MINUTES
Planning and Engineering Services Committee Meeting
Held on Monday 2 December 2013 at 4:00pm
City of Rockingham Boardroom
# City of Rockingham
## Planning and Engineering Services Committee Meeting Minutes
### Monday 2 December 2013

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<td>20.</td>
<td>Closure</td>
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1. **Declaration of Opening**

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

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

2.1 **Councillors**
- Cr Richard Smith (Deputy Mayor)
- Cr Chris Elliott
- Cr Ron Pease JP
- Cr Deb Hamblin
- Cr Allan Hill OAM JP
- Cr Justin Smith (Observer)

2.2 **Executive**
- Mr Andrew Hammond, Chief Executive Officer
- Mr Bob Jeans, Director Planning and Development Services
- Mr John Woodhouse, Director Legal Services and General Counsel
- Mr Peter Ricci, Project Manager Keralup
- Mr Jeff Bradbury, Coordinator Strategic Planning
- Mr Richard Rodgers, Manager Building Services (until 4.19pm)
- Mr Mike Ross, Manager Statutory Planning
- Mr Rod Fielding, Manager Health Services (until 4.19pm)
- Mr Scott Lambie, Manager Engineering Services
- Mr Kelton Hincks, Manager Asset Services (until 4.35pm)
- Mr James Henson, Manager Parks Development
- Ms Melinda Wellburn, PA to Director Planning and Development Services

2.3 **Members of the Gallery:** 4

2.4 **Apologies:** Nil

2.5 **Approved Leave of Absence:** Nil

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

Nil

4. **Public Question Time**

4.01pm The Chairperson invited members of the Public Gallery to ask questions. There were none.
### 5. Confirmation of Minutes of the Previous Meeting

**Moved Cr Hill, seconded Cr Pease:**

That Council **CONFIRM** the Minutes of the Planning and Engineering Services Committee Meeting held on 18 November 2013, as a true and accurate record.

**Committee Voting – 5/0**

### 6. Matters Arising from the Previous Minutes

Nil

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

**4.01pm** The Chairperson announced to all present that decisions made at Committees of Council are recommendations only and may be adopted in full, amended or deferred when presented for consideration at the next Council meeting.

### 8. Declarations of Members and Officers Interests

**4.01pm** The Chairperson asked if there were any interests to declare. There were none.

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

Nil

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

Nil

### 11. Bulletin Items

**Planning and Development Services Information Bulletin – December 2013**

**Health Services**

1. Health Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 FoodSafe
   3.2 Industrial and Commercial Waste Monitoring
   3.3 Community Health and Wellbeing Plan
   3.4 Healthy Communities Initiative
   3.5 Health Promotion
   3.6 Mosquito Control Program
   3.7 Ocean Water and Storm Water Sampling
4. Information Items
   4.1 Mosquito-Borne Disease Notifications
   4.2 Food Recalls
   4.3 Food Premises Inspections
   4.4 Public Building Inspections
   4.5 Outdoor Public Event Approvals
   4.6 After Hours Noise and Smoke Nuisance Complaint Service
   4.7 Complaint - Information
   4.8 Building Plan Assessments
   4.9 Septic Tank Applications
   4.10 Demolitions
   4.11 Swimming Pool and Drinking Water Samples
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<td>4.14 Family Day Care</td>
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<td>4.15 Legal Proceedings - Zelda’s Nightclub</td>
</tr>
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### Building Services

1. Building Services Team Overview
2. Human Resource update
3. Project Status Reports
4. Information Items

### Strategic Planning and Environment

1. Strategic Planning and Environment Team Overview
2. Human Resource Update
3. Project Status Reports
   - 3.1 Local Planning Strategy (LUP/1352)
   - 3.2 Karnup District Structure Plan (LUP/1546)
   - 3.3 Karnup District Water Management Strategy (EVM/136)
   - 3.4 Water Campaign (EVM/56-02)
4. Information Items
   - 4.1 Proposed Structure Plan (‘Pike Road’) – Public Advertising
   - 4.2 Lifting of Urban Deferment Request – Lots 10, 545, 921, 922, 746-750 Baldivis Road and Lot 3 Key Close, Baldivis
   - 4.3 Mangles Bay Marina-Based Tourist Precinct – Metropolitan Region Scheme Amendment
   - 4.4 Public Environmental Review - East Rockingham Waste to Energy and Materials Recovery Facility

### Statutory Planning

1. Statutory Planning Team Overview
2. Human Resource Update
3. Project Status Reports
   - 3.1 CouncilsOnline (Planning Products via the Web) formerly eDA
4. Information Items
   - 4.1 Land Use – Planning Enforcement
   - 4.2 Subdivision/Development Approvals and Refusals by the WAPC
   - 4.3 Notifications and Gazettals
   - 4.4 Subdivision Clearances
   - 4.5 Subdivision Survey Approvals
   - 4.6 Subdivision Lot Production
   - 4.7 Delegated Development Approvals
   - 4.8 Delegated Development Refusals
   - 4.9 Delegated Building Envelope Variations
   - 4.10 Subdivision/Amalgamation Approved
   - 4.11 Subdivision/Amalgamation Refused
   - 4.12 Proposed Dog Kennels, Cattery & Caretakers Dwelling – Lot 1026 (No.16) Young Road, Baldivis
   - 4.13 Proposed Perth Wave Energy Project – Pt Lot 4551 & Lot 40Coastal Waters, West of Garden Island (South End)
   - 4.14 Para-motoring Club launching and landing from Lark Hill Sportsplex
   - 4.15 Proposed Place of Worship, Office and Community Use (Salvation Army) – Lot 447 (No.5) Willmott Drive, Cooloongup

### Planning and Development Directorate

1. Planning and Development Directorate Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Rockingham Primary Centre Centre Plan Implementation (LUP/137-08)
   3.2 Northern Waterfront Sector - Development Policy Plan and Masterplan (LUP/1617)
   3.3 Northern Smart Village Sector - Development Policy Plan and Masterplan (LUP/1595)
   3.4 Campus Sector - Development Policy Plan and Masterplan (LUP/1618)
   3.5 Eastern Sector - Development Policy Plan and Masterplan (LUP/1619)
   3.6 Keralup
   3.7 Karnup Station Transit Oriented Development

Committee Recommendation

That Councillors acknowledge having read the Planning Services Information Bulletin – December 2013 and the content be accepted.

Committee Voting – 5/0

Engineering and Parks Services Information Bulletin – December 2013

Engineering Services
1. Engineering Services Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   4.1 Delegated Authority for approval of Directional Signage
   4.2 Delegated Authority for Thoroughfare Closures
   4.3 Local Area Traffic Management and Road Safety Design Projects 2013/201
   4.4 Delegated Authority for approval of Engineering Drawings - Subdivisions
   4.5 Delegated Authority for acceptance of As-Constructed Engineering Drawings - Subdivisions
   4.6 Delegated Authority to approve the release of Bonds for private subdivisional works
   4.7 Handover of Subdivisional Roads
   4.8 Delegated Authority for the payment of Crossover Subsidies
   4.9 Mundijong Road Extension Project

Engineering Operations
1. Engineering Operations Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   4.1 Road Construction Program Municipal Works 2013/2014
   4.2 Road Renewal Program Municipal Works 2013/2014
   4.3 Road Resurfacing Program Municipal Works 2013/2014
   4.4 Drainage Program Municipal Works 2013/2014
   4.5 Footpath Construction Program Municipal Works 2013/2014
   4.6 Road Maintenance Program 2013/2014
   4.7 Passenger Vehicle Fleet Program 2013/2014
   4.8 Light Commercial Vehicles Program 2013/2014
   4.9 Heavy Plant Program 2013/2014

Parks Development
1. Parks Development Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Golden Bay Shared Use Oval
   3.2 Mornington Reserve Development
   3.3 Lake Richmond Boardwalk
   3.4 Warnbro Sound Avenue - Bakewell to Port Kennedy Drive Irrigation Project
   3.5 Warnbro Recreation Ground Irrigation Upgrade
   3.6 Rae Road Streetscape Project - Read to Seabrooke Avenue
   3.7 Dixon Road Management Plan Review
   3.8 Tramway Management Plan Review

4. Information Items
   4.1 Groundwater Monitoring
   4.2 Mundijong Road Environmental Offsets
   4.3 Climate Change Mitigation
   4.4 Lake Richmond Heritage Listing
   4.5 Delegated Subdivision Public Open Space Practical Completion
   4.6 Delegated Subdivision Public Open Space Handovers
   4.7 Delegated Public Open Space Approvals
   4.8 Memorial Seat Approvals

Parks Operations
1. Parks Operation Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Hourglass Reserve replacement of long jump running track
   3.2 Stan Twight Reserve replacement of netting to turf cricket practice nets
   3.3 Waterfront Village porous paving to tree surrounds
   3.4 Play Equipment replacement
   3.5 Anniversary Park AFL Boundary Fence replacement

4. Information Items
   4.1 Parks Maintenance Program 2013/2014

Asset Management
1. Asset Management Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Road condition inspection and modelling
   3.2 Footpath Condition Audit
4. Information Items
   4.1 Asset Management Improvement Strategy
   4.2 Asset Systems Management

Building Maintenance
1. Building Maintenance Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Asbestos condition audit
4. Information Items
   4.1 Building Maintenance
   4.2 Graffiti Removal

Procurement and Capital Projects
1. Procurement and Capital Projects Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Coastal Management Consultants (Sand Drift/Erosion Problems)
   3.2 Coastal Infrastructure Facilities Consultant (Jetties/Boat Ramp Planning)
| 3.3 Lighting Consultants (Technical Planning/Design, Underground Power Program) |
| 3.4 Major Project Property Development Planning (Design Modifications/Tender Planning/Structural Testing) |

4. Information Items

4.1 Delegated Written Notification of Successful Tenders
4.2 Delegated Approval of Tenders by CEO
4.3 Delegated Release of Retention/Bank Guarantees
4.4 Proposed Shoalwater North Underground Power Project
4.5 2013 Public Area Lighting and Arterial Lighting
4.6 Lark Hill Wind Turbine
4.7 Bent Street Boat Launching Facility – Proposed Navigation Channel
4.8 Aqua Jetty – Replace/Upgrade HVAC Services
4.9 Bell Park Toilet – Replacement including Curfew Lockout System
4.10 Baldivis Library and Community Centre – Design
4.11 Challenger Court Electrical System Upgrade
4.12 Secret Harbour Surf Life Saving Club – Renovation
4.13 Val Street Jetty Design
4.14 Point Peron Geotextile Sand Container Construction (C12/13-74)
4.15 Administration Building Fire System Upgrade
4.16 Settlers Hill Toilet Installation (Grice Reserve)
4.17 Mike Barnett Sporting Complex Roof Replacement
4.18 Administration Building Upgrade of BMS
4.19 Rockingham Museum Roof Tiles Replacement
4.20 Currie Street Reserve Sports Floodlighting
4.21 City Centre Infrastructure Works Car Park Designs and Construction
4.22 Administration Building Foyer Acoustic Panelling
4.23 Aquatic Centre – Renovation Works
4.24 Anniversary Park Change Rooms

Waste and Landfill Services

1. Waste and Landfill Services Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items

4.1 Waste kerbside collection
4.2 240 litre recycling bin service
4.3 240 litre bin recycling participation statistics
4.4 Destroyed and stolen refuse bins
4.5 Landfill statistics
4.6 Education and promotion
4.7 T13/14-30 Construction of Landfill Cell 14 and associated works at the Millar Road Landfill Facility, Baldivis

**Committee Recommendation**

That Councillors acknowledge having read the Engineering and Parks Services Information Bulletin – December 2013 and the content be accepted.

