City of Rockingham

MINUTES

Planning Services
Standing Committee Meeting

Held on
Monday 19 September 2011

4:00pm

Council Boardroom
Council Administration Building
Civic Boulevard, Rockingham
City of Rockingham  
Planning Services Standing Committee Meeting  
4:00pm Monday 19 September 2011

<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Declaration of Opening</td>
<td>4</td>
</tr>
<tr>
<td>2. Record of Attendance/ Apologies/ Approved Leave of Absence</td>
<td>4</td>
</tr>
<tr>
<td>3. Responses to Previous Public Questions Taken on Notice</td>
<td>5</td>
</tr>
<tr>
<td>4. Public Question Time</td>
<td>5</td>
</tr>
<tr>
<td>5. Confirmation of Minutes of the Previous Meeting</td>
<td>5</td>
</tr>
<tr>
<td>6. Matters Arising from the Previous Minutes</td>
<td>5</td>
</tr>
<tr>
<td>7. Announcement by the Presiding Person without Discussion</td>
<td>5</td>
</tr>
<tr>
<td>8. Declaration of Member’s and Officer’s Interest</td>
<td>5</td>
</tr>
<tr>
<td>9. Petitions/ Deputations/ Presentations/ Submissions</td>
<td>5</td>
</tr>
<tr>
<td>10. Matters for which the Meeting may be Closed</td>
<td>5</td>
</tr>
<tr>
<td>11. Bulletin Items</td>
<td>6</td>
</tr>
<tr>
<td>Planning Services Information Bulletin - September 2011</td>
<td>6</td>
</tr>
<tr>
<td>12. Agenda Items - Planning Services Standing Committee</td>
<td>6</td>
</tr>
<tr>
<td>Health Services</td>
<td>8</td>
</tr>
<tr>
<td>HS-005/11 Non-Compliance with Food Act 2008 - EastWest Cuisine</td>
<td>8</td>
</tr>
<tr>
<td>Building Services</td>
<td>13</td>
</tr>
<tr>
<td>BS-002/11 Fee Structure for the Assessment by the Local Government of a Certificate of Design Compliance for Class 2-9 Buildings</td>
<td>13</td>
</tr>
<tr>
<td>Strategic Planning and Environment</td>
<td>17</td>
</tr>
<tr>
<td>SPE-025/11 Minutes of Community Environment Advisory Committee</td>
<td>17</td>
</tr>
<tr>
<td>Statutory Planning</td>
<td>19</td>
</tr>
<tr>
<td>SP-050/11 Proposed Home Occupation (Cake Making)</td>
<td>19</td>
</tr>
<tr>
<td>SP-051/11 Proposed Port Rockingham Marina (500 Boat Pens - approx), Temporary Boat Mooring Facilities, 4,000m² Commercial Floor Space (Staged), and 600 Car Parking Bays</td>
<td>24</td>
</tr>
<tr>
<td>13. Reports of Councillors</td>
<td>58</td>
</tr>
<tr>
<td>14. Addendum Agenda</td>
<td>58</td>
</tr>
<tr>
<td></td>
<td><strong>Motions of which Previous Notice has been given</strong></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>15.</td>
<td>SPE-026/11 Proposed Amendment to Planning Policy No.3.3.17 - Variations to Building Envelopes</td>
</tr>
<tr>
<td></td>
<td><strong>Notices of Motion for Consideration at the Following Meeting</strong></td>
</tr>
<tr>
<td>16.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Urgent Business Approved by the Person Presiding or by Decision of the Committee</strong></td>
</tr>
<tr>
<td>17.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Matters Behind Closed Doors</strong></td>
</tr>
<tr>
<td>18.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Date and Time of Next Meeting</strong></td>
</tr>
<tr>
<td>19.</td>
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<tr>
<td></td>
<td><strong>Closure</strong></td>
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</tbody>
</table>
City of Rockingham
Planning Services Standing Committee Meeting
4:00pm Monday 19 September 2011

MINUTES

1. Declaration of Opening

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

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

2.1 Councillors

Cr Richard Smith Chairperson
Cr Brian Warner
Cr Ann Prince
Cr Les Dodd
Cr Joy Stewart Observer (until 4.51pm)

2.2 Executive

Ms Gay Thornton A/Chief Executive Officer
Mr Robert Jeans Director, Planning & Development Services
Mr Peter Ricci Manager, Strategic Planning & Environment
Mr Richard Rodgers Manager, Building Services (until 4.14pm)
Mr Mike Ross Manager, Statutory Planning
Mr Rod Fielding Manager, Health Services (until 4.09pm)
Ms Melinda Wellburn Secretary to Director, Planning & Development Services

Members of the Public: Nil
Press: Nil

2.3 Apologies: Nil

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 Standing Committee Meeting**

   **Moved Cr Dodd, seconded Cr Prince:**

   That Council **CONFIRM** the Minutes of the Planning Services Standing Committee Meeting held on 15 August 2011, as a true and accurate record.

   Committee Voting - 4/0

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

   Nil.

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

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

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

   **8.1 Item SP-051/11 Proposed Port Rockingham Marina (500 Boat Pens - approx), Temporary Boat Mooring Facilities, 4,000m² Commercial Floor Space (Staged), and 600 Car Parking Bays**

   Councillor/Officer: Cr Les Dodd  
   Type of Interest: An Impartiality Interest  
   Nature of Interest: Impartiality via Association  
   Extent of Interest (if applicable): My employer (DET) has an Expression of Interest for a pen with the proponent.

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

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

    Nil
### 11. Bulletin Items

**Planning Services Information Bulletin - September 2011**

**Health Services**

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

**Building Services**

1. Building Services Team Overview  
2. Human Resource Update  
3. Project Status Reports  
4. Information Items  
   - 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 Permanent Sign Licence  
   - 4.6 Community Sign Approvals  
   - 4.7 Strata Title Certificates  
   - 4.8 Street Verandah Licence  
   - 4.9 Building Approval Certificates for Unauthorised Building Works  
   - 4.10 Monthly Caravan Park Site Approvals  
   - 4.11 Prosecutions and Notices

**Strategic Planning and Environment**

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

### Information Items

4.1 Proposed Development Contribution Plan No.2 - Application of Development Contributions to Subdivision and Development

### 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
   4.7 Delegated Development Refusals
   4.8 Delegated Building Envelope Variations
   4.9 Subdivision/Amalgamation Supported
   4.10 Subdivision/Amalgamation Refused
   4.11 Development Assessment Panel - Development Applications
   4.12 Extension to Centro Warnbro Shopping Centre
   4.13 Removal of Rockingham Hotel from the Register of Heritage Places

### Director Planning & Development Services

1. Director Planning & Development Services Team Overview
2. Human Resource Update
3. Project Status Report
   3.1 Administration Building Refurbishment/Fitout
   3.2 Rockingham Strategic Metropolitan Centre - Infrastructure Development Strategy
   3.3 Rockingham Primary Centre Infrastructure - Business Case
   3.4 Smart Village 1 Masterplan
4. Information Items
   4.1 Western Trade Coast Industries Council - Report on Activities (LUP/407)

### Appendices

Committee Recommendation:

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

Committee Voting – 4/0

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

To seek Council’s authorisation to initiate legal proceedings against the proprietors of EastWest Cuisine for non-compliances with the Food Act 2008.
2. **Background**

The City’s Environmental Health Officers (EHOs) undertake routine assessments of all food businesses within the district, to ensure that these businesses are fulfilling their responsibilities under the Food Act 2008 and the Food Safety Standards, and are not putting the public at risk of illness as a result of food poisoning.

The Food Safety Standards outline the minimum requirements that must be met by all food premises within Australia in order to prevent the incidence of food borne illness. A recent assessment of EastWest Cuisine, located at Rockingham Shopping Centre, on 9th August 2011 revealed that the food business was storing potentially hazardous foods under unsafe conditions, and live cockroaches were found within the premises.

EastWest Cuisine has a history of non-compliance with the food legislation since it opened in 2009 and the City’s EHOs have tried a number of methods to assist the proprietor in achieving compliance during this time.

The City’s EHOs have spent time during inspections advising of the legislative requirements, provided educational material for the proprietor to distribute to his staff, seized potentially hazardous food that was outside of the safe temperature range on two occasions, and have issued an on-the-spot infringement. Despite this, the premises continues to stored potentially hazardous foods at unsafe temperatures, which poses a significant risk of food borne illness transmission. This leaves the City with little option but to initiate legal proceedings against the proprietor.

3. **Details**

The City’s EHO attended EastWest Cuisine on Tuesday, 9th August 2011 to conduct a food hygiene, food practices and cleanliness assessment in accordance with the Food Act 2008. Upon entering the business the Officer introduced himself to a staff member, advised of the purpose of the visit and proceeded to undertake the assessment.

The Officer commenced his food hygiene and cleanliness assessment and noted that a large number of packaged ready-to-eat foods were left out of temperature control next to the front display counter. The temperature of the containers was measured to be 39.3°C, which is the optimum temperature for bacterial growth. The staff member was questioned as to why the foods were not under temperature control, and was advised that the City’s EHOs have previously seized food stored under the same conditions.
The Officer continued with his inspection and observed the following non-compliances:
1. There was uncovered cooked meat in the coolroom.
2. There were food scraps under the coolroom shelving.
3. There were food scraps, dirt and grease on the floor of the store room.
4. The flour was not stored appropriately.
5. There were live cockroaches observed crawling on the wall and floor of the servery area.
6. There were dirt and food scraps observed on the floor of the servery area.

Given all of the above, the Officer advised the staff that he was extremely concerned with the poor temperature control and pest control at the premises, and of the risk to public health that it presented.

The Officer documented all non-compliances on the inspection sheet, and provided it to the staff. Staff were advised to immediately clean the premises. The proprietor was contacted via telephone during the inspection, and a follow-up meeting to discuss the food safety issues was arranged at the City's Offices on Friday, 12th August 2011.

4. Implications to Consider

   a. Consultation with the Community
      Nil
   b. Consultation with Government agencies
      Nil
   c. Strategic
      Community Plan
      This item addresses the Community’s Vision for the future and specifically the following Aspiration contained in the Community Plan 2011:-
      Aspiration 2: A safe community where residents feel secure, relaxed and comfortable within their home, work and social environments
   d. Policy
      The City’s Health Policy 2.1 states the following:-
      “The ordering and authorisation of legal proceedings for breaches of the Health Act 1911 and all Regulations, By-laws and Orders made there under is subject to specific resolution of the Council.”
   e. Financial
      Health Services legal expenses account (210078.1434) contains $143,000 which will cover the costs of prosecution.
   f. Legal and Statutory
      The Food Act 2008 requires as follows:-
      22. Compliance with the Food Standards Code
      A person must comply with any requirement imposed on the person by a provision of the Food Standards Code in relation to the conduct of a food business or to food intended for sale or food for sale.
      Penalty:
      (a) for an individual – a fine of $50,000
      (b) for a body corporate - a fine of $250,000
The Food Safety Standards set out the minimum requirements that must be adhered to when establishing or operating a food premises, which include the following requirements:

**Standard 3.2.2 - Food Safety Practices and General Requirements**

6. Food Storage

(1)(a) A food business must, when storing food, store the food in such a way that it is protected from the likelihood of contamination.

8. Hygiene of Food Handlers - Duties of Food Businesses

(5)(a) A food business must, when displaying potentially hazardous food, display it under temperature control.

19. Cleanliness

(1) A food business must maintain food premises to a standard of cleanliness where there is no accumulation of:

(a) garbage, except in garbage containers;
(b) recycled matter, except in containers;
(c) food waste;
(d) dirt;
(e) grease; or
(f) other visible matter.

24. Animals and Pests

(1)(d) A food business must take all practicable measures to eradicate and prevent the harbourage of pests on the food premises and those parts of vehicles that are used to transport food.

**5. Comments**

At the time of assessment, it was evident to the Officer that previous enforcement action taken against the proprietor of EastWest Cuisine had done little to improve food safety at this premises. Having potentially hazardous food outside of temperature control is unacceptable. This has been drawn to the proprietor’s attention on a number of occasions. Potentially hazardous food stored outside of temperature control has previously resulted in products being seized on two occasions and an infringement being issued. This is considered a significant public health risk.

In addition, live cockroaches were observed at the premises, as well as an accumulation of dirt and food scraps.

In light of the above, this is considered a serious breach of the Food Act 2008 and Food Safety Standards.

As such it is recommended that legal proceedings be again instigated against the proprietor for a series of offences under the Food Act and Food Safety Standards.

**6. Voting Requirements**

Simple Majority

**7. Officer Recommendation**

That Council, subject to legal advice, INITIATE legal proceedings against the proprietors of EastWest Cuisine for non-compliance with the Food Act 2008 and Food Safety Standards.
8. Committee Recommendation

That Council, subject to legal advice, *INITIATE* legal proceedings against the proprietors of EastWest Cuisine for non-compliance with the Food Act 2008 and Food Safety Standards.

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

4.09pm - Mr Rod Fielding, Manager, Health Services left the Planning Services Standing Committee meeting.
### Purpose of Report

To set a fee structure for the processing ("certification" process only) of uncertified Building Permit Applications within the Class 2-9 range of Buildings.
2. **Background**

The Building Act 2011 (the “Act”) was given Royal Assent on the 11th July 2011 and will become operational on the 31st October 2011, with a phased-in implementation over 12 months.

