage values - for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
</tbody>
</table>

4.4 Variation to Site and Development Standards

Clause 5.4.6 of *Town Planning Scheme No.2* provides the Council with the ability to vary any site or development requirement specified in the Scheme or the *Residential Design Codes* to facilitate the conservation of a place listed in the Heritage List.

Council may consider varying one or more of the following site or development requirements set out in the Scheme and *Residential Design Codes* where it involves the conservation of a building on the Heritage List:-

(i) Supporting the creation of a lot of a lesser area or approving a minimum site area of a grouped dwelling on a site area lesser than that specified on Table 1 of the *Residential Design Codes* provided the proposed variation is no more than 25% less in area than that specified on Table 1;

(ii) Approving a variation to open space provision under the *Residential Design Codes*; and

(iii) Approving variations to plot ratio; provided the proposed variation is no more than 25% than that specified in Table 4 of the *Residential Design Codes*.

The Council may consider variations to other development requirements to the Scheme or *Residential Design Codes* not listed above.

Any proposed variation to site and development standards will only be permitted where the proposed variation is consistent with the general and specific objectives of the Scheme and the objectives of the zone. Furthermore, variations will only be considered where there is a beneficial conservation outcome for the heritage place.

For any variation to site and development requirements under clause 5.4.6, the Council shall give notice to nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the proposal, shall be notified of the proposal in writing, and provided with an opportunity to comment on the proposed variations to the site and development requirements.

4.5 Other Incentives for Heritage Conservation

Where conservation works are proposed, proponents may apply for a Minor Grant from the City, in accordance with the City’s *Community Grants Program Policy*. Grants from $501 - $20,000 are available through four designated funding rounds each year. Grant applications must be made by not-for-profit community organisations within the City of Rockingham (such as the Rockingham District Historical Society) and need to follow compliance with the following criteria:

- The proposal must relate to works to maintain, repair or conserve a place that is included on the Heritage List under *Town Planning Scheme No.2*;

- The proposal must demonstrate compliance with the principles in point 4.2 of this Policy; and

- If major redevelopment is proposed, the proposal must be accompanied by a Heritage Impact Statement.

Minor Grants will also be made available for obtaining technical advice or preparation of a technical report by a heritage consultant for conservation works for a place that is included on the Heritage List under *Town Planning Scheme No.2*. 
Where an application for development has been submitted, the City will consider waiving the following application fees for conservation works, to a maximum amount of $500:-

- Planning Services fee for development proposals; and
- Building Licence Permit fees.

Authority is delegated to the Chief Executive Officer to approve the waiving of such fees will only be donated for any application that proposes development of a place included on the Heritage List under Town Planning Scheme No.2, where there is a beneficial conservation outcome for the heritage place. Fees will only be waived on the proportion of the proposal relating to conservation works. An application for the sundry donation of planning and building fees relating to conservation works can be made to the City in accordance with the City's Community Grants Program Policy. Applications for sundry donations must be made via a not-for-profit organisation (such as the Rockingham District Historical Society).

For further information about applying for a Minor Grant or a Sundry Donation under the Community Grants Program Policy, contact the City's Community Capacity Building Services.

Other incentives provided by other organisations, such as grants and tax rebates, may apply for proposals to conserve heritage places. These are offered by the Heritage Council of Western Australia, Lotterywest, The National Trust of Australia (WA), and Australian Heritage Council. The Heritage Council of Western Australia's Guide to Heritage Agencies and Assistance provides advice on the various agencies and assistance programs that may be applicable to any project.

4.6 Heritage Agreements

Clause 5.4.4 of Town Planning Scheme No.2 allows the Council to enter into a Heritage Agreement with an owner or occupier of land or building, pertaining to a heritage place.

Heritage Agreements will be required where a development proposal seeks to improve a heritage place, particularly where a site or development standard is varied under section 2.5 of this Policy.

Where a caveatable agreement is proposed, it shall be prepared by the Council's solicitors at no cost to the applicant. The agreement is usually binding to successors in Title.

4.7 Procedure for Adding, Deleting or Amending Entries in the Local Heritage List

The procedures for adding places to the Heritage List are set out in clause 5.4.2 of the Town Planning Scheme No.2. The City may consider amending the Heritage List over time in the following circumstances:

<table>
<thead>
<tr>
<th>Event</th>
<th>Council Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>A place is found to be significant in a new or reviewed Municipal Heritage Inventory</td>
<td>The City will consider inclusion of a place in the Heritage List if the findings of a new or reviewed Municipal Heritage Inventory supports it.</td>
</tr>
<tr>
<td>A place is nominated for inclusion in the Municipal Heritage Inventory by the owner or a member of the public</td>
<td>The City will consider inclusion of a place in the Heritage List if assessment documentation to the required standard is provided by the nominator. If not, consideration will be deferred until a review of the Heritage List is scheduled.</td>
</tr>
</tbody>
</table>
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 19 MARCH 2012

<table>
<thead>
<tr>
<th>Event</th>
<th>Council Policy</th>
</tr>
</thead>
</table>
| A Heritage Impact Statement is prepared in conjunction with a development proposal | The City may consider inclusion of a place in the Heritage List if a Heritage Impact Statement is prepared:  
- As part of a Heritage Impact Statement submitted by an applicant, or  
- By the City at its own expense.  
Even the most thorough Inventory will have some gaps in it, and over time the need will arise to assess non-listed places that appear potentially significant. |
| A place is demolished, or substantially damaged or destroyed | The City will consider removing a place from the Heritage List if it is demolished or is damaged or destroyed, to the extent that its significance is lost.  
The City will retain a record of all places destroyed, demolished and/or removed from the Heritage List to monitor the outcomes of this Policy. |

5. **Application Procedure**

Applications for planning approval for the development or demolition of places entered on the Heritage List under *Town Planning Scheme No. 2*, shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:—

(a) A written submission describing the nature of the proposal, and which includes confirmation that the requirements of this Planning Policy can be achieved;

(b) A break-up of the cost of the development, itemising a schedule of conservation works;

(c) Such plans and other information that the City may reasonably require to enable the application to be determined. Refer to clauses 6.2.2 and 5.4.8 of *Town Planning Scheme No. 2*;

(d) In addition to the above information, the City may require an applicant to provide one or more of the following to assist Council in the determination of an application.

**Heritage Impact Statement**

A Heritage Impact Statement is a brief, independent evaluation by a heritage architect or heritage consultant. It is not to be confused with a Heritage Council Heritage Assessment or a Conservation Plan, which are more extensive and detailed documents.

If a proposal is likely to have a substantial impact on the exterior fabric of a place in the Heritage List, the City may require a Heritage Impact Statement to be submitted addressing three main questions:

- How will the proposed works affect the significance of the place?
- What alternatives have been considered to ameliorate any adverse impacts?
- Will the proposal result in any heritage conservation benefits that might offset any adverse impacts?

**Conservation Plan**

If a proposal affects a place that is entered in the State Register of Heritage Places, or a large or complex place of exceptional significance, the City may require a Conservation Plan to be prepared. Such cases will be rare.

A Conservation Plan is a guiding document for the conservation and future use of a place, and is prepared in accordance with the Heritage Council's *Conservation Plan Study Brief: Introduction to Conservation Plans*. 
Structural condition assessment in the case of demolition

If structural failure is cited as a justification for the demolition of a place in the Heritage List, evidence should be provided from a registered structural engineer that the structural integrity of the building has failed, to the point where it cannot be rectified without removal of a majority of its significant fabric and/or prohibitive costs.

Archival recording in the case of demolition

If a proposal is for the demolition of a place entered in the Heritage List, or entered in the Municipal Heritage Inventory, the Council may require the applicant as a condition of approval to submit an archival record of the place, prior to the commencement of development.

The archival record is to be in accordance with the Heritage Council’s standard for archival recording, and lodged with the City and the Rockingham District Historical Society.

(e) The payment of an Administration Fee as detailed in the Council’s Planning Information Bulletin No.2.2 - Scale of Fees for Planning Services. Council may decide to waive the Administration Fee in accordance with point 4.5 of this Policy.

6. Authority

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

7. Interpretations

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

**Conservation** means, in relation to any place or Heritage Precinct, the management of that place or precinct in a manner that will:

(a) enable the cultural heritage significance of that place or precinct to be retained; and

(b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct,

and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct having due regard to relevant professional standards and the provision of an appropriate visual setting.

**Council** means the Council of the City of Rockingham.

**Cultural Heritage Significance** means the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generation.

**Heritage List** means a list of those places which, in the opinion of the Council, are of such cultural heritage significance to the Council that conservation and protection under the provisions of this Scheme is warranted.

**Place** means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable and includes:

(a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;

(b) any works or buildings situated there, their contents relevant to the purpose of this Scheme and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and

(c) as much of the land beneath the place as is required for the purposes of its conservation.
For the purposes of this Planning Policy, the following terms shall have the same meaning as in the *Heritage of Western Australia Act 1990*:

**Conservation Order** means an Order made under section 59 of the *Heritage of Western Australia Act 1990*.

**Heritage Council** means the Heritage Council of Western Australia established pursuant to section 5 of the *Heritage of Western Australia Act 1990*.

**State Register** means the Register of Heritage Places compiled pursuant to section 46 of the *Heritage of Western Australia Act 1990*.

### 8. Delegation

Unless otherwise determined by the Manager of Statutory Planning, applications for planning approval for development of a place on a Heritage List under the Scheme with a Management Category of "B", "C" or "D" and demolition of a place with a Management Category of "D", which comply in all respects with the objectives and provisions of this Planning Policy will be dealt with under delegated authority, pursuant to clause 8.10 of *Town Planning Scheme No.2* and Planning Procedure 1.1 – *Delegated Authority*.

All other applications for planning approval for the development or demolition of a place on a Heritage List will be referred to the Council for determination.