Committee Voting – 5/0

4.19pm - Mr Richard Rodgers, Manager Building Services and Mr Rod Fielding, Manager Health Services left the Planning and Engineering Services Committee meeting.
### Agenda Items

**Planning and Development Services**

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<th>Reference No &amp; Subject:</th>
<th>PDS-011/13 Proposed Structure Plan – Adoption</th>
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<tbody>
<tr>
<td>File No:</td>
<td>LUP/1412-02</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Allerding &amp; Associates</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Jeff Bradbury, Coordinator Strategic Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr John-Paul MacDonagh, Planning Officer</td>
</tr>
<tr>
<td></td>
<td>Mr Brett Ashby, Manager Strategic Planning and Environment</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>2 December 2013</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td>September 2012 (SPE-21/12)</td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Legislative</td>
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<tr>
<td>Site:</td>
<td>Lot 311 Fifty Road, Baldivis</td>
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<td>Lot Area:</td>
<td>15.1150ha</td>
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<td>Development</td>
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<td>MRS Zoning:</td>
<td>Urban and Other Regional Road</td>
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<td>3. Location of Advertising</td>
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<td>4. Modified Structure Plan following Advertising</td>
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**Purpose of Report**

To consider a Proposed Structure Plan over Lot 311 Fifty Road, Baldivis, following the completion of public advertising.
Background

At its Meeting held in September 2012, the Council resolved to approve advertising the Proposed Structure Plan.

It was noted that the following matters would be considered in further detail during the advertising period:

- The detailed assessment of the Traffic Report;
- The detailed assessment of the revised Local Water Management Strategy;
- The detailed assessment of the Bush Fire Hazard Assessment;
- The redesign of a residential block adjacent to Fifty Road to comply with Liveable Neighbourhoods;
- The length of a laneway and its laneway treatments against the requirements of Liveable Neighbourhoods;
- The identified discrepancies with the proposed Structure Plan over the adjoining landholding; and
- The submission of a Public Open Space schedule prepared in accordance with Liveable Neighbourhoods.

1. Location Plan
2. Advertised Structure Plan

**Details**

The advertised Structure Plan incorporated the following elements (refer to Figure 2):

- Approximately 166 Single Residential lots ranging in density from R20 to R30;
- An R40 site with the potential to create 26 dwelling units;
- A 2040m$^2$ Commercial site;
- Two Public Open Space sites of 1.23ha and 2,800m$^2$; and
- A Drainage Reserve of 340m$^2$.

**Implications to Consider**

**a. Consultation with the Community**

**Advertising Methodology**

The Proposed Structure Plan was advertised for a period of 28 days, commencing on 12 October 2012 and concluding on 9 November 2012. Public advertising was carried out in the following manner:

- Nearby owners and occupiers (approximately 190 referrals as shown on Figure 3), government agencies/serving authorities and the Baldivis Residents Association were notified of the proposal in writing and invited to comment;
- The Proponent erected two (2) signs on site in prominent locations advertising the Proposed Structure Plan;
- A notice was placed in the Weekend Courier newspaper for two consecutive weeks, appearing in the newspaper on 12 and 19 October 2012; and
- Copies of the Proposed Structure Plan and relevant documents were made available for inspection at the City’s Administrative Offices and placed on the City’s website.

Advertising was undertaken in accordance with the requirements of Clause 6.3.3 of TPS2.
### Public Submissions

Following the close of the submission period, the City had received two submissions from nearby landowners and a submission from the Planning Consultant for the adjoining ‘Spires’ Structure Plan. A full copy of all submissions received during the advertising period is set out in the Schedule of Submissions (Attachment No.1 to this report). The content of each submission is summarised and addressed as follows:

<table>
<thead>
<tr>
<th>Mr Leigh and Mrs Jan Marshall – (Baldivis Fresh Eggs)</th>
</tr>
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<tbody>
<tr>
<td><strong>Submission:</strong></td>
</tr>
<tr>
<td>As the owner and resident of 392 Baldivis Road, Baldivis my property is directly across the road from the Eighty Road side of the proposed development. I have been a resident here for nearly 24 years and have operated a poultry business here for that entire time as Vysell Pty Ltd Trading as Layertech Services and Baldivis Fresh Eggs. This business has been a major contributor to this area and we currently employ 15 people and supply chickens and eggs to many people in the Rockingham Shire.</td>
</tr>
<tr>
<td>My wife and I intend to remain living here and operating our business for the foreseeable future and we are concerned that the proposed development could significantly affect our business. I believe there is an exclusion zone of 500 meters from a chicken shed to any proposed houses but on this plan houses would be inside 200 meters from my sheds.</td>
</tr>
<tr>
<td>I am not sure if the proposers of the development know there is a chicken farm over the road or they assumed like many do that we would be moving.</td>
</tr>
<tr>
<td>We realize that development is going to take place but there should be consultation with us given the impact it will have on our business. Such things as locating the proposed park on Eighty Road opposite our property would possibly provide an adequate buffer from any disruption to my home and business.</td>
</tr>
<tr>
<td>It also is very disappointing to see another development with very small block size and there are too many residences in this sized area.</td>
</tr>
<tr>
<td>I note on the plan that in the park areas existing vegetation is to be retained where possible. This would be in stark contrast to other developments in Baldivis where there has been total degradation of Tuart and Marri trees and habitat for the large number of native birds. My wife, Jan has engaged in a planting programme of local plants and I have observed 35 different species of native birds on our farm. We have Blue Wrens, Striated Pardelotes, Honey Eaters, Robins and many other breeding here. To keep these birds in the area will provide considerable interest and enjoyment to all the residents.</td>
</tr>
<tr>
<td>We would like the development to be sensitive to our needs as residents and operators of a business as well as to the local flora and fauna that make Baldivis such a unique area.</td>
</tr>
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</table>
City's comment:
An Odour Impact Assessment and Dispersion Modelling Study has been prepared for the egg layer and hatchery farm. The modelling provided in the Study demonstrates the operation of the farm would not adversely impact upon the subject site. In this regard, the application of an odour buffer onto the proposed Structure Plan is not required.

The City supports the preservation of remnant vegetation wherever possible and notes that the proposed 1.23ha POS area provides the best opportunity to achieve this objective.

It should also be noted that the Proponent has a responsibility under the *Environmental Protection and Biodiversity Conservation Act 1999* to refer the proposal to the Commonwealth Department of Sustainability, Environment, Water Population and Communities for assessment. This assessment is intended to determine whether the proposal has the potential to have a significant impact on a matter of national environmental significance. For example, the habitat of Carnaby’s Black Cockatoo.

<table>
<thead>
<tr>
<th>Mr Tyron Aldrick - 10 Monger Road, Baldivis</th>
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<tr>
<td>Submission:</td>
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<tr>
<td>Enjoys the rural/country feel that Baldivis has to offer. It would be good to see this new development fit in with the local aesthetics and wildlife and not the local environment fit in with the development. Hopes minimal impact to the environment and wildlife will be a high priority as Kookaburras, Red Tailed Black Cockatoos and King Parrots are all present.</td>
</tr>
<tr>
<td>City's comment:</td>
</tr>
<tr>
<td>The subject land is zoned for urban purposes and the Proposed Structure Plan provides for residential and commercial land uses consistent with this zoning.</td>
</tr>
<tr>
<td>The City supports the preservation of remnant vegetation wherever possible and notes that the proposed 1.23ha Public Open Space (POS) area provides the best opportunity to achieve this objective.</td>
</tr>
<tr>
<td>It should also be noted that the Proponent has a responsibility under the <em>Environmental Protection and Biodiversity Conservation Act 1999</em> (EPBC Act) to refer the proposal to the Commonwealth Department of Sustainability, Environment, Water Population and Communities for assessment. This assessment is intended to determine whether the proposal has the potential to have a significant impact on a matter of national environmental significance. For example, the habitat of Carnaby’s Black Cockatoo.</td>
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<thead>
<tr>
<th>Development Planning Strategies (on behalf of the Spatial Property Group, Developer of the adjoining ‘Spies’ Structure Plan)</th>
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<tr>
<td>Submission:</td>
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<tr>
<td>The proposed land uses and general configuration of the Structure Plan is supported. It is noted that the commercial area that was to abut Fifty Road on Lot 312 Fifty Road is to be relocated to front Nairn Drive which has been discussed with the City and forms part of the Spires Structure Plan proposal.</td>
</tr>
<tr>
<td>The road network of the Spires Structure Plan matches the proposed road configuration points for Lot 311 Fifty Road.</td>
</tr>
<tr>
<td>The roundabout proposed on Nairn Drive is supported provided that a left-in left-out access point is permitted at the commercial site as proposed by the Spires Structure Plan. This access is required to make commercial development viable and has been the subject of discussions with both the City and Main Roads.</td>
</tr>
<tr>
<td>The Controlled Access Point (CAP)/service road proposed on Eighty Road, where it abuts Lot 312 is requested to be extended southward, with the Spires Structure Plan to be modified to remove the open space in this area and proposed residential lots.</td>
</tr>
</tbody>
</table>
Proponent's Response:
We refer to the relocation of the commercial area identified under the District Structure Plan (DSP) from Fifty Road to Nairn Road. Given this relocation is on the adjacent property, we are prepared to relocate the commercial land on Lot 311 to front Nairn Road, adjacent to the commercial zoned land under the draft Spires Estate Local Structure Plan.

We note the comment that the roundabout on Nairn Road within our structure plan is supported by this landowner, however, given the City and Main Roads have advised that they do not support the location of this roundabout, it has been deleted and left in and left out access to Nairn Road is provided in lieu of the roundabout.

We understand that the City engineering officers are supportive of this approach following our discussion.

We also note the request that the CAP/service road on Eighty Road is to extend southwards. A redesign of the subdivision in this location has been undertaken to address this matter.

City's comment:
The deletion of the proposed roundabout in favour of a left-in left-out arrangement addresses a concern raised by Main Roads WA and is supported.

The southern extension of the proposed CAP/service is supported as it will ensure that lots front Eighty Road (rather than having side or rear fencing fronting the road).

b. Consultation with Government Agencies
As mentioned above, relevant government agencies and servicing authorities were notified of the proposal in writing and invited to comment pursuant to Clause 4.2.6.5(b)(ii) of TPS2. In this regard, the City invited comments from the following agencies:-

- Alinta Gas
- Department of Education
- Department of Environment and Conservation
- Department of Health
- Department of Aboriginal Affairs
- Department of Water
- Department of Planning
- Department of Fire and Emergency Services
- Public Transport Authority
- Main Roads WA
- Telstra
- Water Corporation
- Western Power

The following matters were raised by servicing authorities:-

Main Roads WA

Submission:
It is the opinion of Main Roads that the proposed roundabout on Nairn Drive is too close to the four way intersection of Nairn Drive and Fifty Road given the intent of Nairn Drive to be a major north/south road.

Proponent's Response:
We note the comment from Main Roads in regard to proposed roundabout on Nairn Road. We note that Main Roads have no roads under their jurisdiction, so it is not clear on what basis the Council sought and considered comment from this agency.
When the structure plan was originally submitted a roundabout was not proposed in this location. However we refer to the City’s correspondence in December 2010 which states:

“A road connection from Nairn Drive to the eastern cell should be provided to ensure an appropriate level of permeability. A roundabout adjacent to the proposed western connection, forming a four way intersection, is preferred.”

We understood from meetings with the City’s staff that the use of a roundabout in this location to provide for permeability was the preferred option by the City. We note from the Spires Estate Local Structure Plan that traffic lights are now proposed to be provided at the intersection of Nairn Road with Fifty Road and Nairn Road with Amazon Drive.

Given the revised design of the Spires Estate Structure Plan, with the relocated commercial area and the proposed signalised intersection, we would be willing to contemplate removal of the roundabout and provide left in and left out access to Nairn Road. Preliminary verbal discussions with the City’s Engineering staff indicated that the deletion of the roundabout and use of left in and left out vehicular access to Nairn Road would be acceptable.

The Structure Plan has now been revised to include left turn in and out at this intersection.

City’s comment:
The Proposed Structure Plan was referred to Main Roads WA because traffic lights are proposed at the intersection of Nairn Drive/Amazon Drive and Nairn Drive/Fifty Road. Given that Main Roads WA is the custodian of traffic lights, any application that proposes traffic lights is referred to Main Roads WA for comment.