The Act will provide for fees, generally by virtue of Regulations created pursuant to the Act.

Fees associated with the Certificate of Design Compliance for an uncertified Building Permit application for Class 2-9 buildings can be collected, however, they need to be set by the City, as they will not be set within the Regulations.

It will be incumbent on each Local Government to determine, pursuant to the provisions of the Local Government Act 1995 section 6.16 "Imposition of fees and charges", the fee that will be applied.

The drafting instructions for the creation of Regulations (needed to support the proclamation of the Act) will be approved and forwarded to Parliamentary Counsel in coming weeks, noting that only those Regulations which are considered essential to enable urgent proclamation of the Act will be included those will include the Regulations relating to fees and charges.

3. **Details**

Correspondence has been received from the Building Commission dated 5th August 2011 "Building Act 2011: Proposed Fee Modelling for Permit Authorities", which details the proposed statutory charges to be imposed for applications, via regulations, made for building, demolition and occupancy permits, the applications for assessment of certificates of design compliance and other matters.

It does not provide for the fee structure for the Certificate of Design Compliance for Class 2-9 Buildings, as these types of buildings and the assessment (i.e. of compliance with the Building Code of Australia BCA) is one that has been “privatised” by the Act, i.e. it allows for the private Building Surveyor to perform the necessary checks (once the sole province of local government Building Surveyors) and issue the Certificate of Design Compliance. This certificate will be forwarded to the local governments for issuing of a "permit".

The Act does not restrict local government employed Building Surveyors from performing this role of "certifier", so long as the application being submitted is for a property within the district of the local government. In other words, the local government will be in competition with the private sector for the BCA compliance assessment process ("certification") within its district for certification of Class 2-9 buildings.

4. **Implications to Consider**

a. **Consultation with the Community**
   
   Nil

b. **Consultation with Government Agencies**
   
   There is no requirement to consult with government agencies, however, the advice from the Building Commission, via correspondence dated 5th August 2011, provides guidance and advice on setting of this fee ("Building Act 2011 - Proposed Fee Modelling for Permit Authorities"), as does "Drafting Instructions No.3 Regulations to support the Building Act 2011".

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

d. Policy
Nil

e. Financial
A fee will be required to be set by local government, pursuant to section 6.16 of Local Government Act 1995, to cover the costs of performing the assessment of a certificate of design compliance (the "certification" process) for Class 2-9 Buildings, should the City be asked to perform that process. Noting that the fees associated with the process of certification of Class 1 & 10 Buildings and permit issue for all Classes of buildings will be set by statute (via regulations).

f. Legal and Statutory
Subdivision 2 of the Local Government Act 1995 provides for the setting of fees and charges, however, in determining that fee or charge consideration needs be given "the cost to local government of providing the service or goods." (s 6.17(1)(a) and "the price at which the service or goods could be provided by an alternative provider" (s 6.17(1)(c)).

These matters are not able to be determined with any degree of accuracy given that there is no service provision under this (new) Act, though noting there are many private certifiers in the industry the work under this Act has not commenced as yet.

As detailed in the "Drafting Instructions No. 3 Regulations to support the Building Act 2011-Fees" the statutory fee scales to be set will be based on the current charges pursuant to regulation 24 of the Building Regulations 1989 save for the certification of Class 2-9 buildings.

(Note that the building Licence process will be equivalent to a Certificate of Design Compliance and a permit under the Act, with the private sector able to perform the Certificate of Design Compliance portion, as well as is local government.)

The "Building Act 2011: Proposed Fee Modelling for Permit Authorities" correspondence and the "Drafting Instructions No.3" impart the wisdom that the new fee should replace the current fee and apportions a percentage of it to each part (ie. for Class 1 & 10 applications:- 60% for the issue of a permit, and 40 % for the certification process).

For the Class 2-9 Building classifications, the proposed fee for the issue of the permit is provided at 50% of the current fee, it is then presumed that the City is able to follow the same principle for the certification process and seek a fee that is 50% of the current fees for the certification process if performed by this local government.

It is to be noted that this fee will be reviewed every financial year (as is the case with all fees & charges set pursuant to section 6.16 of the Local Government Act 1995) and the fees set by regulation will be re-assessed by the Building Commission upon a monitoring and review process using information sought from local government via section 132(2)(b) of the Act.

To enable management of the income streams, it will be necessary to replace the existing Account No. 310091.3039 into 2 further accounts to receive monies from the 2 separate processes ie the "permit application" fee, and the "application for Certificate of Design Compliance" (or "certification" fee) for processing uncertified applications.

This management procedure will be undertaken with liaison with the Manager, Financial Services.

5. Comments

The new Act is to be implemented incrementally with parts of the Act being proclaimed as and when considered appropriate by the Building Commission and Minister.
The same principle will be applied to the Regulations (such as the statutory fees and charges in this case) and those considered essential will be drafted, as required.

Given that it is a new Act, the capacity of the industry to perform certain functions, the costs to the applicant in obtaining a certification from the private sector and the desire for change needs to be managed, the system to initially allow local government to maintain involvement in the process (ie. the certification process particularly for Class 1 and 10 buildings) is seen as a good start but it is subject to change over time.

Fees will be re-assessed as required by Section 6.16 of the Local Government Act 1995 on an annual basis, with the Building Commission performing a review as and when they deem appropriate.

6. Voting Requirements

Absolute Majority.

7. Officer Recommendation

That Council ADOPT a fee, pursuant to section 6.16 Local Government Act 1995, for the issuing of a Certificate of Design Compliance for an uncertified Class 2-9 Building Permit Application of 0.09% of the estimated value (inclusive of GST) of the proposed building work but not less than $90.

8. Committee Recommendation

That Council ADOPT a fee, pursuant to section 6.16 Local Government Act 1995, for the issuing of a Certificate of Design Compliance for an uncertified Class 2-9 Building Permit Application of 0.09% of the estimated value (inclusive of GST) of the proposed building work but not less than $90.

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

4.14pm - Mr Richard Rodgers, Manager, Building Services left the Planning Services Standing Committee meeting.
### Planning Services

**Occasional & Advisory Committee Minutes**

**Strategic Planning & Environment**

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th><strong>SPE-025/11 Minutes of Community Environment Advisory Committee</strong></th>
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<tbody>
<tr>
<td>File No:</td>
<td>EVM/88-05</td>
</tr>
<tr>
<td>Author:</td>
<td>Ms Katherine Callaway, Environmental Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Peter Ricci, Manager, Strategic Planning and Environment</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>19th September 2011</td>
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<tr>
<td>Terms of Reference:</td>
<td>To provide community input and advice on the conservation and sustainable use of Rockingham’s natural environment, including repair and rehabilitation where required.</td>
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<tr>
<td>Composition:</td>
<td>2 Councillors, 5 representatives from the Community Executive Support - Planning Services</td>
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<td>Disclosure of Interest:</td>
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<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Executive Function</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Minutes dated 25th August 2011</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td></td>
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</tbody>
</table>

#### 1. Receipt of Minutes

That Council **RECEIVE** the Minutes of the Community Environment Advisory Committee Meeting held on the 25th August 2011.

#### 2. Recommendations to Standing Committee

There are no recommendations arising from the Community Environment Advisory Committee.

#### 3. Committee Recommendation

That Council **RECEIVE** the Minutes of the Community Environment Advisory Committee Meeting held on the 25th August 2011.

Committee Voting - 4/0
### 4. The Committee’s Reason for Varying the Officer’s Recommendation

Not applicable

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

Not applicable
### Reference No & Subject:

<table>
<thead>
<tr>
<th>SP-050/11 Proposed Home Occupation (Cake Making)</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No: 28/6323</td>
</tr>
<tr>
<td>Proponent/s: Mrs R J Williams</td>
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<tr>
<td>Author: Miss Donna Shaw</td>
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<tr>
<td>Other Contributors:</td>
</tr>
<tr>
<td>Mr Ross Underwood</td>
</tr>
<tr>
<td>Mr Mike Ross</td>
</tr>
<tr>
<td>Date of Committee Meeting: 19th September 2011</td>
</tr>
<tr>
<td>Previously before Council:</td>
</tr>
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<td>Disclosure of Interest:</td>
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<tr>
<td>Nature of Council’s Role in this Matter: Tribunal</td>
</tr>
<tr>
<td>Site: Lot 298 (No.5) Destin Close, Warnbro</td>
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<tr>
<td>Lot Area: 780m²</td>
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<tr>
<td>LA Zoning: Residential (R20)</td>
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<td>MRS Zoning: Urban</td>
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<tr>
<td>Attachments:</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
</tr>
<tr>
<td>Fig 1. Location Plan</td>
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<tr>
<td>Fig 2. Advertising Plan</td>
</tr>
</tbody>
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1. **Purpose of Report**

To consider an application seeking planning approval for a Home Occupation (Cake Making) at Lot 298 (No.5) Destin Close, Warnbro.

2. **Background**

Nil

3. **Details**

The Applicant seeks approval to bake and sell cakes and hire cake tins from the premises. The property is located at the end of the Denton Close, which is a small cul-de-sac.

The proposed hours of operation are Monday to Saturday, 9:00am to 5:00pm. The Applicant advises that all customers to the premises will be on an appointment only basis, with one customer anticipated per day. Customer numbers may increase based on demand. The Home Occupation will operate from the kitchen. All carparking will be contained within the existing driveway.
4. Implications to Consider

a. Consultation with the Community

In accordance with Planning Policy 3.3.10 – Home Occupations & Home Businesses (‘the Policy’), the application was referred to five surrounding owners for comment for a period of 14 days. At the close of the advertising period, two submissions objecting to the proposal had been received. The submissions were received from the owners of No.2 and No.3 Denton Close.

The submissioners objected the proposal for the following reasons:-

(i) Number of Clients. Concerns were raised regarding the availability of carparking, specifically in relation to parked cars blocking access to driveways and parked cars prohibiting the movement of waste removal undertaken by the City.

(ii) Increased Traffic. It was noted that the proposed Home Occupation will result in an increase in traffic flow in the cul-de-sac, which would cause a noise disturbance to the surrounding residential properties.

(iii) Carparking. Concerns that driveways would be blocked due to clients parking on the street were raised.

(iv) Residential Character. A submissioner considered that the proposed business is inconsistent with the predominantly residential character of the area.

b. Consultation with Government Agencies

Not required.

c. Strategic

Community Plan

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

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

d. Policy

Planning Policy 3.3.10 – Home Occupations & Home Businesses provides the following assessment criteria when assessing Home Occupations:-

(i) The Home Occupation does not occupy an area greater than 20m².

In this regard, the baking of cakes will only be undertaken from the kitchen, which is less than 20m², with no goods to be stored outside of the residence.

(ii) Home Occupations are not permitted to involve the retail sale, display or hire of goods of any nature.

Subject to cakes being made to order, it is not considered that the sale of cakes would be defined as occurring by ‘retail sale’.

(iii) In relation to vehicles and parking, the Policy details that Home Occupations should 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.

The level of activity associated with the proposed Home Occupation will not generate unmanageable traffic movements.

(iv) The Policy states that advertising signage not to exceed 0.2m².

No advertising sign is proposed.
(v) The Home Occupation must not employ any person not a member of the occupier’s household under the requirements of the Policy.

The applicant will be the sole operator of the business.

e. **Financial**

   Nil

f. **Legal and Statutory**

   Clause 4.1.6.1 (Home Occupations) of Town Planning Scheme No.2 requires the Council, when considering applications for Home Occupations, to consider specific issues including the method and location of the operation, the potential for nuisance to the surrounding neighbourhood, impacts on neighbours, hours of operation, traffic generation, carparking requirements and the location of any associated storage areas.

5. **Comments**

   The Policy prohibits the retail sale, display or hire of goods of any nature. A condition prohibiting hire of cake tins from the premises is therefore necessary.

   With respect to the issues raised by the submissioners, the following comments are provided:-

   (i) **Number of Clients**

   The number of clients attending the premises can be controlled through conditions requiring attendance by appointment only. As it is anticipated that the business is likely to generate 1 customer per day, any impacts on residential amenity are considered to be negligible.

   (ii) **Increased Traffic**

   The Policy states that the Council will only give consideration to traffic generating Home Occupations and Home Businesses when it can be demonstrated that visits to the site by clients can be controlled (i.e. by appointment only). As the sale of products is limited and a condition requiring customers attend the premises by appointment only, it is considered that traffic impacts will be negligible.

   (iii) **Carparking**

   The Policy requires the Council to have due regard to the existing amenity of the neighbourhood, including the traffic capacity and nature of the street. As clients numbers will be limited and adequate parking will be available within the driveway of the property, it is not considered that the business will unduly impact the residential amenity of the cul-de-sac.

   (iv) **Residential Character**

   Given the operation of the proposed Home Occupation will be limited to the kitchen area of the dwelling, it is considered that there will not be any impact on residential character.

   As the concerns raised in the objections have been satisfactorily addressed, it is recommended that planning approval be granted subject to conditions limiting customers to an appointment basis with a minimum interval of 10 minutes between appointments and how the sale of cakes is to occur.

6. **Voting Requirements**

   Simple Majority.

7. **Officer Recommendation**

   That Council **APPROVE** application 20.2011.159 seeking Planning Approval for a Home Occupation (Cake Making) at Lot 298 (No.5) Destin Close, Warnbro, 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. Cakes shall only be sold to order and must not be displayed readymade for retail sale within the premises.