### 9. Adoption

This Planning Policy was adopted by the Council at its ordinary Meeting held on the 25th March 2008, and modified by Council on the …

#### Appendices

1. Management Categories and Levels of Significance
2. Heritage List

**APPENDIX 1**

**MANAGEMENT CATEGORIES AND LEVELS OF SIGNIFICANCE**

(under section 4.3 of this Policy)

<table>
<thead>
<tr>
<th>Management Category</th>
<th>Level of Significance</th>
<th>Description</th>
<th>Required outcome</th>
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<tbody>
<tr>
<td>A+</td>
<td>State significance</td>
<td>Already recognised at the highest level—the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in the Heritage Council’s opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with both the Heritage Council of Western Australia and the City of Rockingham. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place).</td>
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<td>------------------</td>
</tr>
<tr>
<td>A</td>
<td>Exceptional significance</td>
<td>Worthy of the highest level of protection – recommended for entry into the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in Council's opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with the City of Rockingham. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment.</td>
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<td>B</td>
<td>Considerable significance</td>
<td>Worthy of a high level of protection.</td>
<td>Conservation of the place is highly desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition.</td>
</tr>
<tr>
<td>C</td>
<td>Some/Moderate significance</td>
<td>Retain and conserve if possible.</td>
<td>Conservation of the place is desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition. If demolition or major redevelopment is approved, an archival record will be required, in accordance with Heritage Council of Western Australia standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
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<td>Required outcome</td>
</tr>
<tr>
<td>---------------------</td>
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<td>-------------</td>
<td>------------------</td>
</tr>
<tr>
<td>D</td>
<td>Little significance</td>
<td>Significant, but not essential to an understanding of the history of the district.</td>
<td>If demolition or major redevelopment is approved by Council, an archival record will be required, in accordance with Heritage Council of Western Australia standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>E</td>
<td>Site of significance</td>
<td>Historic site. Not included in Heritage List.</td>
<td>Recognise/interpret heritage values - for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
</tbody>
</table>

**APPENDIX 21**

**Heritage List**

(under clause 5.4.2 of Town Planning Scheme No.2)

<table>
<thead>
<tr>
<th>Place No.</th>
<th>Name</th>
<th>Address</th>
<th>Owner/Manager</th>
<th>Management Category</th>
<th>Reason for entry</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>Abattoir and Stables</td>
<td>Lot 902 Dixon Road, Hillman</td>
<td>Western Australian Planning Commission</td>
<td>B</td>
<td>The place has aesthetic, historic, scientific and social value, is representative and is rare.</td>
</tr>
<tr>
<td>002</td>
<td>Baldivis Primary School</td>
<td>Reserve 23952, Lot 1376 (No.342) Baldivis Road, Baldivis</td>
<td>City of Rockingham</td>
<td>A</td>
<td>The place has aesthetic, historic and social value, is representative and is rare.</td>
</tr>
<tr>
<td>003</td>
<td>Bell and Churchill Parks</td>
<td>Reserve 22568, Lots 148 and 149 Rockingham Beach Road, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>004</td>
<td>Bell Cottage (ruin) *</td>
<td>Lot 64 Mandurah Road, East Rockingham</td>
<td>Trecap Pty Ltd</td>
<td>A+</td>
<td>The place has aesthetic, historic and social value, and is representative</td>
</tr>
<tr>
<td></td>
<td>Also known as Woodbine</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>006</td>
<td>East Rockingham Cemetery *</td>
<td>Reserve 841, Lot 3095 Mandurah Road, East Rockingham</td>
<td>City of Rockingham</td>
<td>A</td>
<td>The place has aesthetic and historic value, and is rare.</td>
</tr>
<tr>
<td>008</td>
<td>Day Cottage * Also known as Ellendale</td>
<td>Lot 1 Day Road, East Rockingham</td>
<td>L J and M E Pike</td>
<td>A+</td>
<td>The place has aesthetic, historic, scientific and social value, and is rare.</td>
</tr>
<tr>
<td>012</td>
<td>Group Settler’s Home</td>
<td>Lot 100 (No.118) Fifty Road, Baldivis</td>
<td>A O Dixon-Pugh</td>
<td>C</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>013</td>
<td>Hymus House *</td>
<td>Lot 801 Mandurah Road, East Rockingham</td>
<td>Gallway Investments Pty Ltd and Tilley Properties (Qld) Pty Ltd</td>
<td>A+</td>
<td>The place has aesthetic, historic and social value, and is representative.</td>
</tr>
<tr>
<td>014</td>
<td>Iluka</td>
<td>Lot 27 (No.13) Esplanade, Rockingham</td>
<td>D W and E S Treloar</td>
<td>B</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>015</td>
<td>Anglican Church Also known as St Nicholas Church</td>
<td>Lots 2 and 201 (No.63-65) Kent Street, Rockingham</td>
<td>Rockdentspec Pty Ltd and Searipple Administrative Services Pty Ltd</td>
<td>A</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>019</td>
<td>Cape Peron Battery Complex</td>
<td>Reserve 48968 Point Peron Road, Peron</td>
<td>Conservation Commission of WA</td>
<td>A</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>021</td>
<td>Rockingham Hotel Also known as Port Hotel</td>
<td>Lot 99 (No.26-40) Kent Street, Rockingham</td>
<td>Mirco Bros Pty Ltd</td>
<td>A</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>022</td>
<td>Rockingham Hotel Trees and Walls</td>
<td>Lot 99 (No.26-40) Kent Street, Rockingham</td>
<td>Mirco Bros Pty Ltd</td>
<td>A</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>024</td>
<td>Chesterfield House * Also known as Chesterfield Inn and Rockingham Arms</td>
<td>Lot 2 Chesterfield Road, East Rockingham</td>
<td>Landcorp</td>
<td>A+</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>025</td>
<td>Rockingham Beach Primary School</td>
<td>Reserve 21181, Lot 321 Bay View Street, Rockingham</td>
<td>Department of Education and Training</td>
<td>A</td>
<td>The place has aesthetic, historic and social value, and is representative.</td>
</tr>
<tr>
<td>No.</td>
<td>Name of Place</td>
<td>Address Details</td>
<td>Authority</td>
<td>Verification</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>---------------------------------------</td>
<td>------------------------------------------------------</td>
<td>----------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td>026</td>
<td>Rockingham Oval</td>
<td>Reserve 2595, Lot 1571 Kent Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
<td></td>
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<td></td>
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<tr>
<td>027</td>
<td>Rockingham Park Kindergarten</td>
<td>Lot 716 Centaurus Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
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</tr>
<tr>
<td>028</td>
<td>Rockingham Park Underpasses</td>
<td>Centaurus Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>029</td>
<td>Safety Bay Butcher's Shop</td>
<td>Lot 1 (No.44) Penguin Rd, Shoalwater</td>
<td>G N Burns</td>
<td>B</td>
<td></td>
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</tr>
<tr>
<td>031</td>
<td>Lucy Saw Home</td>
<td>Lot 16 (No.65) Parkin Street, Rockingham</td>
<td>W Howard and L Thomas</td>
<td>A</td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>032</td>
<td>Second Road Board Office</td>
<td>Reserve 20292, Lot 1237 Kent Street, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Also known as Rockingham Districts Historical Society and Rockingham Museum</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>033</td>
<td>Peelhurst (ruins)</td>
<td>Lot 40 Dampier Drive, Golden Bay</td>
<td>D M Coxon, G H Robbins, and F and G Nominees</td>
<td>A</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Also known as Thomas Peel Jnr’s Homestead</td>
<td></td>
<td></td>
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<tr>
<td>035</td>
<td>Turtle Factory</td>
<td>Lot 3 Point Peron Road, Peron</td>
<td>Department for Planning and Infrastructure</td>
<td>C</td>
<td></td>
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</tr>
<tr>
<td>040</td>
<td>Port Kennedy Scientific Park</td>
<td>Reserve 44077, Lots 138 and 216 Port Kennedy Drive, Port Kennedy</td>
<td>Department of Environment and Conservation</td>
<td>B</td>
<td></td>
</tr>
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<td></td>
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</tr>
<tr>
<td>041</td>
<td>Point Peron Recreational Camp</td>
<td>Reserve 48968 Point Peron Road, Peron</td>
<td>Conservation Commission of WA</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>043</td>
<td>Kwinana Grain Terminal, Granary Museum and Jetty</td>
<td>Lots 1304 and 1585 Rockingham Beach Road, East Rockingham</td>
<td>Co-operative Bulk Handling Pty Ltd</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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</tr>
<tr>
<td>No.</td>
<td>Name of Place</td>
<td>Address</td>
<td>Authority</td>
<td>Decision Level</td>
<td>Statement of Value</td>
</tr>
<tr>
<td>-----</td>
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</tr>
<tr>
<td>045</td>
<td>Z-Force Memorial, Rockingham</td>
<td>Reserve 22779, Lot 444 Esplanade, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td>The place has aesthetic and social value.</td>
</tr>
<tr>
<td>046</td>
<td>Uniting Church</td>
<td>Lots 127 and 128 (No.127-129) Parkin Street, Rockingham</td>
<td>R L Siggers</td>
<td>B</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>047</td>
<td>Lake Richmond</td>
<td>Reserve 9458, Lots 18 and 1596 and Reserve 47145, Lot 8001 Safety Bay Road, Rockingham</td>
<td>City of Rockingham</td>
<td>A</td>
<td>The place has aesthetic, social, scientific and historic value.</td>
</tr>
<tr>
<td>053</td>
<td>&quot;Rockingham&quot; Cairn</td>
<td>Reserve 22618, Lot 439 Rockingham Beach Road, East Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td>The place has social value.</td>
</tr>
<tr>
<td>054</td>
<td>Founder's Memorial</td>
<td>Railway Terrace, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td>The place has aesthetic and social value.</td>
</tr>
<tr>
<td>055</td>
<td>Chesterfield Inn Dairy * Also known as Chesterfield Inn Stables</td>
<td>Lot 1 Chesterfield Road, East Rockingham</td>
<td>Landcorp</td>
<td>A+</td>
<td>The place has aesthetic, historic and social value, and is representative</td>
</tr>
<tr>
<td>058</td>
<td>Masonic Hall</td>
<td>Lot 643 corner Emma and Wanliss Streets, Rockingham</td>
<td>Rockingham Masonic Lodge</td>
<td>B</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>059</td>
<td>Alfred Hines Seaside Home</td>
<td>Lot 700 Hymus Street, Peron</td>
<td>Crippled Children Seaside Homes</td>
<td>B</td>
<td>The place has aesthetic and social value.</td>
</tr>
<tr>
<td>060</td>
<td>Glenway Realty</td>
<td>Lot 123 (No.229) Safety Bay Road, Safety Bay</td>
<td>A J Mason</td>
<td>B</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>071</td>
<td>Residence, 5 Martell Street</td>
<td>Lot 550 (No.5) Martell Street, Wambro</td>
<td>J Ashton</td>
<td>D</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>073</td>
<td>Residence, 118 Arcadia Drive</td>
<td>Lot 2 (No.118) Arcadia Drive, Shoalwater</td>
<td>M A Goodman</td>
<td>C</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>#</td>
<td>Property Details</td>
<td>Owner/Developer</td>
<td>Value</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----</td>
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</tr>
<tr>
<td>074</td>
<td>Residence, 250 Safety Bay Road Lot 10 (No.250) Safety Bay Road, Safety Bay</td>
<td>S M and T Pass</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>076</td>
<td>Residence, 505 Safety Bay Road Lot 24 (No.505) Safety Bay Road, Safety Bay</td>
<td>S D Nall</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>077</td>
<td>Residence, 623 Safety Bay Road Lot 261 (No.623) Safety Bay Road, Waikiki</td>
<td>M O Shailer</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>079</td>
<td>Carinya Court Lot 1 (No.153) Esplanade, Rockingham</td>
<td>Various owners</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>080</td>
<td>Residence, 72A Penguin Road Strata Lot 1 (No.72A) Penguin Road, Safety Bay</td>
<td>J McCracken</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>081</td>
<td>Residence, 188 Safety Bay Road Lot 10 (No.188) Safety Bay Road, Safety Bay</td>
<td>S J Milne</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>082</td>
<td>Residence, 218 Safety Bay Road Lot 81 (No.218) Safety Bay Road, Safety Bay</td>
<td>G T and D L Clark</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>084</td>
<td>Residence, 3 Chalwell Street Lot 10 (No.3) Chalwell Street, Rockingham</td>
<td>Ten Tangents Investments Pty Ltd</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>086</td>
<td>Residence, 21 Waimea Road Lot 257 (No.21) Waimea Road, Safety Bay</td>
<td>G and H Flader</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>089</td>
<td>Residence, 124 Arcadia Drive Lot 11 (No.124) Arcadia Drive, Shoalwater</td>
<td>Olisch Holdings Pty Ltd</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>090</td>
<td>Residence, 274 Safety Bay Road Lot 22 (No.274) Safety Bay Road, Safety Bay</td>
<td>V and C Galbraith</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>091</td>
<td>CWA Hall Lot 174 (No.12) Watts Road, Shoalwater</td>
<td>Country Women's Association of WA Inc.</td>
<td>The place has historic and social value.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>092</td>
<td>Aloha and Oahu Lots 31 and 42 (No.166-168) Arcadia Drive, Shoalwater</td>
<td>Various Owners</td>
<td>The place has aesthetic and historic value.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Heritage places marked with an asterisk are to be conserved on the basis of either incorporation as part of future industrial development or for removal and relocation elsewhere in the municipality (see clause 5.4.2(g) of the Scheme).**