The deletion of the proposed roundabout in favour of a left-in left-out arrangement addresses a concern raised by Main Roads WA and is supported.

### Department of Environment and Conservation (DEC)

**Submission:**
The DEC recommends that a flora and fauna assessment consistent with Environmental Protection Authority (EPA) Guidance Statements 51 and 56 be undertaken. Similar vegetation supports feeding habitat for the threatened Carnaby’s Black Cockatoo and the site possibly contains a nesting habitat. A known Carnaby’s roosting site is located 1.5km from the site.

It is noted that proposals likely to have a significant impact on Carnaby’s cockatoo habitat are required to be referred to the Commonwealth Department of Sustainability, Environment, Water Population and Communities.

**Proponent’s Response:**
As we have stated in previous correspondence to the City, the designation of the site for Urban development under the MRS and as prescribed in more land use and layout detail under the North Baldivis District Structure Plan anticipates the land will be cleared to accommodate this development other than in portions of the identified POS and any significant trees that are capable of preservation throughout the estate.

The obligations under the EPBC Act are noted with respect to clearing of existing vegetation and as such it will be dealt with having regard to those processes. However the EPBC Act is Commonwealth legislation that we contend ought to be independent of the structure plan considerations by the City of Rockingham. Accordingly whilst we acknowledge this is a matter we will be required to address with the respective Commonwealth Authorities, it is not, however, a matter that ought to prevent the consideration of the structure plan as proposed.

We advise that the client, as previously agreed with the City, will undertake a vegetation survey over the land designated as public open space and that assessment will be undertaken in accordance with EPA Guidance and this target survey will be undertaken prior to subdivision.
We understand that the City officers are supportive of this approach following our discussion.

City’s comment:

The City supports the preservation of remnant vegetation wherever possible and notes that the proposed 1.23ha POS area provides the best opportunity to achieve this objective. The location of the 1.23ha POS is consistent with the North Baldivis District Structure Plan and the City has previously agreed with the Proponent that a vegetation survey would be required over the 1.23ha POS site prior to subdivision. The vegetation survey to include a tree hollow survey to identify trees that may be suitable for breeding of endangered species; such as Carnaby’s Black Cockatoo.

Furthermore, the Proponent has acknowledged its responsibility under the EPBC Act to refer the proposal to the Commonwealth Department of Sustainability, Environment, Water Population and Communities for assessment. This assessment is intended to determine whether the proposal has the potential to have a significant impact on a matter of national environmental significance. For example, the habitat of Carnaby’s Black Cockatoo.

Department of Water

Submission:

Generally, the Local Water Management Strategy (LWMS) is inconsistent with some requirements of the Department of Water’s Interim: Developing a Local Water Management Strategy Guideline. In this regard, the following sections are missing or incomplete:
- Some predevelopment information;
- Water sustainability initiatives;
- Pre and post development monitoring;
- Details to be determined in the future Urban Water Management Plan.

The document has not confirmed a source of non-potable water for irrigation. The objective of an LWMS is to demonstrate that land is capable of supporting the proposed land use, not identifying the irrigation supply is considered a fatal flaw.

Note: In subsequent correspondence dated 19 September 2013, the Department of Water advised that an application to take groundwater had now been submitted in respect of Lot 311 and that the Department is now satisfied with the progress of securing the non-potable water supply for the LWMS.

Proponent’s Response:

We note the comments of the Department of Water provided together with the City’s letter. We have contacted the Department of Water and have submitted a groundwater abstraction licence application with the Department of Water as this is the intended method used for irrigation of the public open space.

We have received verbal advice from the Department of Water that there is sufficient water allocation now for the provision of a bore in this location given that a licence in the area has recently been terminated. On that basis this matter should no longer be an issue.

We intend to further liaise with the Department of Water when the Structure Plan is put to the Western Australian Planning Commission in regard to the level of detail provided in the LWMS. Accordingly, we are of the view that this matter can be resolved at the state level and should not delay the Council’s consideration of the Structure Plan.
City’s comment:
The City’s initial assessment of the LWMS deemed it to be suitable for the purposes of advertising, however, the City advised the Proponent that the matter of soakage overflow into the Rockingham Lakes Regional Park required revision. Following further discussions between the City and the Proponent, this matter was clarified and no revision was required.

The points raised by the Department of Water are standard requirements which will inform the future plan of subdivision and detailed design within the Urban Water Management Plan that is required to be submitted at that stage.

It will be necessary for the LWMS to be amended to address the requirements of the Department of Water.

Recommendation: That the LWMS to be amended to address the requirements of the Department of Water.

Department of Aboriginal Affairs (DAA)

Submission:
There is one registered Aboriginal Heritage Site within Lot 311 Fifty Road, Baldivis which is registered as DAA 4323 (Gas Pipeline 2).

The DAA records show that this land has been previously surveyed; however this does not relieve the developers of their requirements under the DAA’s Due Diligence Guidelines to assess the potential impact that the development may have.

Should cultural material or a new site be discovered, there is an obligation under section 15 of the Aboriginal Heritage act 1972 to report the information to the Registrar of Aboriginal Sites.

Proponent’s Response:
Research undertaken by the Proponent has suggested that site DAA 4323 (Gas Pipeline 2) may, in fact, be located some distance from Lot 311 in the vicinity of Doghill and St Albans Road (east of the Kwinana Freeway).

In any event, the landowner is aware of its obligations under Section 15 of the Aboriginal Heritage Act 1972 and in the event that cultural material or a new site is discovered during construction work, the landowner will report this information to the Registrar of Aboriginal Sites.

City’s comment:
In view of the suggestion from the Proponent that DAA 4323 may be located remote from Lot 311, the City sought clarification on this matter from the Department of Aboriginal Affairs. In subsequent correspondence dated 12 September 2013, the Department confirmed that it is unlikely that DAA 4323 is within Lot 311 and it is now further investigating its actual location.

The Proponent’s acknowledgment of its obligations under Section 15 of the Aboriginal Heritage Act 1972 satisfies the requirements of the Department of Aboriginal Affairs.

Submissions were also received from the Department of Education, Western Power, Telstra, Fire and Emergency Services Authority, Water Corporation and the Department of Health offering no objections to the proposed Structure Plan.

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

State Planning Policies

Directions 2031

Directions 2031 and Beyond: Metropolitan Planning Beyond the Horizon ("Directions 2031") was released by the Western Australian Planning Commission (WAPC) in August 2010 as the plan to provide a vision for the future growth of the Metropolitan and Peel region. It provides a broad framework to guide detailed planning and the delivery of the various elements that provide for growth.

Directions 2031 seeks to increase the proportion of infill development to the ratio of new 'greenfield' development sites. A target of 47% infill development is sought under the Policy. As of 2009, only 30% infill development was being achieved. This Policy seeks a 50% improvement from the existing trend.

To achieve this target, the Policy sets a density target of 15 dwellings per gross urban zoned hectare of land in new development areas.

Whilst the advertised Structure Plan did not achieve the minimum density requirements of Directions 2031, it was considered that the design appropriately responded to the context of the locality and satisfied Liveable Neighbourhoods requirements.

The Proposed Structure Plan has now been modified to introduce four additional R40 sites which result in a significant increase in the density over the landholding. These R40 sites are appropriately located adjacent to POS and the Commercial site and are supported.

Liveable Neighbourhoods

Liveable Neighbourhoods has been prepared to implement the objectives of the State Planning Strategy and State Sustainability Strategy, and operates as a sustainable development control policy to guide structure planning and subdivision. The document outlines all the requirements for a new Structure Plan and the supporting documentation needed to assess such. These requirements are intended to facilitate the State Government's objective to create communities that reduce dependency on private vehicles and are more energy and land efficient.

Liveable Neighbourhoods contains eight 'elements' under which Structure Plans and subdivisions are assessed, as follows:

- Element 1 - Community Design
- Element 2 - Movement Network
- Element 3 - Lot Layout
- Element 4 - Public Parkland
- Element 5 - Urban Water Management
- Element 6 - Utilities
- Element 7 - Activity Centres and Employment
- Element 8 - Schools

Each Element has two components - 'Objectives' and 'Requirements'. Objectives describe the principal aims of each Element, and Requirements present a range of qualitative and quantitative responses to meeting the Objectives. Requirements include matters that 'should' be considered, where there is a range of design solutions, and matters that 'must' be satisfied.

The proposed densities across the Structure Plan are considered appropriate as they respond to the context of the locality and meet Liveable Neighbourhoods requirements.
Planning for Bushfire Protection Guidelines Edition 2

The WAPC’s Planning Bush Fire Protection Guidelines (Edition 2) notes in Section 2.3 – Guidance Statements for Strategic Plans, Planning Strategies, Planning Schemes, Planning Scheme Amendments and Structure Plans – that unless it is clear to the decision-making authority that the land in question is not in an area that has a moderate or extreme bush fire hazard level, any new proposals or proposals which will effect a change of land use or design resulting in the introduction of, or an intensification of development should:

- Include a bush fire hazard assessment based on the fire hazard assessment methodology and classifications set out in Appendix 1 of the Guidelines;
- Identify any bush fire hazard issues arising from that assessment; and
- Address those issues, in accordance with the general principles that underpin these guidelines, in a statement or report which demonstrates that all fire protection requirements can be achieved to the satisfaction of the WAPC.

Fire risk has been raised as a concern due to the proximity of proposed lots to heavily vegetated land to the north. Furthermore, the extent of remnant vegetation on Lot 311 presents a bush fire hazard and in this regard, the staging of development must give regard to separation distances from adjoining stages during development. Consideration must also be given to the potential fuel loads associated with remnant vegetation retained within POS parcels.

In this regard, Fire Management Plan/s are to be submitted with subdivision application/s to mitigate the risk of bushfire.

Dwellings located within 100m of an identified bush fire hazard will be required to be constructed in accordance with Australian Standard AS3959 (as amended). The construction standards are mandated at subdivision stage through the requirement to prepare a Detailed Area Plan/s. Furthermore, the imposition of a section 70A notification on Certificates of Title for lots potentially impacted by a bushfire hazard as determined by a Fire Management Plan will also be required as a condition of Subdivision Approval.

Part One of the Structure Plan Report is required to state that those lots deemed to be affected by a recognised bush fire risk are required to be subject to Detailed Area Plans (DAP’s) prepared at subdivision stage. The Part One Report will need to be amended accordingly.

The proponent has provided a Bush Fire Hazard Assessment in accordance with the Bush Fire Protection Guidelines and addresses site specific concerns. The City’s review of the Bush Fire Hazard Assessment has determined that there was sufficient information provided to guide the preparation of the Structure Plan.

**Recommendation:** That Part One of the Structure Plan Report be amended to state that those lots deemed to be affected by a recognised bush fire risk are required to be subject to Detailed Area Plans (DAP’s) prepared at subdivision stage.

Environmental Protection Guidance Statement No. 3: Separation Distances Between Industrial And Sensitive Land Uses.

This Guidance Statement provides advice and sets generic separation distances from industrial land uses to sensitive land uses.

The Guidance Statement defines ‘sensitive land uses’ as residential development, Hospitals, Nursing Homes, Child Care facilities, Shopping Centres, and Public Open Space. Some commercial, institutional and industrial land uses with higher high levels of amenity or are sensitive to particular emissions may also be considered as ‘sensitive land uses’.

The Layertech Chicken Hatchery currently operates from Lot 3 Baldivis Road which is directly opposite the Structure Plan. The potential for odour associated with this operation has been considered via an Odour Impact Assessment which has included Odour Modelling.

For a ‘Poultry Industry’, the Environmental Protection Authority’s Guidance Statement No.3 recommends a generic buffer distance between 300m and 1000m dependent upon various factors.
An Odour Impact Assessment and Dispersion Modelling Study has been prepared for the egg layer and hatchery farm. The modelling provided in the Study demonstrates the operation of the farm would not adversely impact upon the subject site. In this regard, the application of an odour buffer onto the proposed Structure Plan is not required.