3. Clients must only attend the premises by appointment with an interval of at least 10 minutes between clients.

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 20.2011.159 seeking Planning Approval for a Home Occupation (Cake Making) at Lot 298 (No.5) Destin Close, Warnbro, 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. Cakes shall only be sold to order and must not be displayed readymade for retail sale within the premises.

3. Clients must only attend the premises by appointment with an interval of at least 10 minutes between clients.

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**

<table>
<thead>
<tr>
<th><strong>Reference No &amp; Subject:</strong></th>
<th>SP-051/11 Proposed Port Rockingham Marina (500 Boat Pens - approx), Temporary Boat Mooring Facilities, 4,000m² Commercial Floor Space (Staged), and 600 Car Parking Bays</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>File No:</strong></td>
<td>LUP/1439-04</td>
</tr>
<tr>
<td><strong>Proponent/s:</strong></td>
<td>Aureus Property Pty Ltd</td>
</tr>
<tr>
<td><strong>Author:</strong></td>
<td>Mr Tristan Fernandes, Senior Planning Officer</td>
</tr>
</tbody>
</table>
| **Other Contributors:**     | Mr Ross Underwood, Senior Planning Officer  
Mr Mike Ross, Manager, Statutory Planning |
| **Date of Committee Meeting:** | 19th September 2011                                                                                                                          |
| **Previously before Council:** | July 2007 (PD121/7/07); April 2009 (PD18/4/09); May 2009 (PD63/5/09); October 2009 (PD118/10/09)                                               |
| **Disclosure of Interest:** | Cr Les Dodd declared an Impartiality Interest in Item SP-051/11 Proposed Port Rockingham Marina, as detailed with Clause 3.3 of Council’s Code of Conduct and Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, as his employer (DET) has an Expression of Interest for a pen with the proponent. |

#### Nature of Council’s Role in this Matter:
- Tribunal

| **Site:**                      | Various                                                                 |
| **Lot Area:**                  | Waterways, Parks and Recreation, Local Roads                           |
| **LA Zoning:**                 | Waterways, Parks and Recreation, Urban                                |
| **MRS Zoning:**                | Waterways, Parks and Recreation, Urban                                |
| **Attachments:**               | 1. Advertised Area  
2. Location of Submissions  
3. Location of Submissions in Support  
4. Location of Submissions in Objection  
5. Overall Site Plan  
6. Foreshore Master Plan  
7. Proposed Modifications to Wanliss Street Carpark |
**8. Cross-Section Drawings**

**9. Elevation Plans**

**10. Artist Impressions**

**11. Minister for Environment Approval**

<table>
<thead>
<tr>
<th>Maps/Diagrams:</th>
<th>Figure 1 - Location Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Figure 2 - Proposed Construction Site Layout</td>
</tr>
<tr>
<td></td>
<td>Figure 3 - Advertised Area</td>
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<td></td>
<td>Figure 4 - Location of Submissions</td>
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<td></td>
<td>Figure 5 - Location of Submissions in Support</td>
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<td></td>
<td>Figure 6 - Reasons for Submissions in Support</td>
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<td></td>
<td>Figure 7 - Location of Submissions in Objection</td>
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<tr>
<td></td>
<td>Figure 8 - Reasons for Objections in Objection</td>
</tr>
<tr>
<td></td>
<td>Figure 9 - Pedestrian access along Rockingham Beach</td>
</tr>
<tr>
<td></td>
<td>Figure 10 - Breakwater Access Arrangement</td>
</tr>
</tbody>
</table>

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**1. **Purpose of Report**

To consider an application seeking Planning Approval for the proposed development known as the 'Port Rockingham Marina' and provide comments to the Western Australian Planning Commission (WAPC) for its determination.

**2. **Background**

**Origins for the Proposal**

The concept of a Jetty development extending from Wanliss Street originated 22 years ago.
In 1989, the Council granted Planning Approval for the Wanliss Street Jetty, which comprised a pier extending from the public carpark at Wanliss Street, adjacent to Bell Park. The Jetty proposal contained a range of tourist related uses such as restaurants, cafes and shops, but did not include a marina. The combined area of the Jetty tenancy areas, walkways and boat moorings, was 5,500m².

The Jetty proposal included the duplication of the Wanliss Street carpark, new verge parking along Rockingham Beach Road and consolidated parking within the Foreshore Reserve at the beach end of Alexandra and Victoria Streets.

The 1989 Planning Approval lapsed and a fresh Planning Approval was granted by the Council in August 1991. The 1991 approval subsequently lapsed.

In late 1998, the Council revived the Wanliss Street Jetty project by seeking Expressions of Interest from private developers to establish a facility. The Expressions of Interest document detailed the type of facility the Council envisaged (along with design criteria) and mirrored the 1991 Planning Approval.

**Background for the Marina Proposal**

In February 1999, the Council resolved to endorse the selection of the Rockingham Beach Unit Trust (Trust) as the developer for the Wanliss Street Jetty project.

In March 2000, a Memorandum of Understanding (MOU) was executed by the Trust and the City, which committed the Trust to achieving approval and development timeframes. In the period since the MOU was executed, the Trust had not satisfied the terms of the MOU. The City has previously received legal advice that the MOU is no longer valid.

Rosewood Grove Pty Ltd, now Aureus Property Pty Ltd (the Proponent), subsequently entered into a lease with the Department for Planning and Infrastructure (now Department of Transport), to secure land tenure for a proposed Marina.

The Marina has a much larger marine footprint than the Wanliss Street Jetty project.

**Environmental Assessment of the Marina Proposal**

In 2007, the Environmental Protection Authority (EPA) advertised its intention to set the level of environmental assessment, for the Port Rockingham Marina as a Public Environmental Review (PER). The Council supported the EPA’s Level of Assessment, subject to it having the opportunity to review the draft Scoping Document that would form the basis of the PER.

The EPA later confirmed the level of assessment for the proposed Marina as a PER, with a six week comment period; a higher level of assessment nominated by the Proponent.

The EPA agreed to the City providing comments on the Environmental Scoping Document, which is a precursor to identify environmental issues for the PER.

The Environmental Scoping Document dealt with the following matters: -

(i) Impacts to the biological environment which include: -
   - Impacts to terrestrial fauna and flora; and
   - Impacts to benthic marine habitats (marine vegetation) and fauna.

(ii) Impacts to the physical environmental which include: -
   - Terrestrial and Marine landform;
   - Marine Water Quality;
   - Groundwater;
   - Stormwater;
   - Noise Pollution and Vibration; and
   - Air Quality.
(iii) Social environment impacts which include: -
   - Conservation areas;
   - Fisheries;
   - Public interest and recreation values; and
   - Visual amenity.
(iv) Impacts to landform and coastal processes.
(v) Environmental construction impacts.

Following the completion of the Environmental Scoping Document (on the 6th April 2009), the EPA
released the PER for a six week comment period, closing on the 17th May 2009.

The City subsequently engaged an Environmental Consultant to review the PER, given the specialist
nature of project against the following criteria:
- The extent to which the proposal satisfied the PER requirements;
- The validity and accuracy of the modelling, testing and studies used in the PER to determine
  the significance of the impacts;
- The extent to which the additional impacts identified by the City of Rockingham had been
  addressed by the PER; and
- The adequacy of mitigation and management strategies suggested in the PER.

The City lodged a submission on the PER, which was subsequently endorsed by the Council at its
ordinary Meeting held on the 26th May 2009 (Report reference PD63/5/9).

On the 29th September 2009, the EPA released its Report and Recommendations to the Minister for
the Environment on the Port Rockingham Marina. The Report concluded that the Port Rockingham
Marina was unlikely to compromise the EPA’s objectives, provided there was satisfactory
implementation by the Proponent of the recommended conditions.

The key factors for detailed evaluation in the EPA Report and Recommendations No. 1339
(September 2009) were: -

(i) Marine Fauna;
(ii) Terrestrial Fauna;
(iii) Terrestrial Flora;
(iv) Groundwater and stormwater;
(v) Noise; and
(vi) Air Quality.

From the above list, the EPA identified the following key environmental factors evaluated in the
report: -

(i) Marine Water Quality
(ii) Loss of Benthic Primary Producer habitat (sea vegetation habitat)
(iii) Coastal Processes

City’s Appeal of EPA Recommendations

Upon assessing the EPA’s Report and Recommendations on the Port Rockingham Marina, the City’s
Environmental Consultant recommended an appeal against some of the EPA recommendations, as
some could not be enforced by means of a Planning Approval, as the proposal was located outside
the municipality. This emphasised the need to influence the PER outcomes.

On 13th October 2009, the City's Appeal was lodged with the Minister's Appeal Convenor, on the
following grounds:-
The ‘Adaptive Management Strategy’, ‘Marina Waterways Monitoring and Management Plan’ and ‘Foreshore Management Plan’ should be listed as part of the EPA approval and that the City should be involved in the preparation and approval of these plans, as well as the ‘Construction Environmental Management Plan’;

- The City should be involved in the preparation and maintenance of the ‘Compliance Reporting’ and at least an advisory agency for the ‘Performance Review Report’; and

- Climate change should not be addressed exclusively at the design stage, in compliance with the ‘IPCC sea level rise policy’, which is a document not intended to be used at a local level. The Proponent should be required to predict sea level rise and frequency of extreme storm events to demonstrate that it can be dealt with at the design stage.

On 21st December 2009, the Minister for Environment upheld the City’s Appeal by allowing the City to provide advice to the Department of Environment and Conservation on the following matters:

- Compliance Reporting;
- Performance Review and Reporting;
- Long term protection of the environmental values for Cockburn Sound; and
- The construction of the Marina and coastal processes.

The City was not included as an approval authority with respect to the above.

The Minister for Environment further recognised the role of the Adaptive Management Strategy, in achieving the coastal process outcomes specified by the EPA, and recognised the role of the Marina Waterways Monitoring and Management Plan in achieving quality objectives and levels of ecological protection specified by the EPA.

The Minister for Environment dismissed the City’s Appeal with respect to climate change and requirement for a Foreshore Management Plan.

Notwithstanding the appeal, the Proponent did clarify the design of the development accommodates for sea level rise based on scientific findings completed at the time of the assessment.

Minister for Environment Approval

On 18th February 2010, the Minister for Environment considered the EPA’s Report and Recommendations for the Port Rockingham Marina and determined that “there is no reason why the proposal should not be implemented.”

The Minister for Environment issued a statement that the Port Rockingham Marina proposal may be implemented (Ministerial Approval) pursuant to the provisions of the Environmental Protection Act 1986, subject to various conditions and procedures summarised as follows:

- The Environmental Approval is valid for five years;
- The Proponent preparing a Compliance Assessment Report, to ensure compliance with the conditions of the Ministerial Approval;
- The Proponent preparing and implementing a Marina Waterways Monitoring and Management Plan;
- The Proponent preparing and implementing a Construction Environmental Monitoring Plan, to manage construction impacts associated with the construction phase of the Marina; and
- The Proponent preparing and implementing an Adaptive Management Strategy, to manage ongoing impacts to coastal processes.

A copy of the approval granted by the Minister for Environment is Attachment No.11 to this Report.
3. Details

On the 13th December 2010, the City received an application seeking Planning Approval for the proposed Port Rockingham Marina.

Proposal

The proposal consists of the following elements:

- An open pile pier extending from the end of the Wanliss Street carpark for approximately 200m into Mangles Bay and a 770m breakwater extending north east, parallel to the shoreline. The piled jetty structure is proposed to not impede pedestrian access along Rockingham Beach;
- Approximately 500 boat pens;
- Commercial and temporary boat mooring facilities;
- 4,000m² of commercial floorspace;
- Refuelling, sullage and water supply facilities for both commercial and public boats; and
- 600 car parking bays, which includes an extension of the Wanliss Street carpark, additional parking along Wanliss Street to Smythe Street, additional street parking along Rockingham Beach Road to Victoria Street and car parking provided on the breakwater.

Documentation

The Proponent has submitted the following information in support the application:

- Overall Site Development Plan;
- Jetty Commercial Building Site Development Plan;
- Cross Section Drawings;
- Building Elevation Plans;
- Traffic Management Plan;
- Foreshore Master Plan;
- Foreshore Management Plan; and
- Public Environmental Review documents.

The Overall Site Development Plan, Building Elevation Plans, Foreshore Master Plan and Cross Section Drawings are included as attachments to this Report.

Staging

The development is proposed to be constructed in three stages. All major works, including all pile driving and construction of major infrastructure will be completed as part of Stage 1. Stages 2 and 3 will consist of the delivery of additional commercial floorspace and boat pens. A breakdown of the staged development is as follows:

Stage 1

- Construction of the full pier structure and breakwater;
- 270 boat pens;
- 2,518m² of commercial floorspace;
- 247 car parking bays which includes the extension of the Wanliss Street Carpark and on-street car parking along Rockingham Beach Road (from Wanliss Street to Alexandra Street); and
- 135 car parking bays provided on the breakwater.

Stage 2:
- 1,050m² commercial floorspace;
- 227 boat pens; and
- 218 car parking bays which includes an extension of on-street car parking on Rockingham Beach Road from Alexandra Street to Victoria Street and an extension of on-street car parking on Wanliss Street from the intersection on Kent Street to Smythe Street.

Stage 3:
- 432m² Commercial floor space.