This Heritage List was adopted by the Council under clause 5.4.2 of *Town Planning Scheme No.2* at its ordinary Meeting held on the 25th March 2008, and modified by Council at ordinary Meetings held on the 14th December 2010, 27th April 2011 and 28th June 2011.

### 8. Committee Recommendation

That Council **ENDORSE** the publishing of a notice that the following amendments have been prepared for Planning Policy 3.1.7 - *Heritage Conservation and Development Policy*:

- Proposed additions shown in **red and underline**
- Proposed deletions shown in **red and strikethrough**

### PLANNING POLICY 3.1.7-3.3.21

**HERITAGE CONSERVATION AND DEVELOPMENT POLICY**

#### 1. Introduction

The City of Rockingham contains a significant collection of heritage places as identified in its *Municipal Heritage Inventory*. Heritage places are identified as places having cultural heritage significance to the local community.

Places considered worthy of protection are identified on the Heritage List established under *Town Planning Scheme No.2*. A copy of the Heritage List is attached as Appendix 21.

This Policy:

- Applies the development control principles contained in the State Planning Policy 3.5 - *Historic Heritage Conservation*;
- Provides development and design guidance for development of places in the Heritage List established pursuant to the City of Rockingham *Town Planning Scheme No.2*; and
- Details procedures for making applications for approval of heritage-related development.

#### 2. Policy Application

This Policy applies to all places entered in the Heritage List pursuant to *Town Planning Scheme No.2*.

This Policy should also be read in conjunction with Planning Policy No.3.1.8 - *East Rockingham Heritage Conservation and Development Policy (draft)* for development affecting places on the Heritage List along Mandurah and Day Roads in East Rockingham.

Aboriginal heritage is protected by the *Aboriginal Heritage Act 1972*. This Policy does not apply to the conservation of aboriginal heritage, except in cases where aboriginal heritage places are entered into the Heritage List or a designated Heritage Area.

#### 3. Policy Objectives

The objectives of the policy are:

(i) To conserve and protect places of cultural heritage significance within the City of Rockingham;

(ii) To ensure that development does not adversely affect the significance of heritage places;

(iii) To ensure that heritage significance is given due weight in decision making for applications for planning approval; and

(iv) To provide greater certainty to landowners and the community about the planning processes for heritage identification and protection in the City of Rockingham.
4. **Policy Statement**

4.1 **Relevant Considerations for Development Assessment**

In considering any planning applications in relation to a place entered in the Heritage List, the City will apply and have regard to:-

(i) the conservation and protection of any place or area that has been registered in the State Register of Heritage Places under the *Heritage of Western Australia Act 1990*, or is the subject of a Conservation Order under the Act;

(ii) the conservation and protection of any place which is included in the Heritage List under clause 5.4.2 of the City of Rockingham *Town Planning Scheme No.2*;

(iii) whether the proposed development will adversely affect the significance of any heritage place, including adverse affect resulting from the location, bulk, form or appearance of the proposed development;

(iv) the level of heritage significance of the place, based on a relevant heritage assessment;

(v) measures proposed to conserve the heritage significance of the place and its setting;

(vi) the structural condition of a place, and whether a place is reasonably capable of conservation;

(vii) whether the place is capable of adaptation to a new use which will enable its retention and conservation; and

(viii) State Planning Policy 3.5 : *Historic Heritage Conservation*.

4.2 **Development Control Principles**

The following 'development control principles' must be applied in considering applications for planning approval in relation to a place entered in the Heritage List under the City of Rockingham *Town Planning Scheme No.2*. The weight given to heritage as a consideration will vary, depending on the degree of significance of a place or area, and relevant economic, social or environmental factors that may apply.

Alterations, extensions or change of use affecting a heritage place

(i) Development should conserve and protect the cultural heritage significance of a heritage place based on respect for the existing building or structure, and the least possible change to the significant fabric.

(ii) Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to work with the original fabric rather than simply copying or mimicking it.

(iii) In some cases, the conservation and protection of a heritage place may require a change of use to ensure a reasonable beneficial use or return. Sympathetic adaptation and change of use should be supported in such cases.

(iv) Development should be in accordance with any Planning Policies relating to heritage.

(v) Where a Conservation Plan has been prepared for a place, development must be in accordance with the conservation policies under the Conservation Plan.

Demolition of a heritage place (including a place within a heritage area)

(i) Demolition of a heritage place with exceptional or considerable significance is rarely appropriate and should require the strongest justification. Demolition of a heritage place with moderate or low significance should be avoided wherever possible, although there may be circumstances where demolition is justified. The onus rests with the applicant to provide a clear justification.
(ii) Demolition approval should not be expected simply because redevelopment is a more attractive economic proposition, or because a building has been neglected. Consideration of a demolition proposal should be based upon the significance of the building or place; the feasibility of restoring or adapting it, or incorporating it into new development; and the extent to which the community would benefit from the proposed redevelopment.

Any person or organisation who is considering or proposing to develop or alter a heritage place should seek advice from a qualified heritage architect or heritage consultant prior to progressing any application. The City's Regional Heritage Advisor may also be contacted to provide advice on appropriate development of heritage places; the Regional Heritage Advisor can be sought by contacting the City's Planning Services.

4.3 Levels of Significance

The level of heritage significance of a place is one of the matters considered in determining an application.

A level of significance, based on the Management Categories of the Municipal Heritage Inventory, has been applied to each place on the Heritage List. The requirements for each Management Category is included at Appendix 1 to this Policy in the following table.

<table>
<thead>
<tr>
<th>Management Category</th>
<th>Level of Significance</th>
<th>Description</th>
<th>Required outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>State significance</td>
<td>Already recognised at the highest level - the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in the Heritage Council's opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with both the Heritage Council and the City of Rockingham. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place).</td>
</tr>
<tr>
<td>A</td>
<td>Exceptional significance</td>
<td>Worthy of the highest level of protection - recommended for entry into the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in Council's opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with the City of Rockingham. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment.</td>
</tr>
<tr>
<td>Management Category</td>
<td>Level of Significance</td>
<td>Description</td>
<td>Required outcome</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----------------------</td>
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<td>------------------</td>
</tr>
<tr>
<td>B</td>
<td>Considerable significance</td>
<td>Worthy of a high level of protection.</td>
<td>Conservation of the place is highly desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition.</td>
</tr>
<tr>
<td>C</td>
<td>Some/Moderate significance</td>
<td>Retain and conserve if possible.</td>
<td>Conservation of the place is desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition. If demolition or major redevelopment is approved, an archival record will be required, in accordance with Heritage Council standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>D</td>
<td>Little significance</td>
<td>Significant, but not essential to an understanding of the history of the district.</td>
<td>If demolition or major redevelopment is approved by Council, an archival record will be required, in accordance with Heritage Council standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>E</td>
<td>Site of significance</td>
<td>Historic site. Not included in Heritage List.</td>
<td>Recognise/interpret heritage values - for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
</tbody>
</table>

4.4 **Variation to Site and Development Standards**

Clause 5.4.6 of *Town Planning Scheme No.2* provides the Council with the ability to vary any site or development requirement specified in the Scheme or the *Residential Design Codes* to facilitate the conservation of a place listed in the Heritage List.