State Planning Policy No.2 - Environment and Natural Resources Policy (2006)

In recognition of the demands and pressures on the natural environment, this planning policy was introduced to guide co-ordinated decision making to ensure the environment was appropriately considered in planning decisions.

The objectives of this Policy are:
- Integrate environment and natural resource management with broader land use planning and decision-making;
- Protect, conserve and enhance the natural environment; and
- Promote and assist in the wise and sustainable use and management of natural resources.

Council’s Local Biodiversity Strategy encourages the retention of native vegetation in future urban areas. This is supported in Element 4, R3 of Liveable Neighbourhoods which notes that public parkland should provide a balance between conservation and active and passive recreational uses in district, neighbourhood and local open space.

There is the potential to conserve existing vegetation within the proposed 1.23ha POS in accordance with Liveable Neighbourhoods and State Planning Policy No.2 – Environment and Natural Resources.

Local Planning Policies

Planning Policy 3.4.1 - Public Open Space

Planning Policy 3.4.1 - Public Open Space provides guidance regarding the location and design of public open space within the City. The objectives of the policy are:
- To ensure that all residential development is complemented by well located areas of public open space that provide for the recreational and social needs of the community.
- To ensure that Public Open Space is designed, developed and maintained to an acceptable standard to enhance local amenity.

The 1.23ha POS has been located in accordance with the North Baldivis District Structure Plan. It is of sufficient size to provide for the retention of some remnant vegetation and achieves a balance between providing space for active and passive recreation.

Planning Policy 6.3 - Local Commercial Strategy

Planning Policy 6.3 - Local Commercial Strategy (LCS) provides guidance for the distribution and hierarchy of employment centres within the District.

Part 2.4.4 of the Strategy identifies two Neighbourhood Centres for the Northern Baldivis component of the precinct. One of these centres was identified as being on the corner of Nairn Drive and Fifty Road.

The Spires Structure Plan proposed a variation to the Baldivis North District Structure Plan by relocating the designated Neighbourhood Centre from the intersection of Fifty Road and Nairn Drive, to the intersection of Nairn Drive and Amazon Drive (adjacent to the southern boundary of Lot 311). The revised location of the Neighbourhood Centre was supported by the Council when it considered the Spires Structure Plan in June 2013.

The advertised Structure Plan proposed a 2,040m² commercial site fronting Fifty Road, adjacent to the original Neighbourhood Centre site. Given that the Neighbourhood Centre has now been relocated to the intersection of Nairn Drive and Amazon Drive, the Proposed Structure Plan has been modified to locate the proposed 2,040m² commercial site abutting the northern boundary of the proposed Neighbourhood Centre site. The revised location is supported.

e. Financial

Nil
f. **Legal and Statutory**

In accordance with Clause 4.2.6.7 of TPS2, the Council is required to consider all submissions received within 60 days following the advertising period for a Proposed Structure Plan and resolve to either: -

(i) Adopt the Proposed Structure Plan with or without modifications; or

(ii) Refuse to adopt the Proposed Structure Plan and give reasons for this to the Proponent

Determination of a Proposed Structure Plan ultimately rests with the WAPC, notwithstanding the Council's resolution. Pursuant to Clause 4.2.6.9, the Council within 21 days of making its determination under Clause 4.2.6.7, is required to forward to the Commission:

(i) A summary of all submissions and comments received by the Council in respect to the of the Proposed Structure Plan, and the Council's decisions or comments in relation to these;

(ii) The Council's recommendation to the Commission to approve, modify or refuse to approve the Proposed Structure Plan; and

(iii) Any information the Council considers may be relevant to the Commission's consideration of the Proposed Structure Plan.

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**Comments**

**a. Matters Considered During Advertising**

The following matters were required to be considered in further detail during the advertising period:

- Assessment of the Traffic Report;
- Assessment of the revised Local Water Management Strategy;
- Assessment of the Bush Fire Hazard Assessment;
- The redesign of a residential block adjacent to Fifty Road to comply with *Liveable Neighbourhoods*;
- The length of a laneway and its laneway treatments against the requirements of *Liveable Neighbourhoods*;
- The identified discrepancies with the proposed Structure Plan over the adjoining landholding; and
- The submission of a Public Open Space schedule prepared in accordance with *Liveable Neighbourhoods*.

**Traffic Report**

As a result of the City's assessment, the Traffic Report was required to be amended to address the following matters:

- Traffic modelling was required to check the validity of the proposed road reserve widths under *Liveable Neighbourhoods*;
- Clarification was required regarding the anticipated traffic volumes for Fifty Road;
- The report was required to show the widening of Fifty Road to bring the road reserve widths up to *Liveable Neighbourhoods* requirements;
- The 4m wide Public Access Way (PAW) did not meet the minimum 8m width required by WAPC Policy 2.6 – Residential Road Planning; and
- The network of paths to be expanded to enable paths to be provided on one side of all roads, including Fifty Road, in accordance with *Liveable Neighbourhoods*. 
Proponent’s Response:
In regard to the City’s comments, the structure plan report has been updated in order to address this information. In summary, the following responses are provided:

- The road reserve widths are identified in the structure plan report and these have been reviewed and meet the requirements of Liveable Neighbourhoods.
- Comments about the anticipated traffic volumes and proposed widening of Fifty Road are noted. Whilst the Council report from September 2012 regarding this structure plan did not expressly identify the road widening to Fifty Road (nor identified on the District Structure Plan), subject to further discussions with the Engineering staff confirming the road widening requirement, the structure plan has been modified to provide for the widening of Fifty Road and the plan modified to identify a dual use path along the Fifty Road reserve and Nairn Road.
- The 4m wide PAW has been deleted and a new PAW provided providing access direct through to Fifty Road, near to the school is now proposed.
- The structure plan has been revised to provide a network of paths in accordance with Liveable Neighbourhoods.

City’s comment:
It is considered that the updated Structure Plan and Traffic Report have addressed the matters raised by the City.

Local Water Management Strategy
The City’s initial assessment of the LWMS deemed it to be suitable for the purposes of advertising, however, the City advised the Proponent that the matter of soakage overflow into the Rockingham Lakes Regional Park required revision. Following further discussions between the City and the Proponent, this matter was clarified and no revision was required.

The points raised by the Department of Water are standard requirements which will inform the future plan of subdivision and detailed design within the Urban Water Management Plan that is required to be submitted at that stage.

It will be necessary for the LWMS to be amended to address the requirements of the Department of Water.

Bushfire Hazard Assessment
The City’s review of the Bush Fire Hazard Assessment has determined that there was sufficient information provided to guide the preparation of the Structure Plan.

Liveable Neighbourhoods
The residential block adjacent to Fifty Road has been redesigned to include to a PAW located mid-block to provide pedestrian access to the Baldivis Primary School. This revision also addresses the concern regarding the length of the laneway, satisfies the requirements of Liveable Neighbourhoods and is supported.

The Structure Plan has been redesigned to remove lots with sole laneway access and the identified discrepancies with the adjoining Spires Structure Plan have been addressed.

Public Open Space
The westernmost north-south road was redesigned to ensure consistency with the adjoining ‘Spires’ Structure Plan. The redesign required the road to connect with the road proposed along the western boundary of the Neighbourhood Centre site to provide a local through connection from Amazon Drive to Fifty Road.
This revision required a redesign of the 2,800m$^2$ POS proposed in the south-west corner of Lot 311. The result of this redesign is that the POS has been reduced to 1,049m$^2$, of which 560m$^2$ is required for a strategic drainage function. No objections are raised to the reduced area of POS remaining in this location, however, no credit will be given for the site in the POS Schedule as its usability is compromised by the drainage function.

To compensate for this loss of POS in the south-west corner of Lot 311, the 380m$^2$ POS/Drainage Reserve in the north-west corner of Lot 311 has been increased to 1,038m$^2$. The boundaries of this POS marry in with a 1,326m$^2$ area of POS on the ‘Spires’ Structure Plan to provide a consolidated area of 2,364m$^2$ which is acceptable.

Notwithstanding the revisions referred to above, the revised Structure Plan still achieves the 10% POS requirement. In this regard, a revised POS schedule has been submitted which satisfies the requirements of Liveable Neighbourhoods.

b. Revised Structure Plan

The matters required to be considered during the advertising period necessitated that the advertised Structure Plan be subject to a number of minor modifications. Further modifications were required to ensure consistency with the adopted Spires Structure Plan and as stated earlier, several additional R40 sites have been included.

The revised Structure Plan incorporates the following elements (refer to Figure 4 and Attachment 2):
- Single Residential lots ranging in density from R20 to R30;
- Five R40 sites ranging in size from 1,267m$^2$ to 5,712m$^2$;
- A 2040m$^2$ Commercial site; and
- Three Public Open Space sites of 1.23ha, 1,049m$^2$ and 1,038m$^2$. 

4. Modified Structure Plan following Advertising
c. **Modifications Recommended to WAPC**

In light of the response to submissions and Structure Plan assessment provided above, it is recommended that the Council adopt the revised Structure Plan, subject to the following modifications:

- the Proposed Structure Plan being modified to address the matters raised by Department of Water with respect to the LWMS; and
- Part One of the Structure Plan Report being amended to state that those lots deemed to be affected by a recognised bush fire risk are required to be subject to Detailed Area Plans prepared at subdivision stage.

**d. Matters to be Addressed as a Condition of Subdivision Approval**

It is the City’s expectation that the following general matters will be addressed at subdivision stage:

(i) That any subdivision application/s contain the following Reports:

- A Fire Management Plan to mitigate the risk of bush fire;
- An Urban Water Management Plan;
- A Vegetation Survey; and
- A Geotechnical Assessment Report.

(ii) A condition of Subdivision Approval requiring the imposition of a section 70A notification on Certificates of Title for lots potentially impacted by a bushfire hazard as determined by a Fire Management Plan.

(iii) The management of acid sulphate soils.

(iv) The construction of Nairn Drive within the Structure Plan area.

(v) Arrangements being made with the City for the upgrading and/or construction of Fifty Road where it is adjacent to or connecting with the development.

(vi) The installation of traffic signals at the intersection of Nairn Drive and Fifty Road by the Proponent.

(vii) Detailed Area Plan/s being prepared and approved for the development which address the following matters:

- Lots with rear-loaded vehicle access;
- Lots with direct boundary frontage (primary or secondary) to an area of Public Open Space; and/or
- Lots deemed to be affected by a recognised Bushfire Risk.

(viii) Measures being undertaken for the identification and protection of any vegetation on the site worthy of retention prior to commencement of site works.

## Voting Requirements

**Simple Majority**

## Officer Recommendation

That Council **ADOPT** the Proposed Structure Plan for Lot 311 Fifty Road, Baldivis, subject to the following modifications:

1. The Proposed Structure Plan being modified to address the matters raised by the Department of Water regarding the Local Water Management Strategy.

2. Part One of the Structure Plan Report being amended to state that those lots deemed to be affected by a recognised bush fire risk are required to be subject to Detailed Area Plans prepared at subdivision stage.
**Committee Recommendation**

That Council *ADOPT* the Proposed Structure Plan for Lot 311 Fifty Road, Baldivis, subject to the following modifications:-

1. The Proposed Structure Plan being modified to address the matters raised by the Department of Water regarding the Local Water Management Strategy.

2. Part One of the Structure Plan Report being amended to state that those lots deemed to be affected by a recognised bush fire risk are required to be subject to Detailed Area Plans prepared at subdivision stage.

Committee Voting – 5/0

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

Not Applicable

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

Not Applicable
Planning and Development Services
Strategic Planning and Environment Services

Reference No & Subject: PDS-012/13 Nomination for Local Government Representation on the Peel-Harvey Catchment Council

File No: EVM/48
Proponent/s: Ms Katherine Callaway, A/Co-ordinator Strategic Planning and Environment
Author: Mr Brett Ashby, Manager Strategic Planning and Environment
Other Contributors:
Date of Committee Meeting: 2 December 2013
Previously before Council: December 2011 (SPE-037/11)
Disclosure of Interest: Executive
Nature of Council’s Role in this Matter:
Site: Lot Area: LA Zoning: MRS Zoning: Attachments: Maps/Diagrams:

Purpose of Report
To consider the nomination for Local Government representation on the Peel-Harvey Catchment Council.