The Proponent has advised that subject to the demand for boat pens, Stages 2 and 3 could potentially be completed as part of Stage 1.

Construction

The Proponent’s Construction Management Framework outlines the construction methodology for the Port Rockingham Marina. The Port Rockingham Marina has an approximate two (2) year construction timeframe.

Condition No’s 7 and 8 of the Ministerial Approval require the Proponent to prepare a Construction Environmental Monitoring Plan and an Adaptive Management Strategy. The Construction Management Environmental Monitoring Plan require various measures to mitigate the ecological impact to fauna and marine processes. The Adaptive Management Strategy seeks to ensure the development does not cause changes to the shoreline, width of the beach and beach profile.

The Proponent has advised that construction of the Port Rockingham Marina will commence as soon as the necessary approvals are obtained from the State Government.

The method of construction is detailed as follows:

1. The proposed construction area, shown in pink below, extends from the edge of the Wanliss Street Carpark over a portion of Churchill Park and across a 70 metre section of Rockingham Beach into Mangles Bay. The sand bund and construction site will be constructed by end tipping material and armour rock from trucks for a length of 250 metres into Mangles Bay.

   During the construction period, public access along a 70 metre wide section of Rockingham Beach will be interrupted. The Proponent will provide a temporary foreshore footpath detour around the Construction Site.

   The construction site area is shown in Figure 2 below:
2. Following construction of the sand bund, the full breakwater is proposed to be constructed, again by end tipping material and armour rock from trucks.
   The Proponent estimates the construction site and the breakwater will take twelve months to complete.

3. When the Breakwater is completed, piles for the jetty structure are proposed to be driven in the location of the construction area. The jetty platform is then proposed to be formed from scaffold placed on the sand bund.
   Pile driving and jetty platform construction is anticipated to take ten months and is likely to be completed six months following the completion of the breakwater.

4. Following the completion of construction, the sand bund will be removed and public beach access will be reinstated.

5. Car parking proposed along Rockingham Beach Road as part of Stage 1, will take ten months to complete. The Wanliss Street Carpark will remain operational for the duration of Marina construction.

The City's assessment of the Construction Management Framework is contained within the Comments section of this Report.

### Car parking

Overall 600 new car parking bays are proposed, of which 465 bays are proposed as public car parking and 135 bays as allocated car parking for select boat pen users. Car parking is proposed to be accommodated in the following locations:

- 187 new bays within Rockingham Beach Road (road reserve). Angled on-street bays to match existing foreshore parking;
- 168 new bays in the Wanliss Street carpark;
- 110 new car parking bays in Wanliss Street (road reserve);
- 135 on-site car parking bays are proposed on the Marina breakwater. These bays will be allocated to 135 boat pen holders. Vehicular access onto the Marina Jetty and Breakwater will be controlled.
- 52 existing bays within the Wanliss Street Car Park were included by the Proponent as part of the car parking calculation, but these bays were excluded as part of the City's Officers assessment.

### Marina Management

The Marina is proposed as a privately operated venture. The Proponent has advised that the City will not be responsible for any aspects regarding the management and operation of the Marina.

### Implications to Consider

#### a. Consultation with the Community

The proposed Port Rockingham Marina was advertised for a period of 29 days commencing on the 7th June, closing on the 5th July 2011.

**Advertising Methodology**

Advertising of the proposal was carried out in the following manner:

- The application was advertised by letter to 985 individual owners and occupiers in the locality, as shown in Figure 3;
- The Proponent erected an Advertising Sign at the end of the Wanliss Street carpark and placed a notice in the Weekend Courier for three consecutive weeks, appearing in the newspaper on the 10th, 24th and 27th June;
The City placed a larger notice in the Weekend Courier on the 24th June and 1st July in a more prominent location of the newspaper to raise public awareness of the proposal; and

Copies of technical documents and plans of the proposal were made available for inspection at the City's Administration Offices and placed on the City's website.

Advertising was undertaken in accordance with the requirements of clause 6.3.3 of TPS2.

Summary of Submissions

471 submissions were received at the close of the advertising period. A further 25 late submissions were received following the close of the advertising period.

Of the total 496 submissions received, thirteen submissions were found to be invalid because of the following reasons:

(i) Ten submissions were duplicated;
(ii) One submission was provided three times; and
(iii) One submission provided had no comment or indication for support or objection to the proposal.

The invalid submissions were not considered, which reduced the total number of submissions from 496 to 483. These 483 submissions are the subject of further detailed assessment below:

- 420 or 87% of submissions supported the proposal.
- 63 or 13% submissions objected to the proposal.

The location and distribution of submissions supporting and objecting to the proposal are shown in Figures 4, 5 and 7.
Response Rate

Of the 985 notification letters sent by the City to owners and occupiers in the area shown in Figure 3, 452 submissions were received; 44 submissions were received from landowners living outside the letter drop area. This means 46% of people notified by the City responded, which is an excellent response rate, demonstrating a significant level of public interest in this proposal.

![Figure 4 - Location of Submissions](image)

**Table 1 - Summary of Submissions**

<table>
<thead>
<tr>
<th></th>
<th>Number of Submissions</th>
<th>Percentage of Submissions</th>
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<tbody>
<tr>
<td>Support</td>
<td>420</td>
<td>87%</td>
</tr>
<tr>
<td>Object</td>
<td>63</td>
<td>13%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>483</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Submissions in Support

A majority of submissions expressed support for the proposed Port Rockingham Marina. Most submissioners welcomed additional boating facilities being provided in the Rockingham area.

The location of submissions in support of the proposal are shown in Figure 5 below:
The general view expressed by supporters was that the Port Rockingham Marina will encourage further tourism, investment, improve property values, boost employment, enhance recreational opportunities and improve Rockingham's community profile.
Thirteen submissions supported the Port Rockingham proposal in preference to the Mangles Bay Marina proposal.

**Issues Raised from Submissions in Support**

Fourteen submissions expressed support of the proposal, but raised the following concerns:-

- Potential Water Pollution;
- Potential impact of construction;
- Ongoing operational noise;
- Potential Traffic impacts;
- New on-street Car parking impacting upon property access on Wanliss Street;
- Maintaining Beach Access;
- Viability of the Commercial Component;
- Potential increased Antisocial Behaviour;
- Prohibit the serving or consumptions of alcohol;
- Potential failure to complete the proposal being funded by Ratepayers; and
- Concern the City has inadequate powers to regulate the operation of the Marina.

The concerns listed above are addressed as part of the response to concerns raised section below.

**Figure 7 - Location of Submissions in Objection**
Submissions in Objection

Figure 7 demonstrates a correlation between the objectors along the foreshore located in close proximity to the proposed location of the Port Rockingham Marina.

The main issues have been outlined in Figure 8 as follows:

<table>
<thead>
<tr>
<th>Reason for Objection</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact Enjoyment of the Beach by People</td>
<td>20%</td>
</tr>
<tr>
<td>Environmental Impact</td>
<td>21%</td>
</tr>
<tr>
<td>Traffic Impact</td>
<td>10%</td>
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<tr>
<td>Noise Impact from Construction and Operation of the Marina</td>
<td>9%</td>
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<tr>
<td>Inadequate Carparking</td>
<td>8%</td>
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<tr>
<td>Inappropriate Design</td>
<td>8%</td>
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<tr>
<td>Impact to Residents / Landowners Expectations</td>
<td>6%</td>
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<td>Inappropriate Location</td>
<td>6%</td>
</tr>
<tr>
<td>Antisocial Behaviour</td>
<td>5%</td>
</tr>
<tr>
<td>Lack of Public Benefit</td>
<td>4%</td>
</tr>
<tr>
<td>Impact to Views of Cockburn Sound/ Mangles Bay</td>
<td>4%</td>
</tr>
</tbody>
</table>

Figure 8 - Reasons for Submissions in Objection

Concerns raised by Submissions in Objection

The main issues identified by submissions objecting to the proposal are as follows:

1. Rockingham Beach Impacts

Twenty percent (40 objections) referred to the current pristine condition of Rockingham Beach and some referred to the Awards the City has received for its cleanliness and safe family atmosphere that could be spoilt by the Port Rockingham Marina.

There was a general view expressed that the Port Rockingham Marina (with 500 boats) will reduce public safety and ruin the use of the beach for people. There was a concern that boaters could encroach into the swimming area near the Rockingham Beach, where boats and swimmers do not mix. One submission noted that a concept image showed boats being used between the coast and the Marina, which is against the original premise of the proposal (Attachment 10 – Artist Impression).

Submissions raised concern with the impact of the proposed jetty structure on the Rockingham Beach, and whether or not this would impact upon its use and existing facilities within Bell Park and Churchill Park.

Officer Comment

It is acknowledged that Rockingham Beach is a community asset which is highly valued.

The EPA Report (Sept 2009) acknowledged that construction of the Port Rockingham Marina is likely to have some direct localised and temporary impacts on marine water quality within the spatially defined 'zone of effect' during the construction period. These potential impacts will be managed by the Construction Environmental Monitoring and Management Plan. The 'zone of effect' is shown in Attachment No.11 - Minister for Environment Approval.

The EPA, as part of the Ministerial Approval, considered that the project design reduces the potential for deterioration of the water quality within the confines of proposed Port Rockingham Marina. The EPA noted large openings at both ends will generally allow the water body to flush completely within one to two days.
It is an expectation of the EPA that post construction, water quality within the Marina will be the same as that outside the Marina. In this regard, it is anticipated the water quality post construction will be unaffected for beach users.

Boating areas are restricted by the Metropolitan Waters section of the Department of Transport, where no boats will be permitted access between the Marina and the foreshore. A condition of Planning Approval could also be imposed to prohibit boat use between the Marina and foreshore.

Access along the beach will be possible as the public can still move under the jetty structure as shown in Figure 9. An eight metre wide portion of the beach will be impacted as a result of the jetty structure.

![Figure 9 - Pedestrian access along Rockingham Beach](image)

2. Environmental Impact

Twenty percent (40 objections) contended that the Port Rockingham Marina could negatively impact upon the local environment in the following manner:

- Dune bushland will be destroyed;
- Water Pollution from boats resulting in oil slicks, rubbish and offensive material being discharged into the water;
- The beach will deteriorate as a result of the development;
- Negative impact to seagrass in Cockburn Sound;
- Negative impact to fish breeding; and
- Impact aquatic wildlife in the area.

The objections were divided between the potential adverse impact from the:

- Operation of the Port Rockingham Marina;
- Boating impacting upon use of the beach; and
- Impacts caused from the development to the natural environment itself.

**Officer Comment**

The potential impacts of the development to both the aquatic and terrestrial environments were assessed by the EPA as part of the environmental approval process. In this regard, the EPA Report (Sept 2009), made the following conclusions:

(i) **Dune Bushland**

Clearing of approximately 0.2ha of foreshore vegetation rated as being in degraded-good condition is proposed. The Proponent has committed to revegetating the foreshore area (following the removal of the Sand Bund) of a similar area being cleared.
(ii) **Marine Water Quality**

The EPA identified two potential impacts on water quality as a result of the Marina Construction:

(i) Increased turbidity resulting from rock dumping for the sand bund and Breakwater; and

(ii) Increased potential for fuel, sullage and other pollution events within the Marina.

The Proponent has committed to developing a Marina Waterways Management and Monitoring Plan (MWMMP) which will include an ongoing water quality monitoring program to demonstrate the ecological levels for the life of the project.

The Ministerial Approval includes conditions that manage construction impacts. The condition defines the zone of effect impacted by construction activities.

It is an expectation of the EPA that post construction, water quality within the Marina will be the same as that outside the Marina, thus, meeting the criteria for ecological protection.

(iii) **Loss of Benthic Primary Producer habitat (sea vegetation habitat)**

A Benthic Primary Producer Habitat (BPPH) is made up of seagrasses, seaweeds, turfing algae and hard corals with varying ecological value.

The EPA accepted that the proposal is located on a sand sheet that currently does not support seagrass (from 1996). The EPA acknowledged the loss of 0.3% of potential seagrass habitat is partially offset by the gain of 1.6ha of structure (the breakwater) that will stimulate primary production in the first year when the breakwater is established.

The identification of fish breeding impacts was considered by the EPA as a secondary issue to the BPPH and was not believed to be a key environmental factor. The nearest seagrass communities to the proposed Marina are approximately 1.5km to the west at Mangles Bay and 2.5km to the north-west on the eastern shores of Garden Island.

(iv) **Coastal Processes**

The EPA noted the open pier component will allow natural processes to continue once the structure has been completed. The pier across the near shore zone and large openings at either end will minimise hindrance of longshore currents and sand transport. The impacts to the shoreline are relatively minor in comparison with the possible impacts of a conventional Marina design, which only has one seaward opening and may require extensive sand bypassing.

The EPA recognised the Proponent’s commitment to an Adaptive Management Strategy to be developed with the Department of Planning and the City for the Rockingham Beach area, which is to ensure that the impact of all coastal structures is accounted for and coastal processes are managed efficiently. This involves:

(a) Beach profiling to measure shore line movements;

(b) Shoreline surveys twice annually;

(c) Identify accretion or erosion; and

(d) Excavation of sand from accretion required for relocation.