Council may consider varying one or more of the following site or development requirements set out in the Scheme and *Residential Design Codes* where it involves the conservation of a building on the Heritage List:
(i) Supporting the creation of a lot of a lesser area or approving a minimum site area of a grouped dwelling on a site area lesser than that specified on Table 1 of the Residential Design Codes provided the proposed variation is no more than 25% less in area than that specified on Table 1;

(ii) Approving a variation to open space provision under the Residential Design Codes; and

(iii) Approving variations to plot ratio; provided the proposed variation is no more than 25% than that specified in Table 14 of the Residential Design Codes.

The Council may consider variations to other development requirements to the Scheme or Residential Design Codes not listed above.

Any proposed variation to site and development standards will only be permitted where the proposed variation is consistent with the general and specific objectives of the Scheme and the objectives of the zone. Furthermore, variations will only be considered where there is a beneficial conservation outcome for the heritage place.

For any variation to site and development requirements under clause 5.4.6, the Council shall give notice to nearby owners and occupiers who, in the opinion of the Council, are likely to be affected by the proposal, shall be notified of the proposal in writing, and provided with an opportunity to comment on the proposed variations to the site and development requirements.

4.5 Other Incentives for Heritage Conservation

Where conservation works are proposed, proponents may apply for a Minor Grant from the City, in accordance with the City’s Community Grants Program Policy. Grants from $501 - $20,000 are available through four designated funding rounds each year. Grant applications must be made by not-for-profit community organisations within the City of Rockingham (such as the Rockingham District Historical Society) and need to follow compliance with the following criteria:

- The proposal must relate to works to maintain, repair or conserve a place that is included on the Heritage List under Town Planning Scheme No.2;
- The proposal must demonstrate compliance with the principles in point 4.2 of this Policy; and
- If major redevelopment is proposed, the proposal must be accompanied by a Heritage Impact Statement.

Minor Grants will also be made available for obtaining technical advice or preparation of a technical report by a heritage consultant for conservation works for a place that is included on the Heritage List under Town Planning Scheme No.2.

Where an application for development has been submitted, the City will consider waiving the following application fees for conservation works, to a maximum amount of $500:-

- Planning Services fee for development proposals; and
- Building Licence Permit fees.

Authority is delegated to the Chief Executive Officer to approve the waiving of such fees for any application that proposes development of a place included on the Heritage List under Town Planning Scheme No.2, where there is a beneficial conservation outcome for the heritage place. Fees will only be waived on the proportion of the proposal relating to conservation works. Where both development and conservation are proposed, the fee will be based on the total cost of development minus the cost of conservation works. An application for the sundry donation of planning and building fees relating to conservation works can be made to the City in accordance with the City’s Community Grants Program Policy. Applications for sundry donations must be made via a not-for-profit organisation (such as the Rockingham District Historical Society).

For further information about applying for a Minor Grant or a Sundry Donation under the Community Grants Program Policy, contact the City’s Community Capacity Building Services.
Other incentives provided by other organisations, such as grants and tax rebates, may apply for proposals to conserve heritage places. These are offered by the Heritage Council of Western Australia, Lotterywest, The National Trust of Australia (WA), and Australian Heritage Council. The Heritage Council of Western Australia’s Guide to Heritage Agencies and Assistance provides advice on the various agencies and assistance programs that may be applicable to any project.

4.6 Heritage Agreements

Clause 5.4.4 of Town Planning Scheme No.2 allows the Council to enter into a Heritage Agreement with an owner or occupier of land or building, pertaining to a heritage place.

Heritage Agreements will be required where a development proposal seeks to improve a heritage place, particularly where a site or development standard is varied under section 2.5 of this Policy.

Where a caveatable agreement is proposed, it shall be prepared by the Council's solicitors at no cost to the applicant. The agreement is usually binding to successors in Title.

4.7 Procedure for Adding, Deleting or Amending Entries in the Local Heritage List

The procedures for adding places to the Heritage List are set out in clause 5.4.2 of the Town Planning Scheme No.2. The City may consider amending the Heritage List over time in the following circumstances:

<table>
<thead>
<tr>
<th>Event</th>
<th>Council Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>A place is found to be significant in a new or reviewed Municipal Heritage Inventory</td>
<td>The City will consider inclusion of a place in the Heritage List if the findings of a new or reviewed Municipal Heritage Inventory supports it.</td>
</tr>
<tr>
<td>A place is nominated for inclusion in the Municipal Heritage Inventory by the owner or a member of the public</td>
<td>The City will consider inclusion of a place in the Heritage List if assessment documentation to the required standard is provided by the nominator. If not, consideration will be deferred until a review of the Heritage List is scheduled.</td>
</tr>
</tbody>
</table>
| A Heritage Impact Statement is prepared in conjunction with a development proposal | The City may consider inclusion of a place in the Heritage List if a Heritage Impact Statement is prepared:  
  • As part of a Heritage Impact Statement submitted by an applicant, or  
  • By the City at its own expense.  
 Even the most thorough Inventory will have some gaps in it, and over time the need will arise to assess non-listed places that appear potentially significant. |
| A place is demolished, or substantially damaged or destroyed | The City will consider removing a place from the Heritage List if it is demolished or is damaged or destroyed, to the extent that its significance is lost. |

The City will retain a record of all places destroyed, demolished and/or removed from the Heritage List to monitor the outcomes of this Policy.

5. Application Procedure

Applications for planning approval for the development or demolition of places entered on the Heritage List under Town Planning Scheme No.2, shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:-

(a) A written submission describing the nature of the proposal, and which includes confirmation that the requirements of this Planning Policy can be achieved;

(b) A break-up of the cost of the development, itemising a schedule of conservation works;
(c) Such plans and other information that the City may reasonably require to enable the application to be determined. Refer to clauses 6.2.2 and 5.4.8 of Town Planning Scheme No.2;

(d) In addition to the above information, the City may require an applicant to provide one or more of the following to assist Council in the determination of an application.

**Heritage Impact Statement**

A Heritage Impact Statement is a brief, independent evaluation by a heritage architect or heritage consultant. It is not to be confused with a Heritage Council Heritage Assessment or a Conservation Plan, which are more extensive and detailed documents.

If a proposal is likely to have a substantial impact on the exterior fabric of a place in the Heritage List, the City may require a Heritage Impact Statement to be submitted addressing three main questions:

- How will the proposed works affect the significance of the place?
- What alternatives have been considered to ameliorate any adverse impacts?
- Will the proposal result in any heritage conservation benefits that might offset any adverse impacts?

**Conservation Plan**

If a proposal affects a place that is entered in the State Register of Heritage Places, or a large or complex place of exceptional significance, the City may require a Conservation Plan to be prepared. Such cases will be rare.

A Conservation Plan is a guiding document for the conservation and future use of a place, and is prepared in accordance with the Heritage Council's Conservation Plan Study Brief: Introduction to Conservation Plans.

**Structural condition assessment in the case of demolition**

If structural failure is cited as a justification for the demolition of a place in the Heritage List, evidence should be provided from a registered structural engineer that the structural integrity of the building has failed, to the point where it cannot be rectified without removal of a majority of its significant fabric and/or prohibitive costs.

**Archival recording in the case of demolition**

If a proposal is for the demolition of a place entered in the Heritage List, or entered in the Municipal Heritage Inventory, the Council may require the applicant as a condition of approval to submit an archival record of the place, prior to the commencement of development.

The archival record is to be in accordance with the Heritage Council’s standard for archival recording, and lodged with the City and the Rockingham District Historical Society.

(e) The payment of an Administration Fee as detailed in the Council's Planning Information Bulletin No.2.2 - Scale of Fees for Planning Services. Council the City may decide to waive the Administration Fee in accordance with point 4.5 of this Policy.

6. **Authority**

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

7. **Interpretations**

For the purposes of this Planning Policy, the following terms shall have the same meaning as in Town Planning Scheme No.2:-
Conservation means, in relation to any place or Heritage Precinct, the management of that place or precinct in a manner that will:

(a) enable the cultural heritage significance of that place or precinct to be retained; and

(b) yield the greatest sustainable benefit for the present community without diminishing the cultural heritage significance of that place or precinct,

and may include the preservation, stabilisation, protection, restoration, reconstruction, adaptation and maintenance of that place or precinct having due regard to relevant professional standards and the provision of an appropriate visual setting.

Council means the Council of the City of Rockingham.

Cultural Heritage Significance means the relative value which that place or precinct has in terms of its aesthetic, historic, scientific or social significance, for the present community and future generation.

Heritage List means a list of those places which, in the opinion of the Council, are of such cultural heritage significance to the Council that conservation and protection under the provisions of this Scheme is warranted.

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

(a) an area of land situated below low water mark on the seashore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;

(b) any works or buildings situated there, their contents relevant to the purpose of this Scheme and such of their immediate surroundings as may be required for the purposes of the conservation of those works or buildings; and

(c) as much of the land beneath the place as is required for the purposes of its conservation.

For the purposes of this Planning Policy, the following terms shall have the same meaning as in the Heritage of Western Australia Act 1990:-

Conservation Order means an Order made under section 59 of the Heritage of Western Australia Act 1990.

Heritage Council means the Heritage Council of Western Australia established pursuant to section 5 of the Heritage of Western Australia Act 1990.

State Register means the Register of Heritage Places compiled pursuant to section 46 of the Heritage of Western Australia Act 1990.