Background
The Peel-Harvey Catchment Council (PHCC) is an incorporated, not-for-profit, community based Natural Resource Management (NRM) organisation, that promotes an integrated approach to catchment management and the way the environment is protected and restored within the Peel-Harvey Catchment.

With a strong emphasis on partnerships, the PHCC works with landholders, community groups, industry, the Australian Government, Government of Western Australia and Local Governments to affect change ‘on-ground’ and in environmental management.

PHCC activities address sustainable NRM including climate change, river and wetland restoration, biodiversity protection, sustainable agriculture and building community capacity. The past ecological collapse of the Peel-Harvey Estuarine System demands a continued emphasis on water quality issues.
The PHCC board membership is comprised of between 7 to 10 community members, 2 Local Government representatives and representatives of the Departments of Agriculture and Food, Department of Planning, Department of Environment and Regulation, Department of Water, and the Peel Development Commission. The PHCC board is skills based, with members selected by an independent panel based on their experience and understanding of NRM.

There are two seats on the PHCC for members representing Local Government. One seat represents the Local Governments covering the coastal catchment and one to represent Local Governments covering the inland catchment.

In 2011, the Council nominated Cr Richard Smith to represent the Local Governments covering all coastal governments within the Peel-Harvey Catchment and he was elected for a two year term, ending in October 2013. The nomination was subsequently accepted by the PHCC.

**Details**

The PHCC has again invited the City to nominate one of its Elected Members to the PHCC, as a Member or Deputy Member, representing all coastal governments within the Peel-Harvey Catchment.

The successful nominee would attend formal PHCC meetings a minimum of six times a year, with travel costs for meetings being reimbursed by the PHCC. Members are also expected to be active ambassadors and contribute beyond general meeting attendance, on behalf of all coastal Councils. The successful applicant would be provided clarity as to these expectations via an induction process and mentoring.

The majority of meetings are open to the public and members of the community are encouraged to attend. The meetings include briefings on relevant NRM initiatives from industry and from state government agencies.

Nominations must be in writing setting out the reasons for nominating and the knowledge and experience in relation to NRM, Local Government, board governance, strategic planning and/or any other relevant skills that the nominee can bring to the PHCC.

Nominations must be received by Friday, 13 December 2013.

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

d. **Policy**
   
   Nil

e. **Financial**
   
   Nil

f. **Legal and Statutory**
   
   Nil

**Comments**

There are a number of advantages in participating in the PHCC such as:
• providing strategic direction for NRM within catchment;
• identification of resource opportunities for environmental improvement of the catchment and for organisations who undertake this role;
• supporting communication and information sharing to improve the coordination of NRM activities within the catchment; and
• co-ordination of the efficient allocation of resources for NRM across the catchment.

## Voting Requirements

Simple Majority

### Officer Recommendation

That Council *NOMINATE* Cr __________ as a Local Government representative to the board of the Peel Harvey Catchment Council.

### Committee Recommendation

That Council *NOMINATE* Cr Richard Smith as a Local Government representative to the board of the Peel Harvey Catchment Council.

Committee Voting – 5/0

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

Not Applicable

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

Not Applicable
## Planning and Development Services
### Statutory Planning Services

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<tr>
<th>Reference No &amp; Subject:</th>
<th>PDS-013/13 Proposed Multiple Dwelling Development</th>
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<tr>
<td>File No:</td>
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<tr>
<td>Proponent/s:</td>
<td>MacDonald Jones Architects acting for Rockingham Waterfront Village Pty Ltd (Owner)</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Regan Travers, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
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<tr>
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<td>2 December 2013</td>
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<td>Previously before Council:</td>
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<td>Disclosure of Interest:</td>
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<td>Nature of Council’s Role in this Matter:</td>
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<td>Attachments:</td>
<td>Responsible Authority Report</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
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<td></td>
<td>2. Perspective view of 2008 Planning Approval</td>
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<td>3. Perspective view of 2010 Planning Approval</td>
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<td>4. Perspective view of 2012 Planning Approval</td>
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<td>5. 2012 Planning Approval</td>
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<td>6. 2013 Planning Application</td>
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<td>7. Ground Floor Plan</td>
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<td>9. Second Floor Plan</td>
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<td>10. Flinders Lane Elevation</td>
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<td></td>
<td>11. Flinders Lane view north</td>
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<td></td>
<td>12. Emma Street view north-east (subject site to left of photo)</td>
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<tr>
<td></td>
<td>13. Flinders Lane Residential Development (east of subject site)</td>
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<tr>
<td></td>
<td>14. Empress Corner Residential Development (opposite subject site)</td>
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<td></td>
<td>15. Emma Street Elevation (with street fence detail)</td>
</tr>
<tr>
<td></td>
<td>16. Empress Corner Elevation</td>
</tr>
<tr>
<td></td>
<td>17. Empress Corner view north-west (subject site to left of photo)</td>
</tr>
</tbody>
</table>
1. Location Plan

**Purpose of Report**

To provide recommendations to the Metro South West Joint Development Assessment Panel (SWJDAP) on an application for a Development Assessment Panel (DAP) determination in relation to a six storey Multiple Dwelling development.

**Background**

Since 2008, the City has considered three Residential and Mixed Use developments on the subject site. The following is a summary of these proposals, none of which have proceeded to construction.

In December 2008, the City issued Planning Approval for a Mixed Use development comprising 57 Multiple Dwellings and a Shop on the subject site, with three storey buildings adjacent to the north-west, south-west and south-east frontages and a five storey building adjacent to the north-east frontage.
In December 2010, the City issued Planning Approval for 114 Multiple Dwellings. The development included an eight storey building in the northwest side of the site and a five storey building in the southeast side. The Planning Approval has since expired.

In September 2012, the City received an application seeking Planning Approval for 48 Short Stay accommodation units in a six storey building (Quest Apartments), located on the northwest half of the site.
4. Perspective View of 2012 Planning Approval (Quest Apartments), as viewed from Flinders Lane

The development site of the 2012 proposal was 2,748m² in area.

5. 2012 Planning Approval (Quest Apartments)

The 2012 application was determined on the 4th October 2012 at the Metro South-West Joint Development Assessment Panel and remains a valid Planning Approval.

In October 2012 the Western Australian Planning Commission (WAPC) granted conditional approval for a ‘Green Title’ subdivision creating 2 lots over the western and eastern portions of the subject site reflecting the 2012 Planning Approval. Subdivision has not yet proceeded. The land is still retained as a single lot with an area of 5,638m².
Details

The Proponent seeks Planning Approval for a six storey Multiple Dwelling development comprising:
- 76 residential apartments (29 single bedroom, 47 two bedroom);
- 77 car parking bays in a deck layout;
- Vehicle access from Empress Corner; and
- Lobby entrance from Flinders Lane and Empress Corner.

6. 2013 Planning Application
7. Ground Floor Plan
8. First Floor Plan
9. Second Floor Plan

Floors three to five feature the same layout as the second floor.
10. Flinders Lane Elevation
11. Flinders Lane view north

12. Emma Street view north-east (subject site to left of photo)
13. Flinders Lane Residential Development - east of subject site

14. Empress Corner Residential Development (opposite subject site)
15. Emma Street Elevation (With street fence detail)
16. Empress Corner Elevation
17. Empress Corner view north-west (subject site to left of photo)
18. Elevation to adjoining ‘Quest’ Apartment site
Implications to Consider

a. **Consultation with the Community**

Clause 6.3.3 of Town Planning Scheme No.2 (TPS2) and Planning Procedure 1.3 – Community Consultation sets out that when an application for planning approval to use or carry out development involves a ‘D’ use, or for any other development, the Council may give notice of the application in accordance with clause 6.3.3.

The City does not consider that public consultation is required because the site is zoned Primary Centre Waterfront Village and the development and land use proposed is similar to previous Planning Approvals.

b. **Consultation with Government Agencies**

Nil

c. **Strategic**

**Community Plan**

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

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

d. **Policy**

**State Planning Policy 3.1, Residential Design Codes (R-Codes)**

The proposal complies with the R-Code requirements that relate to Multiple Dwelling development on Primary Centre Waterfront Village zoned land, where a default code of R-AC0 applies. TPS2 does not allocate a density code to the Primary Centre Waterfront Village zone and in this respect the R-Codes provide that residential elements of Multiple Dwelling development within non-R-Coded land is to be assessed against the R-AC0 provisions.

**Planning Policy 3.2.5, Development Policy Plan – Waterfront Village Sector**

The subject site is zoned ‘Primary Centre Waterfront Village’ under TPS2.

The proposed development generally complies with the TPS2 and PP3.2.5 objectives, however, the front building setbacks and ground floor transparency on Emma Street and Empress Corner do not comply with PP3.2.5.

**Street Frontage**

The general objective of PP3.2.5 for street frontage is for buildings to be located, configured and activated to frame and address street frontages and laneways in a way that is consistent with the Precinct Concept Plan, relevant ‘Frontage Types’ of the Policy. The subject site is designated in Figure 3.4 of PP3.2.5 requiring a “Type 3 Frontage”, which is described as a:-

“moderate level of frontage activation with a mix of small scale commercial tenancies and residential apartments at ground level and a 2 to 3 storey façade positioned behind a 2 metre, green landscaped setback. At the ground level, the facades of mixed use buildings would address the street with a commercial shopfront, primary business entrance and/or residential entry lobby that is transparent over at least 60% of the area of the façade. The ground level of Village residential units would address the street with a façade that is transparent over at least 30% of its area”.
Flinders Street:
The Flinders Street setback of 0.37m and 1.178m is considered appropriate, given that there is no building bulk imposed on adjoining or nearby sites due to being opposite a significant Public Open Space area.

Emma Street:
The Emma Street elevation includes a boundary fence with a mix of solid and visually permeable detail. No landscaping setback is provided and the solid sections of wall are not consistent with the PP3.2.5 objective of creating an activated street front.
20. Emma Street Activation

The proposed fence should be modified to include a planter box of minimum 400mm width, a height up to 1.2 metres. From 1.2 metres to 1.8 metres in height the fence must be visually permeable in accordance with the R-Codes. This achieves a landscape setback.

Empress Corner

The Empress Corner elevation does not meet the 30% transparency requirement of PP3.2.5. Mesh is proposed to be installed at ground level to ventilate the parking area but it presents to the street as a solid wall.

21. Empress Corner Activation

In order to satisfy the requirement for 30% transparency at ground level, it is recommended that the proposed ventilation mesh be replaced by screening which provides a minimum of 50% visual permeability. The modification would result in 27% ground floor transparency to Empress Corner.

Subject to Emma Street fencing and Empress Corner mesh being modified as above, the development is considered a desirable and suitable addition to the Precinct.

Planning Policy 3.3.14, Bicycle Parking and End of Trip Facilities (3.3.14)

The purpose of PP3.3.14 is to ensure the provision of appropriate bicycle parking and end-of-trip facilities for new development. The application includes a bicycle storage area on the ground floor level, which complies with the requirements for short term parking under PP3.3.13. PP3.3.13 requires 34 short term bicycle parking bays to be provided for the development.
It is recommended that four of the total short term bicycle parking spaces be provided at each entrance to the Lobby of the building to ensure that both residents and visitors short term bicycle parking needs are satisfied.

e. **Financial**

Nil

f. **Legal and Statutory**

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

TPS2 controls the permissible land uses in the Primary Centre Waterfront Village Zone. The proposed Multiple Dwellings are a ‘preferred’ use in the Primary Centre Waterfront Village Zone.