The shoreline change modelling for the completed Marina generally predicts increased accretion of sand on the protected shoreline behind the breakwater. The quantities involved are considered to be relatively small, however, the Proponent predicts that there will be a need to conduct bypassing of approximately 5,000-6,000m³ per year of sand for the Marina.
To address seasonal changes, the Adaptive Management Strategy is proposed. Sand bypassing may interrupt recreational activities, either annually or biannually for a two to three day period. Such works would be timed to avoid peak use periods, such as the summer period and weekends.

3. Traffic Impacts

Ten percent of objections were concerned that traffic from the Port Rockingham Marina would adversely affect the road network.

Officer Comment

The Proponent's Traffic Impact Statement (TIS) suggests the Port Rockingham Marina could generate an estimated 3,642 vehicle trips per day and 411 movements an hour at peak weekend usage. Table 2 provides a breakdown of the projected traffic impact as a result of the development.

<table>
<thead>
<tr>
<th>TABLE 2 - TRAFFIC IMPACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Vehicles Per Day</td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>Patterson Road</td>
</tr>
<tr>
<td>Read Street</td>
</tr>
<tr>
<td>Flinders Lane</td>
</tr>
<tr>
<td>Wanliss Street</td>
</tr>
<tr>
<td>Rockingham Beach Road (North)</td>
</tr>
<tr>
<td>Rockingham Beach Road (South)</td>
</tr>
</tbody>
</table>

Wanliss Street and Rockingham Beach Road will experience a substantial increase in traffic volume (almost doubling) as a result of the Marina. Traffic volumes would still operate within the capacity of the road hierarchy.

Ultimate traffic projections also account for the anticipated traffic volume at full development. These ultimate traffic projections indicate that long term, upgrades may be necessary to key main streets.

The City's Engineering Services has analysed the TIS (amended) and concluded that, while the proposed development would increase traffic, the general capacity of the road hierarchy can operate with an acceptable level of service.

4. Inadequate Car parking

Eight percent of objections raised concerns about the adequacy of car parking to service the Port Rockingham Marina, in particular that parking during peak periods on weekends and over summer months would be insufficient to cater for demand.

An objection was also made to the proposed car parking on the grassed road island along Rockingham Beach Road and Wanliss Street, where it impacts upon vehicular access to some houses and laneways.
Submissions raised concern that Ratepayers would pay for the construction of the car parking proposed.

Officer Comment

The Port Rockingham Marina was assessed against the car parking requirements of Town Planning Scheme No.2 and the car parking requirements for a Marina, as outlined in Australian Standard 3962. The Australian Standard makes a requirement for 0.6 car parking bays be provided for each boat pen proposed. On this basis 300 bays are required.

To service the commercial floorspace component of the Marina, 244 bays are required pursuant to TPS2.

Overall, there is a requirement for 588 bays to service the development. The proposal includes 600 new car parking bays, which exceeds the statutory requirement. Of the 600 car parking bays proposed, 135 new car parking bays are for the exclusive use of 135 boat pen owners.

The additional car parking in proximity to the proposal and the design includes a drop-off area for boat users and visitors, at the entrance to the Marina pier (end of Wanliss Street carpark). There is a potential for Marina users to park within the Waterfront Village in proximity to the proposed development. This includes the angled on-street bays on Rockingham Beach Road which will require future management by the City.

The proposed 187 car parking bays on the grassed island on Rockingham Beach Road are considered appropriate, being a logical extension of the existing street profile on Rockingham Beach Road, within the Waterfront Village.

The proposed 168 new on-street parking bays on Wanliss Street will deny access to two laneways and some residential properties. This is not supported and will require further consideration at a detailed engineering design stage to maintain appropriate access to laneway and existing residential properties.

5. Construction Impacts

Ten percent of objections raised concern about the potential impacts upon nearby residents from the Marina construction activities over the anticipated 24 month construction timeframe. Submissions made comment with respect to the following matters: -

- A Security Bond for construction impacts to existing houses;
- Noise impacts, particularly from pile driving activities; and
- Dust impacts impacting the health of nearby residents.

Officer Comment

A Construction Noise Management Plan was submitted to the City which examines construction methods, impacts and management arrangements. Construction will be limited to between 7am - 7pm Monday to Saturday, in accordance with the requirements under the Environmental Protection (Noise) Regulations 1997.

The noise associated with pile driving is likely to have the most impact on nearby residents and will be restricted to 7am - 5pm Monday to Saturday. The predicted noise levels could be expected to generate community reaction.

The Construction Noise Management Plan outlines recommended procedures to minimise the noise impact, including utilising the quietest reasonably available equipment, keeping the community notified of the construction program and providing a complaints procedure.

The City has assessed the Proponent's Dust Management Plan and is satisfied measures can be employed to mitigate impacts on nearby landowners.
The construction period is a temporary activity that can be managed through the Construction Environmental Management Plan. A condition of Planning Approval could require a dilapidation survey of existing houses that may be affected by construction activity, to determine the pre-existing condition of properties, prior to works. Beyond this measure, it will be the legal responsibility of the Marina contractors to ensure that appropriate measures are in place, including insurance, if required, to rectify any building damage caused. This is not a Council responsibility.

6. Operation Noise Impact

Nine percent of objections raised concerns about the potential operational noise from the Marina, following construction, unduly impacting nearby residential properties. Some submissions noted concerns that the City did not have the legal ability to regulate noise generated by the proposed development.

Officer Comment

An Operational Noise Assessment was submitted by the Proponent and reviewed by the City's Environmental Health Services, which outlined the predicted noise sources when the Marina is in operation.

Possible noise sources include recreational and commercial boats, noise from boat rigging, and air conditioning and exhaust units on the tenancies.

Marina noise generated by power boats is legally outside of the City's jurisdiction to control. Likewise, patron noise is also exempt under the Environmental Protection (Noise) Regulations 1997.

The Operational Noise Assessment includes recommendations to reduce potential noise from the proposed Port Rockingham Marina, however, these are only recommendations. It is unclear which authority will be responsible to ensure compliance with the Environmental Protection (Noise) Regulations 1997, as the development is located outside of the City's jurisdiction.

It is recommended a condition of Planning Approval be imposed to ensure noise emanating from the Marina must comply with at all times the Environmental Protection (Noise) Regulations 1997.

7. Inappropriate Design

Eight percent of objections raised the following concerns with the Marina design as follows:

- Too many boats, given its location abutting residential development (300 boat pens maximum);
- Excessive breakwater length;
- Excessive building bulk for the commercial buildings; and
- Oppose the commercial component because of vacant Rockingham Beach Road;

Officer Comment

The City has assessed the potential for land use conflict of the Marina and existing residential development. Based on the technical report provided, the impacts for the proposal can be appropriately managed through compliance with the Ministerial Approval requirements. In this regard, the scope of the proposal for 500 boat pens is supported.

The breakwater length was assessed as part of the water environmental modelling for the PER. From the modelling of key wave events, including projections of impacts as a result of large storm events, the length of the breakwater was necessary to appropriately protect boats in these circumstances.

The City has assessed the impact of the building bulk and given the predominant use of single storey development, and a minimal two storey aspect, the bulk of the commercial buildings is not considered obtrusive to the landscape.
The commercial component is considered to provide a point of attraction and destination along the Rockingham Beach foreshore.

The City's Rockingham Beach Waterfront Village Policy promotes the creation of active commercial spaces appropriate within an urban waterfront setting, including outdoor cafes and restaurants, festive retailing, markets, and other uses that contribute to, and enlivened environment. The proposed Marina is considered to be appropriate to its urban waterfront setting and will contribute to an enlivened environment for the Waterfront Village.

In light of the above, the provision of commercial floorspace is considered appropriate to its location and function for the public benefit.

8. Impact to Residents/ Landowners Expectations

Objections were raised about the Port Rockingham Marina potentially impacting the use of the beach and nearby waters, including access to views of significance over Mangles Bay and Cockburn Sound.

Officer Comment

The proposed Port Rockingham Marina includes additional car parking, streetscape works, building platform, breakwater and 500 boats, directly adjacent to 26 residential lots (of which 10 lots are strata titled) on Rockingham Beach Road between Wanliss Street and Victoria Street. The Spinnaker Apartments and Sails Apartments are the closest apartment developments, being at the intersection of Wanliss Street and Rockingham Beach Road.

Ocean views from properties overlooking to Mangles Bay and Cockburn Sound will be directly affected by the proposed development, which includes the Spinnaker and Sails Apartments. The City received 15 objections from landowners in this location.

The Marina buildings proposed are similar in scale and location to the former Wanliss Street Jetty proposal. The proposed buildings reflect a coastal theme and are predominantly single storey in nature.

9. Inappropriate Location

Six percent of objections suggested the proposed Port Rockingham Marina be relocated along the Kwinana Beach or at Mangles Bay, away from residential properties.

Officer Comment

The Rockingham Beach coastal environment is highly valued by the community.

The Perth Coastal Planning Strategy (Dec 2008) included the Rockingham Activity Centre within Precinct No.43, which is described as a high density Major Activity Centre, with residential and medium mixed use development (including retail, commercial, offices and civic), tourist activities and passive recreation along the foreshore with facilities, such as BBQs, shade, paths, change rooms and cafes with a focus on marine based activities. The Precinct was recognised as having the potential to become a major tourist and recreational node and there is potential for high rise development in accordance with State Planning Policy No.2.6. Vulnerability of the shoreline to storm erosion may require management. Two options for a potential Marina development in this precinct were recognised.

Directions 2031 considers the urban growth needs of Perth and considers the need to protect natural ecosystems. Directions 2031 recognises Rockingham as a centre of mixed use activity and is classified as a Strategic Metropolitan Centre. The Rockingham Foreshore is recognised as a metropolitan attractor. Under the connected City scenario, it is estimated by 2031 the population of the south-west sub-region will have grown by 34 per cent to 278,000.
The Port Rockingham Marina is proposed in the waters adjacent to the Waterfront Village, which is part of Rockingham City Centre. The City's Planning Policy No.3.2.5 – Rockingham Beach Waterfront Village supports a vibrant urban village and enhancing Rockingham’s traditional identity as a beachfront town. The proposed location of the Marina will reinforce Rockingham Beach as a focal point for recreation, tourism and entertainment.

Kwinana Beach is reserved for industrial purposes. The location of a recreational Marina extending from Kwinana Beach would create land use conflicts with the passage and port of Industrial Shipping Vessels. Such a proposal would also prejudice existing and future industrial development within IP14 – Strategic Industrial Area.

The Mangles Bay Marina proposal is the subject of separate environmental and planning investigations by Landcorp, which should not influence the consideration by the Council of the proposed Port Rockingham Marina.

The current planning framework is compatible with the proposed Port Rockingham Marina.

10. Antisocial Behaviour

Five per cent of objections raised concerns that the Port Rockingham Marina will increase anti-social behaviour in the area. It was also suggested that additional licensed premises (i.e. serving of alcohol) should not be included in the development.

**Officer Comment**

The Proponent does not intend to permit Small Bars or similar licensed venues on the Marina, as this is catered for within the Waterfront Village. It was indicated there is potential for licensed restaurants to occupy tenancies.

Given the potential evening hours of operation of the Marina's commercial component, the Proponent should provide CCTV coverage linked with the City surveillance of the area, for the added safety and security of patrons.

11. Lack of Public Benefit

Four per cent of objections questioned the public benefit of the proposed Port Rockingham Marina to the larger community, often referring to the facilities benefiting only the wealthy. Concerns were raised that the development is motivated only by commercial gain, at the expense of impacting on Rockingham Beach.

**Officer Comment**

The following public equity is included in the proposal:

- The commercial component and breakwater will be open for public use at all times, which is effectively an extension of the existing public domain;
- The commercial component will provide passive recreation through café and restaurant and shops, which could become a focal point of community interaction;
- The pier platform will be a promenade for visitors to appreciate Cockburn Sound;
- 500 approx boat pens provide a safe harbourage which presently does not exist Rockingham;
- Charter Boat access is provided for in the Marina design;
- Refuelling, water and sullage facilities are included; and
- Employment opportunities will arise.

b. Consultation with Government Agencies

The Port Rockingham Marina is generally proposed in waters outside the municipality. The proposal must therefore be determined by the WAPC. As part of the WAPC's consideration of the proposal, the Council has an opportunity to provide comments and recommendations.
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 2:** A safe community where residents feel secure, relaxed and comfortable within their home, work and social environments.

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

**Aspiration 10:** Coastal and bushland reserves that are well utilised and managed in a way that will preserve them for the future generations to enjoy.

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

d. **Policy**

The proposal was assessed against the following Policies:

(i) The City’s Planning Policy 3.2.5 - Rockingham Beach Waterfront Village;

(ii) State Coastal Planning Policy No.2.6 - State Coastal Planning; and

(iii) State Development Control Policy 1.8 - Canal Estates and Other Artificial Waterway Developments.

**Planning Policy 3.2.5 - Rockingham Beach Waterfront Village**

The proposed Port Rockingham Marina is adjacent to the Waterfront Village, where the City’s Planning Policy 3.2.5 - Rockingham Beach Waterfront Village (the Waterfront Policy) applies. The proposed Marina is consistent with the integration of mixed land uses within the Waterfront Village and it is considered that it will compliment the character of the Waterfront Village and foreshore reserve.

The purpose of the Waterfront Policy is to guide development within the Waterfront Village Zone and maintain the unique character of the adjacent Foreshore Reserve. The Waterfront Policy establishes the City’s position regarding the value of Rockingham Beach and the manner in which development should compliment character of the foreshore reserve.