8. Delegation

Unless otherwise determined by the Manager of Statutory Planning, applications for planning approval for development of a place on a Heritage List under the Scheme with a Management Category of "B", "C" or "D" and demolition of a place with a Management Category of "D", which comply in all respects with the objectives and provisions of this Planning Policy will be dealt with under delegated authority, pursuant to clause 8.10 of Town Planning Scheme No.2 and Planning Procedure 1.1 – Delegated Authority.

All other applications for planning approval for the development or demolition of a place on a Heritage List will be referred to the Council for determination.

9. Adoption

This Planning Policy was adopted by the Council at its ordinary Meeting held on the 25th March 2008, and modified by Council on the ...

Appendices

1. Management Categories and Levels of Significance

2. Heritage List

APPENDIX 1

MANAGEMENT CATEGORIES AND LEVELS OF SIGNIFICANCE
(under section 4.3 of this Policy)

<table>
<thead>
<tr>
<th>Management Category</th>
<th>Level of Significance</th>
<th>Description</th>
<th>Required outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>State significance</td>
<td>Already recognised at the highest level—the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in the Heritage Council’s opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with both the Heritage Council of Western Australia and the City of Rockingham. Any alterations or extensions should reinforce the significance of the place, and be in accordance with a Conservation Plan (if one exists for the place).</td>
</tr>
<tr>
<td>A</td>
<td>Exceptional significance</td>
<td>Worthy of the highest level of protection—recommended for entry into the State Register of Heritage Places.</td>
<td>The place should be retained and conserved unless in Council’s opinion there is no feasible and prudent alternative to doing otherwise. Development requires consultation with the City of Rockingham. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment.</td>
</tr>
<tr>
<td>B</td>
<td>Considerable significance</td>
<td>Worthy of a high level of protection.</td>
<td>Conservation of the place is highly desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition.</td>
</tr>
<tr>
<td>Management Category</td>
<td>Level of Significance</td>
<td>Description</td>
<td>Required outcome</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----------------------</td>
<td>-------------</td>
<td>------------------</td>
</tr>
<tr>
<td>C</td>
<td>Some/Moderate significance</td>
<td>Retain and conserve if possible.</td>
<td>Conservation of the place is desirable. A detailed Heritage Impact Statement should be undertaken before Council determines an application for any major redevelopment or demolition. If demolition or major redevelopment is approved, an archival record will be required, in accordance with Heritage Council of Western Australia standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>D</td>
<td>Little significance</td>
<td>Significant, but not essential to an understanding of the history of the district.</td>
<td>If demolition or major redevelopment is approved by Council, an archival record will be required, in accordance with Heritage Council of Western Australia standards. If demolished, the place should be recognised, for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
<tr>
<td>E</td>
<td>Site of significance</td>
<td>Historic site. Not included in Heritage List.</td>
<td>Recognise/interpret heritage values – for example, with a plaque, place name, or acknowledged in new urban or architectural design.</td>
</tr>
</tbody>
</table>

**APPENDIX 21**

**Heritage List**

(under clause 5.4.2 of Town Planning Scheme No.2)

<table>
<thead>
<tr>
<th>Place No.</th>
<th>Name</th>
<th>Address</th>
<th>Owner/Manager</th>
<th>Management Category</th>
<th>Reason for entry</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>Abattoir and Stables</td>
<td>Lot 902 Dixon Road, Hillman</td>
<td>Western Australian Planning Commission</td>
<td>B</td>
<td>The place has aesthetic, historic, scientific and social value, is representative and is rare.</td>
</tr>
<tr>
<td>No.</td>
<td>Description</td>
<td>Location</td>
<td>Owner</td>
<td>Value</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>----------</td>
<td>-------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td>002</td>
<td>Baldivis Primary School</td>
<td>Reserve 23952, Lot 1376 (No.342) Baldivis Road, Baldivis</td>
<td>City of Rockingham</td>
<td>A The place has aesthetic, historic and social value, is representative and is rare.</td>
<td></td>
</tr>
<tr>
<td>003</td>
<td>Bell and Churchill Parks</td>
<td>Reserve 22568, Lots 148 and 149 Rockingham Beach Road, Rockingham</td>
<td>City of Rockingham</td>
<td>B The place has aesthetic, historic and social value.</td>
<td></td>
</tr>
<tr>
<td>004</td>
<td>Bell Cottage (ruin) * Also known as Woodbine</td>
<td>Lot 64 Mandurah Road, East Rockingham</td>
<td>Trecap Pty Ltd</td>
<td>A+ The place has aesthetic, historic and social value, and is representative.</td>
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<tr>
<td>006</td>
<td>East Rockingham Cemetery *</td>
<td>Reserve 841, Lot 3095 Mandurah Road, East Rockingham</td>
<td>City of Rockingham</td>
<td>A The place has aesthetic and historic value, and is rare.</td>
<td></td>
</tr>
<tr>
<td>008</td>
<td>Day Cottage * Also known as Ellendale</td>
<td>Lot 1 Day Road, East Rockingham</td>
<td>L J and M E Pike</td>
<td>A+ The place has aesthetic, historic, scientific and social value, and is rare.</td>
<td></td>
</tr>
<tr>
<td>012</td>
<td>Group Settler’s Home</td>
<td>Lot 100 (No.118) Fifty Road, Baldivis</td>
<td>A O Dixon-Pugh</td>
<td>C The place has aesthetic and historic value.</td>
<td></td>
</tr>
<tr>
<td>013</td>
<td>Hymus House *</td>
<td>Lot 801 Mandurah Road, East Rockingham</td>
<td>Gallway Investments Pty Ltd and Tilley Properties (Qld) Pty Ltd</td>
<td>A+ The place has aesthetic, historic and social value, and is representative.</td>
<td></td>
</tr>
<tr>
<td>014</td>
<td>Iluka</td>
<td>Lot 27 (No.13) Esplanade, Rockingham</td>
<td>D W and E S Treloar</td>
<td>B The place has aesthetic and historic value.</td>
<td></td>
</tr>
<tr>
<td>015</td>
<td>Anglican Church Also known as St Nicholas Church</td>
<td>Lots 2 and 201 (No.63-65) Kent Street, Rockingham</td>
<td>Rockdentspec Pty Ltd and Searipple Administrative Services Pty Ltd</td>
<td>A The place has aesthetic, historic and social value.</td>
<td></td>
</tr>
<tr>
<td>019</td>
<td>Cape Peron Battery Complex</td>
<td>Reserve 48968 Point Peron Road, Peron</td>
<td>Conservation Commission of WA</td>
<td>A The place has aesthetic and historic value.</td>
<td></td>
</tr>
<tr>
<td>021</td>
<td>Rockingham Hotel Also known as Port Hotel</td>
<td>Lot 99 (No.26-40) Kent Street, Rockingham</td>
<td>Mirco Bros Pty Ltd</td>
<td>A The place has aesthetic, historic and social value.</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Name of Place</td>
<td>Address</td>
<td>Owner/Manager</td>
<td>Classification</td>
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<tr>
<td>022</td>
<td>Rockingham Hotel Trees and Walls</td>
<td>Lot 99 (No.26-40) Kent Street, Rockingham</td>
<td>Mirco Bros Pty Ltd</td>
<td>A</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>024</td>
<td>Chesterfield House</td>
<td>Lot 2 Chesterfield Road, East Rockingham</td>
<td>Landcorp</td>
<td>A+</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>Also known as Chesterfield Inn and Rockingham Arms</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>025</td>
<td>Rockingham Beach Primary School</td>
<td>Reserve 21181, Lot 321 Bay View Street, Rockingham</td>
<td>Department of Education and Training</td>
<td>A</td>
<td>The place has aesthetic, historic and social value, and is representative.</td>
</tr>
<tr>
<td>026</td>
<td>Rockingham Oval</td>
<td>Reserve 2595, Lot 1571 Kent Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
<td>The place has historic and social value.</td>
</tr>
<tr>
<td>027</td>
<td>Rockingham Park Kindergarten</td>
<td>Lot 716 Centaurus Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>028</td>
<td>Rockingham Park Underpasses</td>
<td>Centaurus Street, Rockingham</td>
<td>City of Rockingham</td>
<td>C</td>
<td>The places have historic and social value.</td>
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<tr>
<td>029</td>
<td>Safety Bay Butcher's Shop</td>
<td>Lot 1 (No.44) Penguin Rd, Shoalwater</td>
<td>G N Burns</td>
<td>B</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>031</td>
<td>Lucy Saw Home</td>
<td>Lot 16 (No.65) Parkin Street, Rockingham</td>
<td>W Howard and L Thomas</td>
<td>A</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>032</td>
<td>Second Road Board Office</td>
<td>Reserve 20292, Lot 1237 Kent Street, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td>The place has aesthetic, historic and social value.</td>
</tr>
<tr>
<td>Also known as Rockingham Districts Historical Society and Rockingham Museum</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>033</td>
<td>Peelhurst (ruins)</td>
<td>Lot 40 Dampier Drive, Golden Bay</td>
<td>D M Coxon, G H Robbins, and F and G Nominees</td>
<td>A</td>
<td>The place has aesthetic, historic and social value, and is representative.</td>
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<tr>
<td>Also known as Thomas Peel Jnr's Homestead</td>
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<tr>
<td>035</td>
<td>Turtle Factory</td>
<td>Lot 3 Point Peron Road, Peron</td>
<td>Department for Planning and Infrastructure</td>
<td>C</td>
<td>The place has historic and social value.</td>
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<td>Code</td>
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<td>Address Details</td>
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<tr>
<td>040</td>
<td>Port Kennedy Scientific Park</td>
<td>Reserve 44077, Lots 138 and 216 Port Kennedy Drive, Port Kennedy</td>
<td>Department of Environment and Conservation</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>041</td>
<td>Point Peron Recreational Camp</td>
<td>Reserve 48968 Point Peron Road, Peron</td>
<td>Conservation Commission of WA</td>
<td>D</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>043</td>
<td>Kwinana Grain Terminal, Granary Museum and Jetty</td>
<td>Lots 1304 and 1585 Rockingham Beach Road, East Rockingham</td>
<td>Co-operative Bulk Handling Pty Ltd</td>
<td>B</td>
<td></td>
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<tr>
<td>045</td>
<td>Z-Force Memorial, Rockingham</td>
<td>Reserve 22779, Lot 444 Esplanade, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td></td>
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</tr>
<tr>
<td>046</td>
<td>Uniting Church</td>
<td>Lots 127 and 128 (No.127-129) Parkin Street, Rockingham</td>
<td>R L Sagers</td>
<td>B</td>
<td></td>
</tr>
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<tr>
<td>047</td>
<td>Lake Richmond</td>
<td>Reserve 9458, Lots 18 and 1596 and Reserve 47145, Lot 8001 Safety Bay Road, East</td>
<td>City of Rockingham</td>
<td>A</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rockingham</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>053</td>
<td>&quot;Rockingham&quot; Cairn</td>
<td>Reserve 22618, Lot 439 Rockingham Beach Road, East Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
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<td></td>
</tr>
<tr>
<td>054</td>
<td>Founder's Memorial</td>
<td>Railway Terrace, Rockingham</td>
<td>City of Rockingham</td>
<td>B</td>
<td></td>
</tr>
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<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>055</td>
<td>Chesterfield Inn Dairy *</td>
<td>Lot 1 Chesterfield Road, East Rockingham</td>
<td>Landcorp</td>
<td>A+</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Also known as Chesterfield Inn Stables</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>058</td>
<td>Masonic Hall</td>
<td>Lot 643 corner Emma and Wanliss Streets, Rockingham</td>
<td>Rockingham Masonic Lodge</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Description</td>
<td>Address</td>
<td>Owner/Designer</td>
<td>Value</td>
<td></td>
</tr>
<tr>
<td>-----</td>
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<td>----------------------------------------------</td>
<td>------------------------------------</td>
<td>------------------------------------------</td>
<td></td>
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<tr>
<td>059</td>
<td>Alfred Hines Seaside Home</td>
<td>Lot 700 Hymus Street, Peron</td>
<td>Crippled Children Seaside Homes</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>060</td>
<td>Glenway Realty</td>
<td>Lot 123 (No.229) Safety Bay Road, Safety Bay</td>
<td>A J Mason</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>071</td>
<td>Residence, 5 Martell Street</td>
<td>Lot 550 (No.5) Martell Street, Warnbro</td>
<td>J Ashton</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td>073</td>
<td>Residence, 118 Arcadia Drive</td>
<td>Lot 2 (No.118) Arcadia Drive, Shoalwater</td>
<td>M A Goodman</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>074</td>
<td>Residence, 250 Safety Bay Road</td>
<td>Lot 10 (No.250) Safety Bay Road, Safety Bay</td>
<td>S M and T Pass</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>076</td>
<td>Residence, 505 Safety Bay Road</td>
<td>Lot 24 (No.505) Safety Bay Road, Safety Bay</td>
<td>S D Nall</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>077</td>
<td>Residence, 623 Safety Bay Road</td>
<td>Lot 261 (No.623) Safety Bay Road, Waikiki</td>
<td>M O Shailer</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>079</td>
<td>Carinya Court</td>
<td>Lot 1 (No.153) Esplanade, Rockingham</td>
<td>Various owners</td>
<td>B</td>
<td></td>
</tr>
<tr>
<td>080</td>
<td>Residence, 72A Penguin Road</td>
<td>Strata Lot 1 (No.72A) Penguin Road, Safety Bay</td>
<td>J McCracken</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>081</td>
<td>Residence, 188 Safety Bay Road</td>
<td>Lot 10 (No.188) Safety Bay Road, Safety Bay</td>
<td>S J Milne</td>
<td>D</td>
<td></td>
</tr>
<tr>
<td>082</td>
<td>Residence, 218 Safety Bay Road</td>
<td>Lot 81 (No.218) Safety Bay Road, Safety Bay</td>
<td>G T and D L Clark</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>084</td>
<td>Residence, 3 Chalwell Street</td>
<td>Lot 10 (No.3) Chalwell Street, Rockingham</td>
<td>Ten Tangents Investments Pty Ltd</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>086</td>
<td>Residence, 21 Waimea Road</td>
<td>Lot 257 (No.21) Waimea Road, Safety Bay</td>
<td>G and H Flader</td>
<td>D</td>
<td></td>
</tr>
</tbody>
</table>