The proposal generally complies with clause 4.6.2(A) of TPS2, which requires the Council to ensure that site planning, scale, built form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality, subject to the minor street wall and fence changes discussed earlier in this report.

Clause 5.6.14 – Developer Contributions for Community Infrastructure

Clause 5.6.14 of TPS2 requires developers of residential development and subdivision to provide a financial contribution towards the development and administration of community infrastructure in the district. Upon the commencement of development, the Developer Contribution is payable to the City.

Clause 4.15.1.2 – Car parking Requirements

Pursuant to clause 4.15.1.2, where land is proposed to be developed in the Primary Centre Waterfront Village Zone, for a purpose specified in Table No.4, the minimum number of car parking bays required, and the maximum number of car parking bays allowable, for the proposed development is to be determined in accordance with Table No. 4.

The proposed development was assessed for compliance with clause 4.15.1.2 of TPS2 and the R-Codes, which requires car parking spaces to be provided as per the following table:

<table>
<thead>
<tr>
<th>Proposed Land Use</th>
<th>Bays required</th>
</tr>
</thead>
<tbody>
<tr>
<td>75 Small Multiple Dwellings (less than 75m²)</td>
<td>56.25</td>
</tr>
<tr>
<td>1 Medium size Multiple Dwelling</td>
<td>1</td>
</tr>
<tr>
<td>Visitor Bays (0.25 per Multiple Dwelling)</td>
<td>19</td>
</tr>
<tr>
<td><strong>Total Required</strong></td>
<td><strong>77</strong></td>
</tr>
</tbody>
</table>

Table 1 – Car Parking Requirements

Carparking provision is as follows:

<table>
<thead>
<tr>
<th>Car Parking Provision</th>
<th>Bays proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor car park</td>
<td>41</td>
</tr>
<tr>
<td>First Floor car park</td>
<td>36</td>
</tr>
<tr>
<td>Existing on-street car parking bays adjoining the site</td>
<td>42</td>
</tr>
<tr>
<td><strong>Total Provided</strong></td>
<td><strong>77</strong></td>
</tr>
</tbody>
</table>

Table 2 - Car Parking Provision

The proposed development complies with TPS2 car parking requirements. There are also 42 on-street car parking bays along Flinders Lane, Emma Street and Empress Corner which can be utilised by visitors.
Comments

Site Context

The site is located within the ‘Village Green’ Precinct of the Primary Centre Waterfront Village Zone, which is planned for multi-level commercial and mixed used buildings. The proposed Waterfront Village. The zoning context is illustrated in Figure 19.
23. Aerial Photo (August 2012)

24. Site Photo view north from corner Flinders Lane and Emma Street (November 2013)

**Pedestrian Access**

Pedestrian access is well provided for, to and within the site. There is an existing footpath network directly adjacent to the subject site on Flinders Lane and Emma Street, connecting to the high frequency bus route, nearby public open space and commercial tenancies along Kent Street and Rockingham Beach Road.
25. Flinders Lane Bus Stop in front of subject site

26. Flinders Lane On-Street Parking
Waste Disposal

A Bin Store has been provided for the proposed development, however, no further details as to the storage and disposal of waste have been provided. It is recommended that a condition be imposed requiring the preparation and implementation of a Waste Management Plan.

Street Verandahs

There will be a minor encroachment of the proposed building roof into the road reserve on the southern side (Flinders Lane) of the subject site. Approval for encroachments over the road reserve is required under the Local Government (Miscellaneous Provision) Act 1960, and will need to comply with the City of Rockingham’s Street Verandah Local Law 2000. The applicant should be advised of these requirements.

Conclusion:

The proposed development is generally compliant with TPS2 and City Policy requirements and is similar to previous Planning Approvals.

The proposed development is considered to meet the intent and objectives of the Village Green Precinct and the Primary Centre Waterfront Village Zone and is considered a desirable and suitable addition to the Waterfront Village.

It is recommended that the Council adopt the Responsible Authority Report, which seeks to approve the DAP application.

Voting Requirements

Simple Majority

Officer Recommendation

That Council ADOPT the Responsible Authority Report for the proposed six storey Multiple Dwelling development (76 Multiple Dwellings) at Lot 304 (No.24) Flinders Lane, Rockingham, which recommends that the Metropolitan South West Joint Development Assessment Panel approve the application seeking Planning Approval, subject to the following conditions and advice notes:

1. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.

2. Arrangements being made to the satisfaction of the City of Rockingham for the payment of a contribution towards the administration and community infrastructure items pursuant to clause 5.6.14 of the City of Rockingham Town Planning Scheme No.2, upon the commencement of development.

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

4. The street setback area and all verge areas must be landscaped and reticulated, prior to the occupation of the development and must be maintained at all times.

5. The 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 applying for a Building Permit.
   (ii) be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter; and
   (iii) have lighting installed.

The carpark must comply with the above requirements and be maintained at all times.

6. Thirty-four short term bicycle parking spaces must be designed in accordance with AS2890.3-1993, Parking facilities, Part 3: Bicycle parking facilities, prior to applying for a Building Permit. The bicycle parking facilities and end of trip facilities must be constructed prior to occupancy. Four short term bicycle parking spaces must be provided at each entrance to the Lobby.
7. Disused crossovers must be removed and the verge, footpath, kerbing and landscaping must be reinstated, prior to occupation of the development.

8. Street verandahs must be provided to Flinders Lane across the full width of the proposed building at a minimum 2.5m wide and minimum clearance of 3.2m above the footpath, with lighting being provided under the street verandah.

9. All Multiple Dwellings are approved for both permanent and Short Stay accommodation.

10. All stormwater generated by the proposed development must be designed to be contained and disposed of on-site, and certified by a hydraulic engineer, prior to applying for a Building Permit, and implemented as such in the development.

11. A Waste Management Plan must be prepared and include the following detail to the satisfaction of the City, prior to applying for a Building Permit:
   (i) the location of bin storage areas 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.
   The terms of the approved Waste Management Plan are to be observed at all times.

12. All service areas and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened, the details of which are to be provided to the City of Rockingham’s satisfaction, prior to applying for a Building Permit.

13. The development must be modified to replace the proposed car park ventilation mesh with minimum 50% visually permeable ground floor openings to Empress Corner to the satisfaction of the City.

14. Above-ground meter boxes must not be located in a street setback area at any time.

15. Entries and window frontages facing Flinders Street must not be covered, closed or screened off (including by means of shutters, curtains, blinds or roller doors or similar), to ensure that an interactive frontage is available to the development from the street, at all times.

16. Clothes drying facilities (excluding electric clothes dryers) must be designed for each Multiple Dwelling, to be screened from public view, prior to applying for a Building Permit, and implemented as such for the duration of the development.

Advice Notes

(i) This Approval relates to the details provided in the application; to undertake the development in a different manner to that stated in the application, a new application for Planning Approval must be submitted to the City of Rockingham.

(ii) The applicant is reminded of the need to obtain approval for the encroachments over the street under the Local Government (Miscellaneous Provisions) Act 1960; contact the City’s Building Services for more information. The applicant and owner should liaise with the City of Rockingham’s Building Services and the Department of Lands in this regard.

(iii) A Sign Permit under the City of Rockingham Signs, Hoardings and Bill Posting By-law must be obtained for any advertising associated with the development, including signage painted on the building; the applicant should liaise with the City’s Building Services in this regard.

Committee Recommendation

That Council ADOPT the Responsible Authority Report for the proposed six storey Multiple Dwelling development (76 Multiple Dwellings) at Lot 304 (No.24) Flinders Lane, Rockingham, which recommends that the Metropolitan South West Joint Development Assessment Panel approve the application seeking Planning Approval, subject to the following conditions and advice notes:

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Committee Voting – 5/0

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Planning and Development Services
Statutory Planning Services

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<td>LUP/401-02</td>
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<tr>
<td>Proponent/s:</td>
<td>Department of Planning</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Bob Jeans, Director Planning and Development</td>
</tr>
<tr>
<td></td>
<td>Mr John Woodhouse, Director Legal Services and General Counsel</td>
</tr>
<tr>
<td></td>
<td>Mr Brett Ashby, Manager Strategic Planning and Environment</td>
</tr>
<tr>
<td></td>
<td>Mr Peter Ricci, Project Manager - Keralup</td>
</tr>
<tr>
<td></td>
<td>Mr Jeff Bradbury, Coordinator Strategic Planning</td>
</tr>
<tr>
<td></td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
</tbody>
</table>

Date of Committee Meeting: 2 December 2013
Previously before Council: April 2009 (PD49/4/09)
Disclosure of Interest: Advocacy
Nature of Council’s Role in this Matter: Advocacy

Site:
Lot Area:
LA Zoning:
MRS Zoning:
Attachments:
Maps/Diagrams:

Purpose of Report
To consider the Council’s response to the State Government’s proposed Planning Reform Phase Two Discussion Paper, which includes review papers on the Planning and Development Act 2005 (Planning Act) and Development Assessment Panels (DAPs).

Background
In April 2009, the Council considered the ‘Building a Better Planning System’ Consultation Paper, which provided a candid ‘snapshot’ of strategic and functional matters that impact upon the planning system. It provided a framework for the Department of Planning to undertake Priority Actions. The Consultation Paper identified the principles of timeliness, efficiency, simplicity, transparency, sustainable, accountable, fairness, consistency, suitability for better planning.

The Priority Actions included:
1. Simplifying Planning Approvals
2. More Effective Planning Instruments
3. Prioritise Major Projects
4. Integrated Coordination of Infrastructure and Land Use Planning
5. A Comprehensive Regional Planning Framework
6. Strengthen Governance and Institutional Arrangements

In September 2009, the Western Australian Planning Commission (WAPC) released the document ‘Planning Makes it Happen – A blueprint for planning reform’, which was an outcome of the ‘Building a Better Planning System’ Consultation Paper. This included Strategic Priorities, Forward Work Program and implementation or reforms.

On 19 September 2013, the Minister for Planning (Minister) announced a second phase of planning reforms since ‘Planning Makes it Happen - a blueprint for planning reform’ was launched in 2009. The Minister referred to a number of planning reforms that have already been implemented, as follows:

- Draft State Planning Strategy;
- Directions 2031 and Beyond Strategy;
- Economic and Employment Lands Strategy;
- Multi-unit Housing Code;
- Development Assessment Panels;
- Review of key WAPC policies;
- Delivery of the Urban Development Program Online;
- Structure Plan Guidelines;
- Model Subdivision Conditions; and
- Section 76 process.

In February 2013, the State Government released a Report Card for planning reform to report on the achievements against ‘Planning Makes it Happen’, which identified Phase One initiatives that have largely been implemented.

The on-going Phase One Priority Projects include:
- State Planning Policy 3.6: Development Contributions for Infrastructure Review
- Model Scheme Text and Regulations Review
- Integration of Planning and Environmental Approvals (Strategic Environmental Assessment)
- Metropolitan Region Scheme Text Review
- Local Government Reporting to provide data on development applications

Planning Makes it Happen: Phase Two

The second phase of planning reforms identified in the Discussion Paper, concentrates on three common objectives being consistency, timeliness and responsiveness as key objectives. There is also recognition of the need to continue working on the Phase One reforms to provide a responsive and accountable land use planning system in Western Australia.