The intent of the Marina use is consistent with the Objectives of the Waterfront Policy. The Marina proposes commercial activities to compliment Rockingham Beach and the Foreshore Parks and also recognises the locality’s traditional identity as a beachfront town.

**State Planning Policy 2.6 - State Coastal Planning**

State Planning Policy No 2.6 – State Coastal Planning (Coastal Policy) was gazetted in June 2003 to guide coastal development.

Coastal setbacks normally apply to new development along the coast, but the Coastal Policy does not apply coastal setbacks to Marinas and commercial development, given the dependency on a foreshore location.

The piled jetty structure is designed to minimise the impact on coastal processes. The proposal is consistent with the Coastal Policy.
Development Control Policy 1.8 - Canal Estates and Other Artificial Waterway Developments

Policy 1.8 was developed by the WAPC to guide the process for canal residential estates, but it also provides guidance on the assessment of Marinas and Harbours, where a breakwater structure is proposed within a natural body of water.

The Port Rockingham Marina was assessed against the criteria of Policy 1.8, as follows:

(i) Artificial Waterway Dimensions

The Marina satisfies the required dimensions to accommodate boats entering and exiting the Marina.

(ii) Shore Stability

Coastal processes were assessed by the EPA in its Report and Recommendations to the Minister for Environment, as part of the Public Environmental Review. The proposal is designed to resist damaging erosion by wind and wave action. The PER documents refer to an open pile jetty structure that allows natural sand drift processes to continue along the coast with limited impact to the current beach profile.

(iii) Navigational Safety

Consideration of navigation safety aspects will be determined by the Department of Transport.

(iv) Moorings, Jetties and Launching Ramps

The Port Rockingham Marina does not include any boat launching facilities and instead relies upon the existing boat ramps at Rockingham - Point Peron and the Rockingham - Palm Beach and other regional boat ramps, including Port Kennedy Boat Ramp and Woodman Point Boat Ramp.

(v) Public Open Space

There is no requirement to provide 10% Public Open Space. The Marina proposes to provide public access along the breakwater and jetty. The Proponent has demonstrated that access along the beach will be possible.

(vi) Water Quality Guidelines

Water Quality was one of the key environmental factors evaluated by the EPA. The Ministerial Approval includes the requirement for the Proponent to prepare a MWMMP and achieve environmental water quality objectives and levels of ecological protection. The Marina water should be maintained by the Proponent in the following manner:

- Be maintained to be free from substances which will settle to form putrescent or otherwise objectionable sludge deposits;
- Ensure there is no floating debris, oil grease, cum, foam or other following materials in amounts sufficient to be unsightly or otherwise objectionable; and
- Ensure the water is free from materials which will produce colour, odour, turbidity, or other conditions such a degree as to be unsightly or otherwise objectionable.

e. Financial

Car parking and Pier

Unless otherwise agreed, the City may be required to take on the ongoing maintenance for any car parking provided within the road reserve and within the Wanliss Street carpark. Likewise the pier construction maintenance within the foreshore reserve would be the financial responsibility of the City. These matters are considered in more detail within the following section of this Report.
f. Legal and Statutory

Requirement for Planning Approval

The Port Rockingham Marina is generally located outside of the municipality, within Waterways Reservation under the Metropolitan Region Scheme, but the shoreline section of the pier platform and car parking are located within the ‘A’ Class, Parks and Recreation Foreshore (Reserve 22568); the local road reserve. Reserve 22568, Wanliss Street Carpark and Rockingham Beach Road are managed by the City.

Town Planning Scheme No.2 does not apply to Reserved land. Determination of the Planning Application for the Marina rests with the WAPC. It is the City's responsibility to determine the on-street car parking arrangement.

The Council is required to provide its comments to the WAPC within 42 days from the receipt of the application. The City was granted an extension to this timeframe, because additional information was needed from the Proponent and to permit the City to advertise the proposal for public comment.

The role of the Council is therefore as a referral authority by providing its comments and recommendation for the WAPC. The WAPC will then make its decision pursuant to the Metropolitan Region Scheme.

Land Tenure

City Officers recently met with representatives from the Department of Regional Development and Lands (DRDL), to clarify how the proposed Port Rockingham Marina impacts upon the existing land tenure arrangements (i.e. existing foreshore management arrangements) along the Rockingham Beach foreshore and Rockingham Beach Road.

The Port Rockingham Marina includes:

- an extension of the Wanliss Street carpark to include an additional 168 car parking bays which extends into the ‘A’ Class Reserve 22568, where the City has the Management Order for the purpose of ‘Parks and Recreation’.

- the Marina pier, which is proposed to extend from the Wanliss Street carpark to the High Water Mark, also traverses the ‘A’ Class Reserve 22568. Under the current Management Order, the City would (by default) assume legal responsible for the upkeep and maintenance of this pier structure and any public liability issues that could potentially arise.

In light of the potential financial impact to the City as the result of the Port Rockingham Marina, land tenure arrangements must be satisfactorily addressed, prior to the commencement of any ground disturbing works.

The DRDL has outlined various options that could be considered to address the matter.

Option One - Licence Agreement

The DRDL recommended that the City seek an excision of the 168 bay car parking area and shoreline pier platform proposed within the ‘A’ class Reserve 22568, to allow a new Crown land title to be created.

The City could then put a business case to the DRDL to seek a Licence Agreement with the Proponent for the carpark and jetty structure along the shoreline.

A Licence Agreement between the Proponent and the City would require the Proponent to pay licence fees to use foreshore land for car parking and specify maintenance obligations, at no cost to the City. The Licence could also require the Proponent to maintain (at its cost and liability) the pier platform along the shoreline for the life of the project, while securing unfettered public access along the Rockingham Beach. The City could make a business case to direct any funds from the Proponent’s Licence to pay for costs associated with maintaining Bell Park or Churchill Park.
A request to excise a portion of an 'A' reserve must be tabled in both Houses of Parliament for consideration.

Option Two - Creation of an Easement

Given the expected need for the Marina to be connected to service utilities, an appropriate way to protect this connection is through the creation of an easement.

The process for creating an easement in the reserve requires advertising to landowners and the matter being tabled in Parliament for determination.

The benefit of creating an easement over the land, means the arrangement for the management of the easement area (i.e. the proposed extension of the Wanliss Street carpark and the portion of land used for the jetty structure), would be between the State Government and the Proponent, removing the City from any requirement to ensure compliance with conditions.

Preferred Land Tenure Option

It is recommended the WAPC impose a condition for the Proponent to resolve the Land Tenure arrangements, prior to any ground disturbing activities.

If the Port Rockingham Marina is approved by the WAPC, it is recommended the Council support Option One - Licence Agreement to ensure the Proponent is responsible for the maintenance of the development, public liability, and permit uninterrupted public access over the development, and Option Two - Creation of an Easement to permit service utilities connecting into the street road reservation.

Comments

Construction Management

Construction Methodology

The Port Rockingham Marina Construction Management Framework was assessed by City Officers as being deficient of the following information:

- A schedule of the volume/quantity of materials proposed to be used as part of Civil Works;
- Construction drawings for the design of the sand bund needed during the construction phase and breakwater design;
- Construction methodology and technique with full engineering specifications;
- A civil works programme indicating events, tasks and associated timeframes;
- A Construction Traffic Management Plan; and
- Requirement for a Dilapidation Survey to be carried out on all nearby residential properties and road infrastructure.

The above requirements could be addressed as a condition of Planning Approval.

It is the City's expectation that the breakwater be constructed from the most durable materials available. The use of soft limestone rock has the potential to impact the use of Rockingham Beach as shards of sharp limestone could potentially be washed ashore and could be a risk to beachgoers.

The Construction Management Framework is silent on the use of markers for marine works and navigation aids during the construction period. Moorings, buoys and markers are recommended to be provided to secure all floating equipment and provide safe navigation around the site. A further detailed 'Construction Environmental Management Plan' is required as part of the Ministerial Approval.
**Construction Traffic**

City Officers have noted a discrepancy between the estimated amount of material required to construct the Port Rockingham Marina and the number of truck movements envisaged. The number of truck movements is considered to be significantly underestimated. The Proponent must review truck movement figures, to accurately determine the impact upon the local road network, in particular the risk of Wanliss Street road pavement failing. Any repair or rebuilding of local roads reasonably attributed to construction traffic associated with the Port Rockingham Marina must be undertaken at the full cost of the Proponent.

**Dust Impact**

A preliminary Dust Management Plan for the construction period includes dust suppression methods such as water dampening, wind fencing and soil stabilisation. The Proponent proposes to undertake dust monitoring at the site and should dust levels exceed the identified trigger levels, corrective action is to be taken. A complaints procedure will also be in place.

A final Dust Management Plan, compliant with the Department of Environment and Conservation's Guideline for the Development and Implementation of a Dust Management Program, has not yet to be submitted to the City.

**Construction Noise**

A Construction Noise Management Plan outlines the predicted noise sources during the construction period. The report was assessed and satisfies the City's requirements.

Construction noise is likely to affect nearby residents, however, given the outcomes of the Construction Noise Management Plan satisfies the requirements of the Environmental Protection (Noise) Regulations 1997.

**Design**

**Vehicle Access from Wanliss Street Carpark**

The Proponent has prepared a Traffic Access Framework to demonstrate how vehicle movements will occur between the Wanliss Street carpark onto the Marina. A remote wire rope drop down is proposed to control vehicle access entering and leaving the Marina. Vehicle Access to the Marina by vehicle would be restricted to servicing and emergency services vehicles and pen holders that have a designated car parking bay on the breakwater.

The use of a wire rope to limit vehicle access is a trip hazard pedestrians using the shared path. It is considered more appropriate that automatic bollards be used in place of a wired rope as they are more secure and less intrusive to the pedestrian use of the space. It is also considered appropriate the Proponent be required to implement signage and safety measures to ensure the safe shared use of the jetty.

The Proponent has stipulated that it intends to use a road base on the breakwater.

The City's Engineering Officers recommend a standard road seal be used on the breakwater, as there should be an emphasis for pedestrian use of this space, with vehicle access taking a secondary function. The use of red oxidised tarmac or pavement consistent with the pedestrian spaces in the Waterfront Village is recommended.

**Pier and Breakwater Width**

The pier design proposes a 5.0 metre wide pavement for vehicle access on the jetty structure and breakwater, as shown in Figure 10.

The pier design is inappropriate in width and does not comply with AS2890.1. A 5.0 metre width does not permit two way vehicle movement, and could on occasion require vehicles to encroach into the pedestrian pathway to pass on the jetty structure. This is not considered functional, safe or convenient for pedestrians or motorists.

Pedestrian refuge areas on the breakwater are recommended to be spaced 70 metres apart, which is roughly a spacing of a 30 second walk at 8 km/hr. This is to ensure a pedestrian emphasis on the breakwater.
The 1.2 metre pedestrian path width abutting the breakwater car parking is also too narrow, and is recommended to contain a minimum width of 2.0 metres for effective pedestrian traffic passing.

![Figure 10 – Proposed Breakwater Access Arrangement](image)

**Public Benefit - Fishing platforms**

The plans do not include any opportunities to implement a public benefit for the use of the breakwater. It is recommended fishing jetty platforms with provision for disabled access be required as a condition of Planning Approval.

**Traffic**

The proposed car parking for the Port Rockingham Marina satisfies the minimum requirement for car parking as shown in Tables 3 and 4 below.

<table>
<thead>
<tr>
<th>Location</th>
<th>Existing Bays (not included in calculation)</th>
<th>Proposed Bays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakwater</td>
<td>N/A</td>
<td>135 bays</td>
</tr>
<tr>
<td>Wanliss Street Carpark</td>
<td>52 bays</td>
<td>168 bays</td>
</tr>
<tr>
<td>Wanliss Street</td>
<td>59 bays</td>
<td>110 bays</td>
</tr>
<tr>
<td>Rockingham Beach Road</td>
<td>135 bays</td>
<td>187 bays</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>246 bays</td>
<td>600 bays</td>
</tr>
</tbody>
</table>
Although 600 car parking bays will cater for the overall car parking demand, the distribution of car parking could lead to a shortfall in the supply of car parking in the vicinity of the Marina entrance, during peak periods.

The location of proposed car parking represents a logical extension of the existing street parking profile along Wanliss Street and Rockingham Beach Road. The extension of the Wanliss Street carpark provides additional car parking near the proposed Marina. All car parking proposed on Wanliss Street, Rockingham Beach Road and the Wanliss Street Carpark is proposed for use by the general public.

The car parking arrangement must be the subject to detailed engineering design, in consultation with the City.

**Conclusion**

Based on the comprehensive assessment of the proposed Port Rockingham Marina, which includes an analysis of submissions, it is recommended that the Council support the proposal, for the following reasons:

- The proposed development is consistent with regional planning policies;
- The proposed development is consistent with the Objectives of Local Planning Policy 3.2.5 - Rockingham Beach Waterfront Village;
- 87% (420) submissions expressed support for the proposal, in comparison with 13% or 63 submissions opposed to the development;
- The objections raised in the submissions have largely been addressed in the Public Environmental Review Ministerial Conditions.

**6. Voting Requirements**

Simple Majority

**7. Officer Recommendation**

That Council ADVISE the Western Australian Planning Commission of its support for the proposed Port Rockingham Marina (500 Boat Pens), temporary boat mooring facilities, 4,000m² commercial floor space, and 600 car parking bays, subject to the following conditions of Planning Approval:

1. The width of the breakwater and jetty access being increased to a minimum 6.0 metre pavement width for vehicle access and a 2.0 metre dedicated pedestrian path width.