The place has aesthetic and social value.
<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Address</th>
<th>Owner</th>
<th>Location</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>089</td>
<td>Residence, 124 Arcadia Drive</td>
<td>Lot 11 (No. 124) Arcadia Drive, Shoalwater</td>
<td>Olisch Holdings Pty Ltd</td>
<td>C</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>090</td>
<td>Residence, 274 Safety Bay Road</td>
<td>Lot 22 (No. 274) Safety Bay Road, Safety Bay</td>
<td>V and C Galbraith</td>
<td>C</td>
<td>The place has aesthetic and historic value.</td>
</tr>
<tr>
<td>091</td>
<td>CWA Hall</td>
<td>Lot 174 (No. 12) Watts Road, Shoalwater</td>
<td>Country Women's Association of WA Inc.</td>
<td>B</td>
<td>The place has historic and social value.</td>
</tr>
<tr>
<td>092</td>
<td>Aloha and Oahu</td>
<td>Lots 31 and 42 (No. 166-168) Arcadia Drive, Shoalwater</td>
<td>Various Owners</td>
<td>D</td>
<td>The place has aesthetic and historic value.</td>
</tr>
</tbody>
</table>

* Heritage places marked with an asterisk are to be conserved on the basis of either incorporation as part of future industrial development or for removal and relocation elsewhere in the municipality (see clause 5.4.2(g) of the Scheme).

This Heritage List was adopted by the Council under clause 5.4.2 of Town Planning Scheme No. 2 at its ordinary Meeting held on the 25th March 2008, and modified by Council at ordinary Meetings held on the 14th December 2010, 27th April 2011 and 28th June 2011.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY, 19 MARCH 2012

PRESIDENT MEMBER

Planning Services
Advisory & Occasional Committee Minutes
Statutory Planning Services

Reference No. & Subject: SP-012/12 Minutes of the Heritage Reference Group
File No: LUP/449-22
Author: Mr Ross Underwood, Senior Planning Officer
Other Contributors: Mr Mike Ross, Manager Statutory Planning
Date of Committee Meeting: 20th February 2012
Terms of Reference: To provide a Forum to discuss the conservation and preservation of natural and culturally significant heritage sites within the Rockingham district.
Composition: 1 Councillor, 2 representatives from the Rockingham District Historical Society
Executive Support - Planning Services

Disclosure of Interest:
Nature of Council’s Role in this Matter: Executive Function

Attachments: Minutes of the Heritage Reference Group meeting held on the 15th December 2011
Maps/Diagrams:

1. Receipt of Minutes
That Council RECEIVE the Minutes of the Heritage Reference Group meeting held on the 15th December 2011.

2. Recommendations to Standing Committee
There are no recommendations to the Standing Committee.

8. Committee Recommendation
That Council RECEIVE the Minutes of the Heritage Reference Group meeting held on the 15th December 2011.
Committee Voting – 4/0

9. The Committee's Reason for Varying the Officer's Recommendation
Not applicable
10. Implications of the Changes to the Officer’s Recommendation

Not applicable
**Planning Services Committee Minutes**

**Monday 20 February 2012**

---

**Reference No & Subject:**

<table>
<thead>
<tr>
<th>DPD-001/12</th>
<th>Proposed Metropolitan Region Scheme Amendment - Rockingham Strategic Metropolitan Centre</th>
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**File No:**

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<th>LUP/1416-04</th>
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**Proponent/s:**

<table>
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<tr>
<th>Mr R M Jeans, Director Planning and Development Services</th>
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**Author:**

<table>
<thead>
<tr>
<th>Mr R M Jeans, Director Planning and Development Services</th>
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**Other Contributors:**

<table>
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<tr>
<th>Mr R M Jeans, Director Planning and Development Services</th>
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**Date of Committee Meeting:**

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<th>20th February 2012</th>
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**Previously before Council:**

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**Disclosure of Interest:**

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**Nature of Council’s Role in this Matter:**

<table>
<thead>
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**Site:**

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**Lot Area:**

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**LA Zoning:**

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**MRS Zoning:**

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**Attachments:**

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<tr>
<th>Maps/Diagrams</th>
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**1. Purpose of Report**

To update the Council on the proposed Metropolitan Region Scheme (MRS) Amendment for the Rockingham Strategic Metropolitan Centre and to seek endorsement of the revised MRS Amendment Report.

**2. Background**

The Rockingham Strategic Metropolitan Centre - Activity Centre Plan was adopted by Council in September 2009 and by the Western Australian Planning Commission in November 2009. The City's Activity Centre Plan was prepared to reflect the principles of orderly and proper planning and in accordance with State and Local Planning Policies.
The adopted Centre Plan is consistent with the WAPC's 'Directions 2031 and beyond' Report (August 2010), 'Statement of Planning Policy 4.2 - Activity Centres for Perth and Peel' (August 2010) and the WAPC's draft 'Outer Metropolitan Perth and Peel Sub Regional Strategy' (August 2010).

The endorsed Activity Centre Plan was prepared in liaison with key stakeholders (over a period of several years), and included two stages of extensive community consultation.

The Centre Plan was also prepared in consultation with the Rockingham Kwinana Development Office, and with the support and guidance of the Rockingham Kwinana Development Taskforce.

Following approval of the Centre Plan by the WAPC, the Council resolved (February 2010) to request the WAPC to extend the ‘Central City Area’ Zone under the MRS to include the majority of the Rockingham Strategic Metropolitan Centre, as defined in the approved Centre Plan.

The City subsequently lodged an Amendment request to the WAPC. The areas proposed to be rezoned are shown on Figure 1.