The key aims of Phase Two Reform are to:

1. *Embed best practice in the Western Australian Planning system at both the State and Local government level;*
2. *Ensure further streamlining of planning processes, aligning statutory outcomes with strategic framework;*
3. *Enable more integrated land use and infrastructure planning and support the timely release of development land in accordance with State Government policy objectives; and*
4. **Reinforce the State and regional strategic focus of the Western Australian Planning Commission, supported by the Department of Planning.**

The Department of Planning has released three documents that are available for public comment:

1. **Planning Reform Phase Two Discussion Paper;**
2. **Review of the Planning Act; and**
3. **Review of the Development Assessment Panels.**

**Planning Reform Phase Two Discussion Paper**

The key reforms outlined in the Planning Reform Phase Two Discussion Paper are as follows:

3.1 Review of the Metropolitan Region Scheme (MRS)
3.2 Improve amendment process for region planning schemes
3.3 Sub-regional Structure Plans to amend region planning scheme
3.4 Concurrent amendment of region planning schemes and local planning schemes
3.5 Improve local planning scheme review process
3.6 Improve local planning scheme amendment process
3.7 Streamline structure plan process
3.8 Develop a track-based (risk assessment) development assessment model
3.9 Private certification of development applications
3.10 Standardise delegations of local government development decisions
3.11 Electronic application system
3.12 Refining the role of Development Assessment Panels
4.1 Design and Development (Design Panels)
4.2 Role of the Western Australian Planning Commission (WAPC)
4.3 Improve the function of the Infrastructure Coordinating Committee
4.4 Local Government planning accreditation
4.5 Funding of region planning schemes and initiatives
4.6 Administrative review of the Planning Act

**Review of the Development Assessment Panels**

The key outcomes outlined in the Review of the Development Assessment Panels are as follows:

- For the first two years, the 15 DAPs across Western Australia have received 347 DAP applications.
- The Department considers that DAP’s have provided a consistent and reliable process, with support from industry and increasing confidence in the process from local government.
- The Department considers that DAPs are meeting their objectives of greater measure of transparency, consistency and reliability in decision making.
- Over 93% of applications were considered to be significant development applications.
- The threshold values also appear appropriate for capturing applications of significance for DAPs.
- Several applications were not considered to be significant, such as warehouse or storage development in an industrial area.
- A significant percentage of applications (43% & 44%) were not determined in the statutory timeframe in 2011-12 and 2012-13.
- Inconsistency between Local Government in dealing with applications at officer level or through the elected Council and their decision presented as report recommendations.
- 67% of reports had conditions of approval changed by the DAP.
- 19 DAP applications have been referred to the State Administrative Tribunal (SAT) in the first two years. This is 6% of all DAP applications.
Planning and Development Act 2005 (Planning Act)

The Planning Act:
- establishes the WAPC;
- gives power to the WAPC to make State planning policies, region planning schemes, regional interim development orders, planning control areas and improvement plans;
- establishes the requirement to obtain approval from the WAPC before subdividing land;
- gives power to local governments to make local planning schemes; and
- sets out a regime for the payment of compensation for injurious affection caused by the making of a local or regional planning scheme.

The key outcomes in the Review of the Planning Act are as follows:-
- identified specific provisions that do not operate satisfactorily.
- recommended measures and amendments to improve the operation of the Act.

The key issues and proposals are:

1.0 Injurious Affection and Compensation;
   1.1 Transference of jurisdiction to the State Administrative Tribunal to determine compensation and betterment matters
   1.2 Ability of original owner to assign compensation rights
   1.3 Definitions of planning scheme
   1.4 WAPC capacity to take land
   1.5 Ability to purchase adjoining land
   1.6 Compensation payable only once
   1.7 Interest accruing where election to purchase process delayed
   1.8 Uniform compensation provisions
   1.9 Other proposed modifications to injurious affection provisions

2.0 Region planning schemes
   2.1 Amendment process for region planning schemes
   2.2 The Swan Valley Planning Act 2005
   2.3 Concurrent advertising of region planning scheme and local planning scheme amendments
   2.4 Conflict between a region planning scheme and a local planning scheme priority of instruments
   2.5 Electronic versions

3.0 Local Planning Schemes
   3.1 Amendment process for local planning schemes
   3.2 Objects of a local planning scheme and local planning strategies
   3.3 Restrictive covenants
   3.4 Meaning of the term ‘adopt’
   3.5 Regulations for local planning schemes
   4.0 Cash-in-lieu of public open space
   4.1 Requirement of a condition to set aside land
   4.2 Trust account
   4.3 Approval of the Minister
   4.4 Joint subdivision agreement
   4.5 Method of valuation
5.0 Subdivision and Development Control
  5.1 Conflict between subdivision and local planning schemes
  5.2 Clearance of conditions
  5.3 Recovery of costs of original subdivider
  5.4 Local Government supervision of road design
  5.5 Definition of ‘development’

6.0 Time Limits on endorsement of Subdivision Plans

7.0 Pre-selling – amendments to section 140

8.0 Enforcement and Legal Proceedings
  8.1 Increase in penalty
  8.2 Enforcement of local planning schemes and scope of section 211
  8.3 Minister’s enforcement powers under section 212
  8.4 Powers of responsible authority – section 214
  8.5 Unauthorised subdivision works – section 219
  8.6 Planning infringement notices – section 228

9.0 Public Works Exemptions
  9.1 Range of public and minor works
  9.2 Public and private bodies
  9.3 Discrepancy between local government and State agencies
  9.4 Consultation where exemption applies

10.0 Crown and State land

11.0 State Planning Policies

12.0 Interaction of the Planning Act with other legislation

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

   d. Policy
      Nil

e. Financial
   Nil

f. Legal and Statutory
   Upon the review of the Town Planning Regulations 1967 (Model Scheme Text), there will be legal implications associated with the format and content of Town Planning Scheme No.2.
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The Regulations will provide a set of standard provisions that will automatically apply to all local government local planning schemes, including standard processes for development applications, Structure Plans and development contribution plans.

There are various legal and statutory considerations raised in this report, based upon the proposed changes to the Metropolitan Region Scheme (MRS), the Planning and Development Act 2005, and operation of Development Assessment Panels.

**Comments**

3.1 **Review of the Metropolitan Region Scheme**

**Background**

The Metropolitan Region Scheme (MRS) is a broad scale town planning scheme for land use for the entire Perth metropolitan area. The MRS defines the future use of land, dividing it into broad zones and reservations. It requires local government town planning schemes to provide detailed plans for their part of the region and for these to be consistent with the MRS. The MRS uses a set of maps and a Scheme Text. The Scheme Text provides the planning rules and reservations which are shown on the maps in different colours and patterns. The MRS has been in operation since 1963 (50 years) and provides the legal basis for planning of the Perth Metropolitan Area.

**Proposal**

A review of the MRS is proposed to consolidate ad-hoc amendments and to bring it into line with the more recent Peel Region Scheme (PRS) and the Greater Bunbury Region Scheme (GBRS). The PRS and GBRS are more succinct and include a more streamlined development approval process. In addition, a review is proposed of the WAPC delegations to local government of development approval under the MRS, with the intent of examining appropriate delegations for development on both zoned and reserved land.

Currently the MRS includes the Urban Deferred zone to identify land that may be suitable for future urban use. It is proposed to introduce an Industrial Deferred zone to identify potential future industrial land such as those sites proposed in the WAPC’s Economic and Employment Lands Strategy (EELS).

**Response – Partial Support**

The City considers the review of the MRS is well overdue and supports it coming into line with the PRS and GBRS. The current MRS is poorly structured, is not as comprehensive as more modern schemes (eg. PRS and GBRS), and has an historical statutory planning framework.

The structure of the PRS and GBRS includes:

- An expanded statutory planning framework;
- Provisions for compliance with the State Planning Framework;
- Reserved Lands, Purpose of Zones;
- Special Control Areas (SCA’s);
- Development of land;
- Development on reserved land owned or vested in a public authority;
- Delegation of development to local government;
- Non-conforming uses;
- Applications for Planning Approval;
- Advertising of applications;
- Procedure for dealing with applications;
- Enforcement and administration; and
- Environmental conditions and forms.
There are often conflicting development approval requirements between the MRS and TPS2. For example, an application for two grouped dwellings requires development approval under the MRS, but it is exempt under TPS2. A review of the MRS should include a review of the development approval requirements between the MRS and local planning schemes through the Model Scheme Text (MST).

A streamlining of Development Application Forms is also needed so as to avoid a single development proposal requiring some or all of the following applications:

- Application for Planning Approval Form (TPS2)
- Metropolitan Region Scheme Form 1 (MRS)
- Development Assessment Panel Application Form (DAP)

The City does not support the transfer of industry potential land directly from EELS into an 'Industrial Deferred' zoning in the MRS. Unless there is some planning rigor to the process, in the form of a District Structure Plan or similar mechanism, it is not clear how the reservations to support the 'Industrial Deferred' zoning will be established.

The MRS, Local Planning Scheme and DAP planning applications need to be simplified and consolidated.

### 3.2 Improve amendment process for region planning schemes

**Proposal**

The preparation and approval process for Region Planning Scheme amendments is subject to extensive timeframes due to the process of 'major amendment' versus 'minor amendment' and the environmental assessment process and public advertising. It is proposed to restructure the provisions for amending region planning schemes (i.e. MRS, PRS, GBRs), to follow a truncated process unless the WAPC consider the amendment is a 'substantial alteration' to a region planning scheme and should be subject to the longer process. It is also proposed not to refer amendments to the EPA that have no relevant environmental considerations. These exempt amendments would be agreed to by the EPA. The reduction in advertising is also being considered from 90 days to 60 days and minor amendments being reduced from 60 days to 42 days.

**Response - Support**

(a) The City supports the reversal of the default position for all amendments to follow the truncated process set out in Division 4, unless the WAPC considers the amendment involves a 'substantial alteration' to a region scheme.

(b) The major failing of the MRS Amendment process is the lack of criteria against which the WAPC considers a request to amend the MRS. The only guideline is that associated with the lifting of 'Urban Deferment' zone. This lack of direction leads to inconsistent decisions and confusion for proponents and stakeholders. The sub-regional planning processes will recommend implementation mechanisms and it is opportune to address this shortcoming.

(c) The City supports the streamlining of referred amendments to the EPA, and listing exempt amendments that do not need to be referred to the EPA.

(d) The City supports the reduction of advertising for Division 3 amendments from 90 days to 60 days and Division 4 (minor amendments) being reduced from 60 days to 42 days.

### 3.3 Sub-regional Structure Plans to amend region planning scheme

**Proposal**

A sub-regional structure plan is a strategic plan covering a large sub-section of a WA planning region. For example three sub-regional Structure Plans are being prepared for the Perth metropolitan region to provide the detailed delivery of Directions 2031 and Beyond. For some time the State Government has identified the southern Baldivis and Karnup District as having the potential for future urban development. Most recently this position was expressed in the Outer Metropolitan Perth and Peel Sub-regional Strategy (2010) prepared by the WAPC.

It is proposed to introduce amendments to the Planning Act (Planning Act), to enable an automatic or concurrent amendment to a region planning scheme to reflect the relevant zonings and reservations of a sub-regional structure plan once the structure plan is given final approval by the WAPC and/or Minister for Planning.
Response - Not Support

The City does not support this proposal. Sub-regional Structure Plans will not have sufficient level of detail to clearly define the boundaries of road reserves and lot boundaries for zones and reservations.

The level of detail to establish zones and reserves will only be apparent at District Structure Plan level which establishes broad zones and reserves, followed by Local Structure Plans to establish local zones and reserves.

Sub-regional Structure Plans are strategic in nature and provide a guiding framework to ensure the subsequent layers of more detailed planning are achieved.

The initiation of an ‘Urban Deferred’ zone in the MRS should be supported by a higher level document such as a District Structure Plan that identifies major land uses and Regional Reserves required to support urbanisation. The approval of a District Structure Plan should be subject to a local planning scheme approval process.

The City does not support changing the Planning Act to enable automatic or concurrent amendment to a region planning scheme to reflect the zonings and reservations of a sub-regional structure plan, because this is not consistent with the purpose of the plan and it will not have sufficient detail needed to define the road reserves and lot boundaries for zones. This proposal blurs the lines between strategic and statutory planning processes.

There is no current head of power for the creation of sub-regional structure plans.

3.4 Concurrent amendment of region planning schemes and local planning schemes

Proposal

Zoning changes in the MRS, followed by changes to the City’s TPS2 can result in a lengthy process and ‘double handling’. The Planning Act provides that where the MRS is amended to reserve land for a public purpose, the City’s TPS2 is automatically amended. The Phase One reforms extended the concurrent amendment process to include when land in a region planning scheme is rezoned to Urban, it can be rezoned to Development in the TPS2. In all other cases the City is required to amend TPS2 after the MRS is amended.