2. Satisfactory arrangements being made to resolve land tenure arrangements in consultation with the City of Rockingham and the Department of Regional Development and Lands for the changes required to facilitate the Marina and associated pier, car parking and services.

3. The breakwater carpark must:
   (i) Be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval, prior to the commencement of works;
   (ii) Be constructed, sealed, kerbed, drained and marked prior to the development being occupied; and
   (iii) Include lighting, prior to the occupation of the development.

4. At least two Fishing Jetty platforms being provided with access off the breakwater which provide access for people with disabilities.

5. Satisfactory arrangements being made for the upgrade of Wanliss Street and Rockingham Beach Road, to accommodate on-street car parking, any modifications or requirement for stormwater drainage, lighting, landscaping and changes to the road profile, at the Proponents cost.
All on-street parking must be designed and constructed in accordance with AS2890.5 to the specifications submitted to and approved by the City of Rockingham.

6. The Wanliss Street Carpark must:
   (i) Be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval, prior to the commencement of works;
   (ii) Include two car parking spaces dedicated to people with disabilities designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
   (iii) Be constructed, sealed, kerbed, drained and marked prior to the development being occupied;
   (iv) Include lighting, prior to the occupation of the development;
   (v) Any modifications proposed as part of the final design of the Wanliss Street carpark must be designed to have due regard to this infrastructure, and any damage caused as a result of the development shall be repaired by the Proponent at its expense; and
   (vi) The existing Atlantis drainage cells sited beneath the Wanliss Street carpark are to be retained. Any modifications that impact on the drainage must be designed in accordance with specifications submitted to and approved by the City of Rockingham.

7. A Road Condition Survey must be carried out on Rockingham Beach Road (in the vicinity of the development), Wanliss Street and Victoria Street, to document the road surface condition and ability to absorb impacts from heavy construction traffic, prior to ground disturbing works commencing.

8. Where it is determined by the City of Rockingham that construction traffic necessitates specific road upgrading or rebuilding in order to maintain the condition of local roads to a minimum acceptable standard, the Proponent shall pay for the cost of any necessary improvements. The contribution required of the Proponent shall be the entire cost of any road improvements that are, in the opinion of the City of Rockingham, that are fairly and reasonably related to the construction of the proposed Marina.

9. A revised Dust Management Plan must be prepared in accordance with the Department of Environment and Conservation’s Draft - A Guideline for the Development and Implementation of a Dust Management Program, to the satisfaction of the City, prior to the commencement of any work.

10. All works must be carried out in accordance with the Dust Management Plan, for the duration of construction.

11. A Waste Management Plan must be prepared in accordance with the following requirements:
   (i) The location of bin storage and bin collection areas;
   (ii) The number, volume and type of bins, and the type of waste to be placed in the bins;
   (iii) Management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas; and
   (iv) Frequency of bin collections.
All works must be carried out in accordance with the Waste Management Plan, for the duration of development.

12. A revised Construction Environmental Management Plan must be prepared in consultation with the City of Rockingham, prior to the commencement of ground disturbing works as follows:
- A schedule of the volume/quantity of materials proposed to be used as part of Civil Works;
- Construction drawings for the design of the sand bund needed during the construction phase and breakwater design;
- Construction methodology and techniques with full engineering specifications;
- A civil works programme indicating events, tasks and associated timeframes; and

13. All haulage vehicles used for carting sand must have covers on trailers, to prevent the spillage of sand onto public roads.

14. Haulage vehicles shall not park along the haul route for any purpose other than a breakdown.

15. If spillage of sand occurs, it must be cleaned from public roads within four (4) hours of the spillage and in all cases where spillage constitutes a road hazard, suitable warning devices must be placed immediately and maintained until the spillage is cleared.

16. A Dilapidation Survey must be offered to all residential and commercial properties that may be affected by construction activities within the locality.

17. The Marina must comply with the Environmental Protection (Noise) Regulations 1997 at all times.

18. A schedule of coastal pallet colours and coastal durable materials proposed for the breakwater and jetty structure and buildings being approved by the Western Australian Planning Commission. In this regard:
   (i) The Proponent must not construct the breakwater with soft limestone rock and must use durable materials that pose less risk of limestone shards washing onto Rockingham Beach.
   (ii) The breakwater and Jetty must be constructed with a red oxidise road base or pavement consistent with the Waterfront Village.

19. A Sign Strategy must be prepared and approved to the City of Rockingham.

20. Exhaust facilities associated with the proposed development must be provided in accordance with Australian Standard AS 1668.2—2002, The use of ventilation and air conditioning in buildings, Part 2: Ventilation design for indoor air containment control (excluding requirements for the health aspects of tobacco smoke exposure) and be fitted with "state of the art" filtration and odour suppression devices to the satisfaction of the City prior to the occupation of the development, and must be maintained at all times.

21. All Boating activities are prohibited between the shoreline and the Marina.

22. Earthworks and batters must be stabilised to prevent sand blowing and dust nuisance, for the duration of development.

23. Wind fencing being provided along the boundary of the site where existing buildings are within 500 metres of the site and no natural barrier exists.

24. Water carts to be available, at all times during the earthworks operation and until the site has been stabilised. As an alternative to water carts, the use of fixed sprinklers may be considered by the City.

25. Truck Warning signs being provided on Wanliss Street.

26. Trucks are not to arrive any earlier than 15 minutes prior to operations commencing, for time construction timeframes prescribed by the Environmental Noise Protections Regulations (1997) and are not to park or stand along surrounding roads.
27. The Proponent is to provide a 24 hour telephone enquiry service to deal with complaints associated with dust nuisance being generated during the development and that the telephone number of the enquiry line be displayed in a prominent location on the site and a notice advertising the line be distributed to all adjacent residents.

28. If any rock material is found on Rockingham Beach as a result of the development the Proponent must make good (at its cost) Rockingham Beach to its condition prior to development.

29. Revegetation works proposed on the Rockingham Beach Foreshore being implemented in accordance with the Foreshore Management Plan dated 10th December 2010. All revegetation works are to be maintained by the Proponent for a period of at least two summers following the completed of the development.

30. Installation of CCTV, to provide coverage of all public areas, linked to the City's security camera surveillance system, to provide surveillance of the proposed facility and public areas adjacent to the development.

Advice Notes
(i) The development must comply with the Health (Public Building) Regulations 1992.
(ii) The development must comply with the Food Act 2008, the Food Safety Standards and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only).
(iii) The disposal of wastewater into the Water Corporation's sewerage system must be with approval of the Water Corporation; the applicant and owner should liaise with the Water Corporation in this regard.
(iv) It is recommended the Proponent provide Moorings, buoys and markers to secure all floating equipment and provide safe navigation around the site.
(vi) Moorings, buoys and makers must be provided to secure all floating equipment and provide safe navigation around the site.

8. Committee Recommendation

That Council:
1. ADVISE the Western Australian Planning Commission of its support for the proposed Port Rockingham Marina (500 Boat Pens), temporary boat mooring facilities, 4,000m² commercial floor space, and 600 car parking bays, subject to the following conditions of Planning Approval:
   (i) The width of the breakwater and jetty access being increased to a minimum 6.0 metre pavement width for vehicle access and a 2.0 metre dedicated pedestrian path width.
   (ii) Satisfactory arrangements being made to resolve land tenure arrangements in consultation with the City of Rockingham and the Department of Regional Development and Lands for the changes required to facilitate the Marina and associated pier, car parking and services.
   (iii) The breakwater carpark must:
       (a) Be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval, prior to the commencement of works;
       (b) Be constructed, sealed, kerbed, drained and marked prior to the development being occupied; and
       (c) Include lighting, prior to the occupation of the development.
   (iv) At least two Fishing Jetty platforms being provided with access off the breakwater which provide access for people with disabilities.
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON WEDNESDAY, 19 OCTOBER 2011

(v) Satisfactory arrangements being made for the upgrade of Wanliss Street and Rockingham Beach Road, to accommodate on-street car parking, any modifications or requirement for stormwater drainage, lighting, landscaping and changes to the road profile, at the Proponents cost.

All on-street parking must be designed and constructed in accordance with AS2890.5 to the specifications submitted to and approved by the City of Rockingham.

(vi) The Wanliss Street Carpark must:-

(a) Be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval, prior to the commencement of works;

(b) Include two car parking spaces dedicated to people with disabilities designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;

(c) Be constructed, sealed, kerbed, drained and marked prior to the development being occupied;

(d) Include lighting, prior to the occupation of the development;

(e) Any modifications proposed as part of the final design of the Wanliss Street carpark must be designed to have due regard to this infrastructure, and any damage caused as a result of the development shall be repaired by the Proponent at its expense; and

(f) The existing Atlantis drainage cells sited beneath the Wanliss Street carpark are to be retained. Any modifications that impact on the drainage must be designed in accordance with specifications submitted to and approved by the City of Rockingham.

(vii) A Road Condition Survey must be carried out on Rockingham Beach Road (in the vicinity of the development), Wanliss Street and Victoria Street, to document the road surface condition and ability to absorb impacts from heavy construction traffic, prior to ground disturbing works commencing.

(viii) Where it is determined by the City of Rockingham that construction traffic necessitates specific road upgrading or rebuilding in order to maintain the condition of local roads to a minimum acceptable standard, the Proponent shall pay for the cost of any necessary improvements. The contribution required of the Proponent shall be the entire cost of any road improvements that are, in the opinion of the City of Rockingham, that are fairly and reasonably related to the construction of the proposed Marina.

(ix) A revised Dust Management Plan must be prepared in accordance with the Department of Environment and Conservation’s Draft - A Guideline for the Development and Implementation of a Dust Management Program, to the satisfaction of the City, prior to the commencement of any work.

(x) All works must be carried out in accordance with the Dust Management Plan, for the duration of construction.

(xi) A Waste Management Plan must be prepared in accordance with the following requirements:

(a) The location of bin storage and bin collection areas;
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(xiii) All haulage vehicles used for carting sand must have covers on trailers, to prevent the spillage of sand onto public roads.

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(xvi) A Dilapidation Survey must be offered to all residential and commercial properties that may be affected by construction activities within the locality.

(xvii) The Marina must comply with the Environmental Protection (Noise) Regulations 1997 at all times.

(xviii) A schedule of coastal pallet colours and coastal durable materials proposed for the breakwater and jetty structure and buildings being approved by the Western Australian Planning Commission. In this regard:

(a) The Proponent must not construct the breakwater with soft limestone rock and must use durable materials that pose less risk of limestone shards washing onto Rockingham Beach.

(b) The breakwater and jetty must be constructed with a red oxidise road base or pavement consistent with the Waterfront Village.

(xix) A Sign Strategy must be prepared and approved to the City of Rockingham.

(xx) Exhaust facilities associated with the proposed development must be provided in accordance with Australian Standard AS 1668.2—2002, The use of ventilation and air conditioning in buildings, Part 2: Ventilation design for indoor air containment control (excluding requirements for the health aspects of tobacco smoke exposure) and be fitted with "state of the art" filtration and odour suppression devices to the satisfaction of the City prior to the occupation of the development, and must be maintained at all times.

(xx) All Boating activities are prohibited between the shoreline and the Marina.
(xxii) Earthworks and batters must be stabilised to prevent sand blowing and dust nuisance, for the duration of development.

(xxiii) Wind fencing being provided along the boundary of the site where existing buildings are within 500 metres of the site and no natural barrier exists.

(xxiv) Water carts to be available, at all times during the earthworks operation and until the site has been stabilised. As an alternative to water carts, the use of fixed sprinklers may be considered by the City.

(xxv) Truck Warning signs being provided on Wanliss Street.

(xxvi) Trucks are not to arrive any earlier than 15 minutes prior to operations commencing, for time construction timeframes prescribed by the Environmental Noise Protections Regulations (1997) and are not to park or stand along surrounding roads.

(xxvii) The Proponent is to provide a 24 hour telephone enquiry service to deal with complaints associated with dust nuisance being generated during the development and that the telephone number of the enquiry line be displayed in a prominent location on the site and a notice advertising the line be distributed to all adjacent residents.

(xxviii) If any rock material is found on Rockingham Beach as a result of the development the Proponent must make good (at its cost) Rockingham Beach to its condition prior to development.

(xxix) Revegetation works proposed on the Rockingham Beach Foreshore being implemented in accordance with the Foreshore Management Plan dated 10th December 2010. All revegetation works are to be maintained by the Proponent for a period of at least two summers following the completed of the development.

(xxx) Installation of CCTV, to provide coverage of all public areas, linked to the City's security camera surveillance system, to provide surveillance of the proposed facility and public areas adjacent to the development.

Advice Notes

(i) The development must comply with the Health (Public Building) Regulations 1992.

(ii) The development must comply with the Food Act 2008, the Food Safety Standards and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only).

(iii) The disposal of wastewater into the Water Corporation's sewerage system must be with approval of the Water Corporation; the applicant and owner should liaise with the Water Corporation in this regard.

(v) It is recommended the Proponent provide Moorings, buoys and makers to secure all floating equipment and provide safe navigation around the site.

(vi) Moorings, buoys and makers must be provided to secure all floating equipment and provide safe navigation around the site.