Figure 1 – Proposed MRS Rezoning to Central City Area Zone – Areas 1, 2 and 3

The proposed MRS Amendment involves three areas being incorporated into the ‘Central City Area’ Zone, as described below:-

Area 1:

Rezoning the existing ‘Urban’ Zone to ‘Central City Area’ Zone for the land bounded by Council Avenue, Read Street, Rae Road, Ennis Avenue, Simpson Avenue and Hawkins Street.

This will formalise the integration of residential land with medium to high density, Transit Oriented Development (TOD) potential within the Strategic Metropolitan Centre planning framework.

Area 2:

Rezoning the existing ‘Urban’ Zone to ‘Central City Area’ Zone for the land bounded by Patterson Road, Victoria Street, the foreshore ‘Parks and Recreation’ Reserve, Florence Street, Thorpe Street, Quin Street, Langley Street, Houston Street, Ryan Street, Ray Street, Greene Street and Read Street.
This will formalise the integration of the developing Waterfront Village and old Rockingham Beach townsitie into the Strategic Metropolitan Centre as a vital, transit oriented residential and hospitality sector. Existing residential areas either side of the Waterfront Village have been included to allow for transitional densities in detailed planning, in accordance with the approved Centre Plan framework.

**Area 3:**

Rezoning the existing ‘Industrial’ Zone to ‘Central City Area’ Zone over the land bounded by the western section of Dixon Road, the strip of existing ‘Central City Area’ zoned along the south side of Patterson Road, the redundant southern rail loop reserve and the eastern boundary of the City of Rockingham Depot site.

This would allow a 21.77 (i.e. Area 3) hectare wedge of older light industrial land that sits between areas of ‘Central City Area’ zoned land along Patterson Road and Dixon Road to be properly integrated with the planning framework of the Centre, to accommodate a mix of land-uses commensurate with its proximity to the route of the central transit system.

The City's request for an Amendment to the MRS was submitted to the Department of Planning (DoP) on the 25th February 2010 and subsequently referred to the WAPC's Kwinana Air Quality Buffer Review Committee (KAQBRC) for advice on the 27th August 2010.

Referral to the KAQBRC was necessary as some of the land north of Dixon Road (contained within Sector 4 - Smart Village North), proposed to be included within the ‘Central City Area’ Zone, is contained within the Air Quality Buffer for the Kwinana Industrial Area. The KAQBRC considered the proposal in terms of potential impacts on industrial land, air quality buffer and noise.

In support of the City's request to amend the MRS, GHD Environmental was commissioned to prepare a Technical Report to accompany the submission.

The GHD Technical Report specifically addressed the portion of land (known as Area 3) which is currently zoned ‘Industrial’ in the MRS and which is located within the Kwinana Air Quality Buffer.

The following justification was provided in support of the buffer boundary realignment:–

- The SO2 levels at the north Rockingham monitoring station have not been exceeded since 1994, where there was one maximum 1-hour average sulphur dioxide concentration that was measured above the Kwinana EPP Standard, but not the Kwinana EPP limit.
- In 2005 and 2006, the Department of Environment and Conservation carried out a Background Air Toxics Study to assess the concentrations of toxic pollutants in the ambient air and compare them to guidelines proposed in the Air Toxics National Environmental Protection Measures (NEPM). This study monitored VOC's, NO2, PM2.5 and ammonia. During this Study there were no recorded excesses of the NEPM or any of the monitored pollutants.
- A further study was undertaken by DEC between August 2007 and October 2008 monitoring selected VOC's and ammonia, including locations in Rockingham. Initial results indicate that concentrations of key VOC's and ammonia were well below applicable air quality criteria.
- The subject area also falls outside the Sulphur Dioxide Emission Worst Case Contour.

On the 15th December 2010, the Buffer Review Committee considered the City's Amendment request, together with the GHD Report. The Buffer Review Committee resolved that:-

"Further studies would be needed to be completed to the satisfaction of the Department of Environment and Conservation, Department of Health, Department of State Development and Landcorp, to demonstrate whether or not, with a reduced buffer, future industrial operations will adversely impact upon residents and whether or not future industrial development would be constrained."

Comments on the GHD Report were submitted by:-

- Department of Environment and Conservation
- Department of Health
- Department of State Development
In August 2011, the WAPC received advice from the Office of the EPA (OEPA) raising concerns the inclusion of Area 3 within the MRS Amendment. In summary, the OEPA advised that the inconsistency between the Amendment boundaries and the current Buffer boundary was a matter that needed to be resolved before the Amendment progresses. The OEPA advised that it was unlikely to support the MRS Amendment as it currently stands.

Subsequent discussions between the City, DoP and the OEPA concluded that the State Agencies’ comments (submitted to the Buffer Review Committee) should be addressed in an updated Report. This updated Technical Report would then be submitted to the DoP and the OEPA to enable further consideration of the City’s MRS Amendment request.

GHD and other similarly qualified Environmental Consultants were requested to submit a Fee Proposal to undertake the following Scope of Work:-

1. Review comments as provided by State Government Agencies:-
   - Department of Environment and Conservation
   - Department of Health
   - Department of State Development
   - Office of the Environment Protection Authority

2. Update the August 2010 GHD Report to address comments from State Government Agencies.

3. Include within the updated Report a case for redefining the Kwinana Air Quality Buffer boundaries to exclude the Amendment area (Area 3).

3. Details

Nil

4. Implications to Consider

a. Consultation with the Community
   Would be undertaken as part of the MRS Amendment process.

b. Consultation with Government Agencies
   Would be undertaken as part of the MRS Amendment process.

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

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

d. Policy
   The adopted Activity Centre Plan is consistent with the:-
   - WAPC’s ‘Directions 2031 and beyond’ Report (August 2010).
   - ‘Statement of Planning Policy 4.2 -Activity Centres for Perth and Peel’ (August 2010).
   - WAPC’s draft ‘Outer Metropolitan Perth and Peel Sub Regional Strategy’ (August 2010).

e. Financial
   Nil

f. Legal and Statutory
   Nil
5. **Comments**

Following receipt of the Fee Proposals and a further review of the tasks (i.e. extent of study and time) required to satisfy the Scope of Works for Area 3, it is recommended that the City's MRS Amendment request be amended to exclude Area 3 at this stage.

Excluding Area 3 from the current Amendment request will enable the MRS Amendment to proceed on the basis of Areas 1 and 2 only, and permit the further study of the buffer and land-use issues associated with Area 3, without unduly delaying the balance of the Amendment.

This approach has been recommended in order to progress the implementation of the approved Centre Plan in a timely manner, and to permit further study of Area 3 within an appropriate planning framework.

6. **Voting Requirements**

Simple Majority

7. **Officer Recommendation**

That Council **ENDORSE** an amended Metropolitan Region Scheme submission to the Western Australian Planning Commission for the land within the Rockingham Strategic Metropolitan Centre, as defined by the approved Activity Centre Plan (2009), based on Areas 1 and 2 only, and that Area 3 be excluded to allow further study into the buffer and land-use issues.

8. **Committee Recommendation**

That Council **ENDORSE** an amended Metropolitan Region Scheme submission to the Western Australian Planning Commission for the land within the Rockingham Strategic Metropolitan Centre, as defined by the approved Activity Centre Plan (2009), based on Areas 1 and 2 only, and that Area 3 be excluded to allow further study into the buffer and land-use issues.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
### 13. Reports of Councillors
Nil

### 14. Addendum Agenda
Nil

### 15. Motions of which Previous Notice has been given
Nil

### 16. Notices of Motion for Consideration at the Following Meeting
Nil

### 17. Urgent Business Approved by the Person Presiding or by Decision of the Committee
Nil

### 18. Matters Behind Closed Doors
Nil

4.30pm - Planning Services Standing Committee meeting adjourned.

### 19. Agenda Items
4.33pm - Planning Services Standing Committee meeting reconvened.

Statutory Planning

Planning Services
Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-009/12 Proposed Scheme Amendment 112 - Change to Additional Use 22 - The Spud Shed</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>LUP/1520</td>
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<tr>
<td>Proponent/s:</td>
<td>Planning Solutions</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Ross Underwood, 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>
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<tr>
<td>Date of Committee Meeting:</td>
<td>20th February 2012</td>
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<tr>
<td>Previously before Council:</td>
<td>February 2007 (PD35/2/07), August 2007 (PD159/8/07), May 2010 (PD55/5/10), July 2010 (PD71/7/10), September 2010 (PD92/9/10), December 2010 (SPE-012/10)</td>
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<td>Disclosure of Interest:</td>
<td>Legislative</td>
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<tr>
<td>Nature of Council's Role in this Matter:</td>
<td>Legislative</td>
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<tr>
<td>Site:</td>
<td>Lot 299 Kerosene Lane, Baldivis</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>21.1936ha</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Development, with Additional Use 22</td>
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<tr>
<td>MRS Zoning:</td>
<td>Urban</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Proponent's Request to Initiate Amendment</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
</tr>
<tr>
<td></td>
<td>2. Adopted Structure Plan for Lots 14, 15 and 299 Kerosene Lane, Baldivis</td>
</tr>
<tr>
<td></td>
<td>3. Context Plan</td>
</tr>
</tbody>
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1. **Purpose of Report**

To consider a request to initiate an amendment to the City's *Town Planning Scheme No.2 (TPS2)* to extend the date by which 'The Spud Shed' must cease operation to the 27th February 2018, and remove the requirement for The Spud Shed to cease upon cessation of the market garden.

2. **Background**

**Town Planning Scheme No.1**

In October 2000, the Council initiated an Amendment to former *Town Planning Scheme No.1* (former TPS1) to add an Exclusive Use to the Rural zone to facilitate the trading of The Spud Shed from the site, as follows:-

"*Nothing in the Scheme shall operate to allow the use of:*  

(i) Lot 299 Kerosene Lane, Baldivis for any purpose other than:

(a) *any use permitted in the Rural Zone;*  
(b) *the retail sale of fruit and vegetables; and*  
(c) *the retail sale of eggs, bread, pastries, milk, cheese, poultry, preserves, confectionary, and non-alcoholic refreshments, as an incidental use to the use referred to in paragraph (i) (b).*

(ii) *The use of the land for the purposes referred to in paragraph (i) (b) and (c) shall conform to the following requirements:*

(a) *the floor area of any building or buildings used for that purpose shall not exceed 234m², and*  
(b) *No goods other than those specified in paragraph (i) (b) and (c) shall be sold.*

(iii) *The use of the land for the purpose referred to in paragraph (i) (b) and (c) shall cease upon the land ceasing to be used for the purpose of a market garden."