2. **REQUEST** the State Government to ensure that it is satisfied the proponent has the financial capacity to complete all works proposed and to confirm that the City of Rockingham will not be liable for any works, should the proponent be unable to fully complete the marina and all public infrastructure works in accordance with the statutory approvals.

Committee Voting - 4/0

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

To ensure the completion of the project and that the City will not be liable for any works, should the proponent be unable to fully complete the marina and all public infrastructure works.
10. Implications of the Changes to the Officer’s Recommendation

Not applicable

4.50pm - Cr Joy Stewart left the Planning Services Standing Committee meeting.
### 13. Reports of Councillors

Nil

### 14. Addendum Agenda

Nil

### 15. Motions of which Previous Notice has been given

<table>
<thead>
<tr>
<th>Planning Services</th>
<th>Strategic Planning &amp; Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reference No &amp; Subject:</strong></td>
<td><strong>SPE-026/ 11 Proposed Amendment to Planning Policy No.3.3.17 - Variations to Building Envelopes</strong></td>
</tr>
<tr>
<td>File No:</td>
<td>LUP/1265-03</td>
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<td>Proponent/s:</td>
<td>Cr Brian Warner</td>
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<tr>
<td>Author:</td>
<td>Mr Jeff Bradbury, Senior Strategic Planning Officer</td>
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<tr>
<td>Other Contributors:</td>
<td>Mr Peter Ricci, Manager, Strategic Planning &amp; Environment</td>
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<tr>
<td>Date of Committee Meeting:</td>
<td>19th September 2011</td>
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<tr>
<td>Previously before Council:</td>
<td>February 2008 (PD5/2/08) May 2008 (PD81/5/08)</td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Executive Function</td>
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<td>Nature of Council's Role in this Matter:</td>
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<td>Site:</td>
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<td>Lot Area:</td>
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<td>Attachments:</td>
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<td>Maps/Diagrams:</td>
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1. Purpose of Report

To provide Officer comment and recommendation on Cr Warner's Notice of Motion.

2. Background

Notice of Motion

At its ordinary Meeting held on the 23rd August 2011, the following Notice of Motion was received from Cr Warner:

**MOTION:**

That Town Planning Policy 3.3.17 - Variations to Building Envelopes be amended to reflect the town sites of Singleton and Golden Bay.

**Reason for MOTION:**

On the 27th May 2008 Council resolved to revoke sixteen Statements of Planning Policy and replace them with eighteen alternatives in order to comply with the Town Planning Scheme No.2. Planning Policy 2.8 Applications to Vary the Location of Building Envelopes was revoked and replaced with Planning Policy 3.3.17. Variations to Building Envelopes.

In the wording of Planning Policy 2.8 specific mention was made of the hills to the east of Singleton and Golden Bay and the viewshed from the town sites. This was (presumably) as a result of the CER and PER that was conducted in the area in 1992.

When the planning policies were changed in May 2008 Council were faced with the enormous task of reading and absorbing the thirty four policies in less than one weekend. As such the wording specific to Singleton and Golden Bay was overlooked.

Recently residents of Singleton have been made aware of the omission of the mention of Singleton and Golden Bay and the relationship with the Eastern hills visual landscape as previously put in place in PP 2.8.

This motion is proposed in order to rectify that omission.

Background to Planning Policy No. 3.3.17 - Variation to Building Envelopes

At its ordinary Meeting held on the 24th May 1994, the Council adopted the following recommendation from the (then) Environment, Planning, Health and Building Committee:

"That the Manager of Planning and Developmen t Services investigate the preparation of a Statement of Planning Policy for presentation to a future meeting of the Environment, Planning, Health and Building Committee, to deal with the relocation of Building Envelopes; such policy to examine aspects of net environmental benefit, consultation with adjoining owners and a realistic fee structure."

At its ordinary meeting held on the 25th October 1994, the Council adopted Statement of Planning Policy No.2.10 - Applications to Vary the Location of Building Envelopes. The purpose of the Planning Policy was to identify in what circumstances a building envelope may be modified and the process by which such an application would be considered.

At its ordinary Meeting held on the 28th May 1996, the Council considered an application to vary the location of a building envelope in the Singleton Special Rural zone. In assessing the proposal, the Council noted that whilst the existing Policy specified that building envelopes may only be modified after consideration of environmental issues, no specific reference was made in the Policy to broader development issues.

In this regard, the Council resolved that the Principal Planner prepare a report on a possible amendment to Statement of Planning Policy No.2.10 to ensure that the visual amenity of the locality, building materials and colours used, building construction methods and building heights were taken into account when variations to buildings envelopes were considered.
At its ordinary Meeting held on the 23rd July 1996, the Council approved amendments to Statement of Planning Policy No.2.10 which addressed the abovementioned issues. The amended Policy included the following specific reference to Singleton and Golden Bay:

"In the case of the Golden Bay and Singleton Special Rural zones, the location of the envelopes were specifically intended to maintain the rural attributes and appearance of the land, from Mandurah Road and the townsites to the west."

Following the adoption of Town Planning Scheme No.2 in 2004, the City undertook an overall policy review process where each Statement of Planning Policy was reviewed to ensure consistency between the Planning Policies and Town Planning Scheme No.2. This review process resulted in the majority of the City's Planning Policies being superseded and replaced with new policies.

At its ordinary Meeting held on the 27th May 2008, the Council adopted Planning Policy No.3.3.17 – Variations to Building Envelopes which superseded Statement of Planning Policy No.2.10 (which had since been renumbered to Statement of Planning Policy No.2.8).

Planning Policy 3.3.17 does not make the same reference to the "townsites to the west" as in the superseded Planning Policy, however, it does include the following statement:

"Building Envelopes are positioned after considering issues associated with land degradation, the extent of any foreshore reservation, particular on-site landform and vegetation characteristics, the possible form of residential development by a potential purchaser and the impact of a future development on the visual amenity of the locality."

3. Details

Nil

4. Implications to Consider

a. Consultation with the Community

Under Town Planning Scheme No.2, if the Council resolves to amend a Planning Policy, it is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area, giving details of:-

(i) where the draft Policy may be inspected;
(ii) the subject and nature of the draft Policy; and
(iii) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made.

The Council may also publish notice of the proposed Policy in such other manner and carry out such other consultation as the Council considers appropriate.

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 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 Policy notes that Building Envelopes are positioned after considering issues associated with land degradation, the extent of any foreshore reservation, particular on-site landform and vegetation characteristics, the possible form of residential development by a potential purchaser and the impact of a future development on the visual amenity of the locality.

In dealing with applications to vary the location and size of an approved Building Envelope, the City must be satisfied that the proposed site will accommodate development that is consistent with its objectives for the area. In this regard, the City may require supporting information with an application that will demonstrate the form of future development. Such information will enable an informed assessment of the application to determine the likely impact upon the visual qualities of an area, the amenity of adjoining properties and the environment.

**e. Financial**

Nil

**f. Legal and Statutory**

Under the provisions of section 8.9 of Town Planning Scheme No.2, the Council may prepare, modify or revoke a Planning Policy.

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**5. Comments**

Whilst it is considered that Planning Policy No.3.3.17 provides for City to ensure that building envelopes are appropriately located to protect the visual amenity from adjacent/nearby areas (which would include views to the east from Singleton and Golden Bay), no objections are raised to amending the Policy to make specific reference to views to the east from Singleton and Golden Bay (as was the case in the previous policy).

In this regard, it is recommended that the following sentence be included into the Introduction of Planning Policy No.3.3.17:

"In the case of the Golden Bay and Singleton Special Rural and Special Residential zones, the location of the 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."

**6. Officer Recommendation**

That Council **ENDORSE** the publishing of a notice that it has prepared an amendment to Planning Policy No.3.3.17 – Variations to Building Envelopes for public inspection for a period of 21 days, pursuant to clause 8.9.4 of Town Planning Scheme No.2.

**7. Voting Requirements**

Simple Majority.
8. **Motion from Cr Warner**

That Town Planning Policy 3.3.17 - Variations to Building Envelopes be amended to reflect the town sites of Singleton and Golden Bay.

9. **Committee Recommendation**

That Council **ENDORSE** the publishing of a notice that it has prepared the following amendment to Planning Policy No.3.3.17 - Variations to Building Envelopes for public inspection for a period of 21 days, pursuant to clause 8.9.4 of Town Planning Scheme No.2:

**PLANNING POLICY 3.3.17**

**VARIATIONS TO BUILDING ENVELOPES**

Red and underlined font means text proposed to be added

1. **Introduction**

The City of Rockingham Town Planning Scheme No.2 defines a 'Building Envelope' as an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained.

Where local environmental conditions are considered to be significant enough to restrict the location of building development and vegetation clearing, Building Envelopes can be imposed. Building Envelopes are positioned after considering issues associated with land degradation, the extent of any foreshore reservation, particular on-site landform and vegetation characteristics, the possible form of residential development by a potential purchaser and the impact of a future development on the visual amenity of the locality.

Building Envelopes are generally located in Special Rural and Special Residential zones, including the Warnbro Dunes. Provisions in Schedule Nos.4 and 5 of Town Planning Scheme No.2 provide the authority to require Building Envelopes and that the location and size of Building Envelopes may be varied at the discretion of the 'Council'.

In the case of the Golden Bay and Singleton Special Rural and Special Residential zones, the location of the 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.

In dealing with applications to vary the location and size of an approved Building Envelope, the Council must be satisfied that the proposed site will accommodate development that is consistent with its objectives for the area. In this regard, the Council may require supporting information with an application that will demonstrate the form of future development. Such information will enable an informed assessment of the application to determine the likely impact upon the visual qualities of an area, the amenity of adjoining properties and the environment.

The purpose of this Planning Policy is to set out the objectives and policy provisions which the Council shall have due regard to in the assessment and determination of applications to vary the location and size of Building Envelopes.

2. **Policy Application**

In Town Planning Scheme No.2, where Building Envelopes are designated, no clearing or development, other than for fire management purposes or to construct a vehicle accessway, which has received the prior written approval of the Council, shall be approved outside the designated building envelopes. The location and size of building envelopes shall be to the satisfaction of the Council and may be varied at the discretion of the Council.
Warnbro Dunes Special Residential Zone

In the Warnbro Dunes Special Residential Zone, building envelopes may be varied at the discretion of the Council, if:-

(a) The Council receives advice from a qualified environmental consultant that the variation will result in an environmental benefit; and

(b) Only after consultation with the owners of affected or adjoining properties.

This Planning Policy should be read in conjunction with Planning Policy No.3.1.4 Assessment of Local Bushland.

3. Policy Objective

The objective of this Planning Policy is to promote the orderly and proper development of land by identifying in what circumstances a Building Envelope may be varied and the process by which such an application would be considered.

4. Policy Statement

4.1 Assessment Criteria

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 the Council’s objectives for the locality are realised.

To ensure that the above matters can be assessed, the Council will generally require specific details regarding the building/s to be constructed within the Building Envelope. Such details should include method of construction, existing and finished site levels, retaining walls, building materials and colours and the proposed height of the buildings.

The Council may also require a report from a qualified and experienced Environmental Consultant substantiating that there is no adverse environmental impact. In the Warnbro Dunes Special Residential Zone, the Scheme requires that such a report be produced.

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) and all Building Envelopes are required to be of a regular shape and comprise a single contiguous area.

In reaching a decision on an application to vary the location and/or size of a Building Envelope, the Council will generally impose restrictions on the building form in order that its objectives are acknowledged.

4.2 Consultation

All applications seeking approval to vary the location and size of Building Envelopes will be the subject of a process of community consultation in accordance with clause 6.3.3 of Town Planning Scheme No.2.

In this regard, the owners of all the adjoining properties and any other property that, in the opinion of the Manager, Statutory Planning may be affected, shall be invited to comment on all applications to vary a Building Envelope to enable the Council to determine whether the variation is likely to impact upon the adjoining/nearby properties.

5. Application Procedure

Applications to vary the location and size of approved Building Envelopes shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:-

(a) A written submission describing the proposal, which should include confirmation that the requirements of this Planning Policy can be achieved;

(b) Such plans and other information that the Council may reasonably require to enable the application to be determined. Refer to clause 6.2.2 of Town Planning Scheme No.2 and section 4.1 above;
(c) Any specialist environmental studies that the Council may require the applicant to undertake in support of the application;

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

6. **Authority**

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

7. **Interpretations**

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

_Council_ means the Council of the City of Rockingham.

8. **Delegation**

Subject to no substantiated objections being received following community consultation, applications that 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.

In the event that substantiated objections have been received or the Manager, Statutory Planning is of the view that a proposal does not comply with the criteria set out in this Policy, the application will be referred to the Council for determination.

All applications within the Warnbro Dunes Special Residential Zone 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 27th May 2008.

10. **Revocation**

This Planning Policy supersedes the Council’s Statement of Planning Policy No.2.8 - Applications to Vary the Location of Building Envelopes.

Committee Voting – 4/0

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

Not applicable

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

Not applicable

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CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON WEDNESDAY, 19 OCTOBER 2011

PRESIDING MEMBER
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

19. **Date and Time of Next Meeting**
   
   The next Planning Services Standing Committee Meeting will be held on **Wednesday 19 October 2011** in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.

20. **Closure**
   
   There being no further business, the Chairman thanked those persons present for attending the Planning Services Standing Committee meeting, and declared the meeting closed at 4.55pm.