The Amendment was gazetted on the 24th May 2002.

On the 19th November 2004, TPS2 came into operation which rezoned the land to ‘Development’. The Exclusive Use provisions in former TPS1 were included in TPS2 as an Additional Use.
Amendment No.46

In February 2007, the Council initiated Amendment 46 to TPS2 to expand the retail floor space and range of products offered for sale at The Spud Shed. The Amendment was gazetted on the 11th December 2007 as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Site Description</th>
<th>Additional Use</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>22.</td>
<td>Lot 299 Kerosene Lane, Baldivis</td>
<td>(a) The retail sale of fresh fruit and fresh vegetables; and (b) The retail sale of eggs, bakery goods, cereals, dairy products, meat, poultry, seafood, condiments preserves, confectionary, and non alcoholic refreshments, nursery and horticultural products intended for household use, but only as an incidental use to the use referred to in paragraph (a)</td>
<td>1. The Additional Use of the land shall conform to the following requirements: (i) the floor area of any building or buildings used for that purpose shall not exceed 1,130m²; and (ii) no goods other than those specified in the Additional Use shall be sold. 2. The Additional Use shall cease upon the land ceasing to be used for the purpose of a market garden or by 27th February 2013, whichever occurs first. 3. The use of the land for the Additional Use is conditional on the preparation and adherence to a suitable traffic management plan approved by the Council. 4. For the removal of doubt, the Additional Use and the Special Conditions applying to it are not a standard or requirement capable of variation pursuant to clause 4.20.1.</td>
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</table>

One of the considerations of Amendment 46 was the introduction of a sunset clause, where the Additional Use expires upon the land ceasing to be used as a market garden or by the 27th February 2013, whichever occurs first. In considering whether or not to impose a sunset clause at the time of initiation of Amendment 46, City Officers advised:

"The Scheme clause linking the Spud Shed to the market garden was specifically included to allow the uses to operate until urban development occurred. It is agreed that the continuation of market gardening activity within a Development Zone surrounded by future residential development could create land use conflicts, e.g. spray drift odours to future residents.

The Spud Shed operation should be limited to a fixed timeframe, rather than relying completely upon the cessation of the market garden. The applicant has clearly indicated that market gardening will continue as long as is needed to maintain the Spud Shed operation. It is recommended that the Spud Shed be limited to an operational period of 5 years after which time the use must cease or upon the market garden ceasing, whichever occurs first. This still gives the operator a reasonable period to continue operating, while ensuring that the business doesn't adversely impact on planned centres being developed in the locality."

Structure Plan

In May 2010, the Council considered for advertising a Proposed Structure Plan over Lots 14, 15 and 299 Kerosene Lane, which proposed a neighbourhood centre in the same location as The Spud Shed. The Officer’s Report provided the following comment on the proposal:

"The Proponent has engaged a Retail Planning Consultant to provide justification for the proposed Neighbourhood Centre depicted on the Structure Plan. The Neighbourhood Centre is not identified on the Baldivis (North) District Structure Plan or in the Council's [Planning Policy 6.3] Local Commercial Strategy."
The Local Commercial Strategy does, however, note an unallocated 2,500m² of retail NLA that has not been depicted on the District Structure Plan. The Proponent contends through its Retail Assessment Report that this unallocated floorspace can be appropriately justified in the location shown on the Structure Plan. The Proponent also contends the proposed location will not impact on the undeveloped Neighbourhood Centre located on the corner of Nairn Drive and Fifty Road. The City's Retail Consultant has reviewed the proposal and concluded that the outcomes of the Proponent's Retail Assessment Report are sound. As such, the location of the proposed Neighbourhood Centre, and its retail allocation, are supported."

The Neighbourhood Centre was excluded from the Proposed Structure Plan prior to adoption, to allow the preparation of an amendment to TPS2 to facilitate an appropriate transition of The Spud Shed to a Neighbourhood Centre.

2. Adopted Structure Plan for Lots 14, 15 and 299 Kerosene Lane, Baldivis

Amendment 105

In July 2010, the Council initiated Amendment 105 to introduce a new section 4.6A into TPS2 which prohibits the development of any use in the future Neighbourhood Centre until the existing improvements are demolished and removed or altered in accordance with an integrated development guide plan prepared for the Neighbourhood Centre.

Amendment 105 was gazetted on the 7th June 2011.
3. **Details**

The City has received a proposal to extend the Additional Use expiry date for The Spud Shed by five years from the 27th February 2013 to the 27th February 2018. The proposal also involves the removal of the requirement for the Additional Use to cease upon cessation of the market garden. A full copy of the proponent’s request is included as Attachment 1 to this report.

4. **Implications to Consider**

   a. **Consultation with the Community**

      If the Scheme Amendment is initiated by Council it is required to be advertised in accordance with the *Town Planning Regulations 1967* for a minimum period of 42 days from the date of publication of an advertisement in a newspaper circulating in the area.

   b. **Consultation with Government Agencies**

      Consultation with relevant Government Agencies will occur if the Scheme Amendment is initiated by the Council. Referrals can then be undertaken in accordance with the *Town Planning Regulations 1967*.

   c. **Strategic**

      Community Plan

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

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

   d. **Policy**

      Nil

   e. **Financial**

      Nil

   f. **Legal and Statutory**

      In accordance with Regulation 13 of the *Town Planning Regulations 1967*, the Council is required to resolve to either adopt the Scheme Amendment or not proceed with a Scheme Amendment and notify the Western Australian Planning Commission in writing of its decision.

5. **Comments**

The proposed extension of the expiry date, rather than its complete removal, provides a trigger for the development of the Neighbourhood Centre in accordance with an Integrated Development Guide Plan pursuant to subclause 4.6A(d) of TPS2. While The Spud Shed operates from an area with rural characteristics, the operations should be converted to suit a residential context as development of the surrounding area encroaches upon the site. There is likely to be residential development encroachment adjoining the site over the next few years, including extensions to the Baldivis North Estate and approved expansions to the Tuart Lakes National Lifestyle Village. Peet has advised that it intends to commence subdivision of its landholding (under an approved Structure Plan) on Fifty Road this year.
3. Context Plan

On this basis, an extension to the expiry date of up to 2.5 years (i.e. 30th June 2015) is considered appropriate. After 2.5 years, urban development should have progressed to the extent that the current operations will be based in a transitional environment, with urban development progressing on three boundaries of the landholding. A 2.5 year extension also provides sufficient opportunity for the owner to progress plans to convert the current operations into a neighbourhood centre suitable for incorporation into a residential estate. The applicant should be advised that the City expects the time extension to be used constructively to prepare the necessary plans to convert The Spud Shed into a Neighbourhood Centre, pursuant to clause 4.6A(d) of TPS2.

The proposed removal of the requirement for The Spud Shed to cease upon the cessation of the market garden is considered reasonable, as it will allow for a better transition of The Spud Shed to a Neighbourhood Centre in the context of encroaching urban development.

It is recommended that the Council initiate a Scheme Amendment to modify the Additional Use to extend the expiry date to the 30th June 2015, and remove the requirement for the Additional Use to cease upon cessation of the market garden.

4.34pm - Mr Ben Doyle, Planning Solutions attended the Planning Services Standing Committee meeting.

DEPUTATION:

The Chairman welcomed Mr Doyle and invited him to make a presentation to the Committee.

Mr Doyle advised the Committee that his client was pleased with the City Officer’s support for the Scheme Amendment. He asked, if possible, for the Committee to support a longer timeframe than recommended. His application sought a 5 year extension for the additional use applying to the Spud Shed, to operate until the 27th February 2018. He advised that his client was committed to developing the site and wants the Spud Shed to be a future Neighbourhood Centre and that it was just a matter of when. Mr Doyle tabled two aerial photographs from May 2008 and January 2012, when he advised subdivision of the adjoining properties over the past 4 years has not progressed quickly.

The Chairman thanked Mr Doyle for his presentation.

4.44pm - Mr Ben Doyle, Planning Solutions left the Planning Services Standing Committee meeting.
6. Voting Requirements

Simple Majority

7. Officer Recommendation

That Council:

1. **ADOPT** (initiate) Amendment 112 to *Town Planning Scheme No.2* to replace Special Condition 2 of Additional Use 22 in Schedule No.2 with the following Special Condition:
   
   "2. The Additional Use shall cease by 30 June 2015."

2. **ADVISE** the proponent that the time extension should be used constructively to progress an amendment to the Structure Plan to incorporate the Neighbourhood Centre, prepare an integrated Development Guide Plan for the Neighbourhood Centre and obtain planning approval for the Neighbourhood Centre, as required under clause 4.6A(d) of *Town Planning Scheme No.2*.

8. Committee Recommendation

That Council:

1. **ADOPT** (initiate) Amendment 112 to *Town Planning Scheme No.2* to replace Special Condition 2 of Additional Use 22 in Schedule No.2 with the following Special Condition:
   
   "2. The Additional Use shall cease by 30 June 2015."

2. **ADVISE** the proponent that the time extension should be used constructively to progress an amendment to the Structure Plan to incorporate the Neighbourhood Centre, prepare an integrated Development Guide Plan for the Neighbourhood Centre and obtain planning approval for the Neighbourhood Centre, as required under clause 4.6A(d) of *Town Planning Scheme No.2*.

Committee Voting – 4/0

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

Not applicable

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

Not applicable
20. **Date and Time of Next Meeting**

The next Planning Services Committee Meeting will be held on **Monday 19 March 2012** in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.

21. **Closure**

There being no further business, the Chairman thanked those persons present for attending the Planning Services Committee meeting, and declared the meeting closed at 4.45pm.