It is proposed to extend the provisions to allow concurrent amendments for all classes of amendments to Region Planning Schemes (i.e. MRS, PRS, GBRs). For example, the MRS and TPS2 could be concurrently rezoned for Industrial purposes, with an MRS amendment identifying the specific zoning that would apply under TPS2 (e.g. General Industry, Light Industry).

Response - Support

The City supports the initiative to extend the provisions to allow concurrent amendments for all classes of amendments to the MRS, subject to the Council having the ability to decide on a concurrent amendment, and the Planning Act being amended to enable text amendments to a local planning scheme, together with the scheme map amendment.

Section 126 of the Planning Act, must be amended first to enable local planning scheme text amendments to be made to a local planning scheme as concurrent amendments with the MRS can only occur for the rezoning of land. This is a significant shortfall of Section 126 which is why local planning scheme amendments are required following zoning amendments to the MRS.

There is a lack of scheme amendment documentation when undertaking a concurrent local planning scheme amendment with the MRS. The Planning Act should be amended to require Scheme Amendment documents to be prepared in accordance with the Town Planning Regulations 1967.

The notification of minor amendments to the MRS in section 58 of the Planning Act, include sending a copy to the Minister, publishing a notice in the Gazette and daily newspaper circulating in the area and giving reasonable notice to affected land owners. Similar requirements apply to major amendments to the MRS, including the display of amendments in local government offices and offices at the WAPC. There are no requirements to erect a sign advertising proposals required for amendments to local planning schemes. Advertising requirements for MRS Amendments should be amended to reflect local planning scheme amendment requirements.
3.5 Improve local planning scheme review process

Proposal
The preparation and review of local planning schemes is a lengthy and expensive process. The City is required to review its TPS every five years. Improvements to local planning scheme preparation processes are being introduced in the new Model Scheme Text (MST) which is currently being prepared by the Department of Planning. Some key reforms and changes being considered include:

- Regulations providing a set of standard provisions that will automatically apply to all local government local planning schemes, including standard processes for development applications, Structure Plans and development contribution plans;
- Reviewing what proposals may be exempt from requiring planning approval, such as removing the need for compliant single houses to obtain planning approval;
- Improving administrative processes, definitions, language and the general user friendliness of schemes; and
- Regulations clearly setting out the steps required in the scheme preparation and scheme amendment process, including steps and timeframes to be undertaken by the DoP.

In addition to the above, other reforms include streamlining the number and content of strategies required as part of a scheme review and requiring major local planning scheme reviews every 10 years with minor reviews every five years or less.

Response - Support
The review of the MST was identified in the Phase One reform package to provide a responsive and accountable land use planning system in Western Australia, but it has not been completed. The City supports the review of the MST. The MST is a pivotal document and its review is long overdue. The City considers that there should be an opportunity for public comment by local government on the redrafted MST, prior to its finalisation.

The City generally supports a set of standard provisions that include standard processes for development contribution plans, subject to professional drafting by Parliamentary Counsel and consultation with local government on practicalities. The City's Development Contribution Plan No.1 – Anstey Park and Development Contribution Plan No.2 (Community Infrastructure) reflect local circumstances and must not be adversely affected by changes to the MST.

The MST review is expected to include standard administrative provisions and must provide for local government to include local planning provisions to account for local circumstances. This may be reflected in specific zones, and scheme provisions that are innovative or unique to the City of Rockingham.

The City agrees with major local planning scheme reviews occurring every 10 years with minor reviews every five years or less. Scheme reviews involve considerable research and cost and are not undertaken every 5 years as a consequence.

3.6 Improve local planning scheme amendment process

Proposal
Amendments to local planning schemes can take a year or more to go through statutory processes before a decision. All proposed scheme amendments must be considered by the EPA before public advertising, but most scheme amendments do not have any significant environmental impacts and are not assessed by the EPA. Examples include recoding residential land from one R-Code density to a higher density and minor changes to scheme text.

It is proposed to modify the process for referral of proposed amendments to the EPA, such that certain scheme amendments with no relevant environmental considerations are not required to be referred to the EPA.

Another reform opportunity is to introduce a 'minor local scheme amendment' which sets out shorter amendment process in certain situations. Situations include minor extensions or realignment of boundaries to zones and reserves, correcting administrative errors through a minor scheme amendment process.

Response - Support
The City supports streamlining referrals to the EPA by only referring Scheme Amendments that the EPA considers could have environmental impacts. This will allow public advertising to occur directly following a resolution of Council to proceed with a scheme amendment.

The City supports the introduction of a ‘minor local scheme amendment’, which sets out a shorter process, for omnibus amendments that include corrections, including correcting zoning anomalies with the MRS where land may be unzoned due to an amendment to the MRS.

3.7 Streamline Structure Plan process

In August 2012, the WAPC released the Structure Plan Preparation Guidelines (Guidelines). The Guidelines were intended to provide guidance in the preparation and assessment of Structure Plans. A review of local planning schemes has found inconsistent clauses relating to structure planning processes. There is also duplication and overlap in work undertaken by local governments and the Department of Planning. A trend is emerging for Structure Plans to cover matters that would normally be dealt with through scheme amendments and development contribution plans. As part of the MST review, model local provisions are being drafted to guide the preparation of Structure Plans.

It is also proposed that the MST provisions include the WAPC as a single point of determinations for all Structure Plans. This will eliminate the need for dual approvals from the WAPC and local government and the resultant inconsistent determinations and conditions and appeals to the State Administrative Tribunal. Local government would still be involved in the structure plan preparation and assessment process, however would refer the determination to the WAPC.

Response - Not Support

This planning reform measure is inconsistent with planning reform measure 4.2, which deals with the reviewing the role of the WAPC to give it a more strategic planning focus. The key objectives of the review includes the Department of Planning taking a more strategic focus towards the planning and development of the State; ensuring training, code of conduct, protocols and practices are in place and review structure and membership of the WAPC and its committees. The WAPC will not be providing a more strategic focus if Structure Plan approval functions are withdrawn from local government.

TPS2 currently requires Structure Plans to be adopted by Council, endorsed by the WAPC and then readopted by Council. The City agrees there is scope to streamline the current approval requirements for Structure Plans, but it considers that WAPC approval should be required by exception rather than by default. Council approval of Structure Plans should be retained pursuant to TPS2. WAPC approval of Structure Plans should only be required if an applicant is aggrieved by a decision of Council.

Local government should be entrusted with the approval of Structure Plans. The approval function could be delegated to local governments that the WAPC consider have the planning expertise and resources to properly administer and approve Structure Plans.

The MST provisions for appeals to SAT should be limited only to the final approval decisions of the WAPC on Structure Plans.

3.8 Develop a track-based (risk assessment) development assessment model

Proposal

A development assessment based on the Development Assessment Forum ‘track-based’ assessment model is being considered for the WA planning system.

This model is a risk-based approach where the assessment process is linked to the level of complexity, scale and likely impact of the proposed development. Development assessment streamlines low risk development applications, reducing the time taken for approval, while concentrating planning resources on more complex and higher impact proposals.

Development applications are assigned assessment ‘tracks’ that correspond with the level of assessment. The DAF model includes six different tracks ranging from exempt development to impact assessment. The planning authority determines what type of proposal should be exempt or self-assessable and what requires development approval.
The DAF model could be modified to suit WA’s needs. The system could be established through a model schedule and adopted through a local planning scheme or set out in WAPC guiding documents. Once established, there may be opportunity for local government variance on which types of development are allocated to each track in their local planning system to suit the needs of the area and expectations of the community.

The six tracks are:

- **Exempt** – Low impact, may need to meet criteria but no consent is required.
- **Prohibited** – Development cannot proceed. No consent can be given.
- **Self Assess** – Development can be assessed with the need for professional assistance and can always proceed if the criteria are met. A standard consent will issue.
- **Code Assess** – Development that can be assessed against standard criteria and can always proceed if the criteria are met. Expert assessment will be required. A standard consent will issue.
- **Merit Assess** – Development that may have off-site impact and policy implications. It is likely to be measured against performance criteria and policy requiring professional assessment. Assessment may benefit from notice and comment from other parties. Public notice may be required. A conditional consent will issue.
- **Impact Assess** – Development that may have a significant impact on the social, environmental or economic attributes of a locality. A technically competent reviewer assesses the impact. Public notice may be required. A conditional consent will issue.

Response - Not Support

The City does not support the establishment of the DAF model for adaptation to Western Australia’s planning system, as there is no identifiable benefit in the discussion paper for introducing the DAF model or a hybrid thereof.

The MST provisions which apply ‘X’ (prohibited), ‘P’ (permitted), ‘D’ (Discretionary), ‘A’ (Advertised), provide a more streamlined and proven approach to development assessment in Western Australia’s planning system than the DAF model.

3.9 **Private certification of development applications**

**Proposal**

The reforms include the investigation of private sector involvement in the development assessment process. Private planning consultants are already involved in the preparation of development applications in WA. There would need to be an articulation of the benefits in the public interest for this change to occur, including the costs to applicants, processing timeframes and maintaining the quality of design outcomes.

In NSW private certifiers are accredited professional who can issue development certificates. They replace the role of local government in issuing development approvals for certain types of compliant development and can be accredited to issue construction certificates certifying proposals comply with the Building Code of Australia. The private certifier can issue a Complying Development Certificate for single dwellings or additions to dwellings.

Brisbane City Council has a fast track process for certain types of development that comply with their City Plan using a process known as RiskSmart. Applications can be prepared and assessed by a Council accredited private consultant. They then lodge the application online to Brisbane City Council for the planning staff to issue the development approval.

In WA there has been some demand for private certification of planning applications to be linked to the process of issuing a Building Permit. For example a private certifier assesses compliance with the R-Codes prior to assessing compliance with the Building Code.

**Response – Conditional Support**

Private Certifier’s powers should be limited to development which is permitted, low risk and deemed to comply (i.e. Single Houses Code Approvals, Ancillary Structures - Sheds). Private certifiers should not undertake performance based merit assessment.

Private Certifier powers could include the certification of minor planning proposals such as single dwellings linked to the process of issuing a Building Permit.
Private certification needs to be carefully examined to ensure that there are realistic costs and benefits to applicants. If the cost of applicants engaging a private planning practitioner outweighs the benefits from the development, there may be no financial incentive involved.

If private certification is introduced into WA, how will consistent and accountable planning decisions be made?

### 3.10 Standardise delegations of local government development decisions

#### Proposal

The delegation of decision making powers varies considerably between local governments. The delegation of decision making powers comes from Council through the Local Government Act 1995. The delegation schedule from Council sets out the types of development applications the Council will determine and what applications the CEO may determine.

Often busier local governments planning staff have a higher level of delegation than smaller local government areas. Qualified technical officers are given a level of delegation to determine standard applications. Large scale applications are determined by DAPs, which include local councillor and specialist professionals. Council is therefore generally left to focus on the strategic direction of the local government and overseeing the planning framework on which applications are determined. (i.e. policy, involved in local planning strategies and schemes).

It is proposed that a Model Delegation Schedule be prepared, setting out the types of development applications and planning decisions that are appropriate to be determined by planning staff, and what may be more appropriate for council to determine.

#### Response – Conditional Support

The City conditionally supports the preparation of a Model Delegation Schedule. The Model Delegation Schedule could be used as a guide for local government.

### 3.11 Electronic application system

#### Proposal

The WAPC is developing a single interactive online portal for the lodgement and processing of all applications determined by the WAPC including subdivision, structure plan and development applications. This system will include internal and external interfaces to allow applications to be lodged and tracked by the public and for the WAPC to refer applications to stakeholder agencies and local government for comment.

#### Response - Support

The City supports the establishment of an interactive online portal for the lodgement and processing of all applications determined by the WAPC. Electronic processing of applications will improve transparency of application processing and will enable approval statistics to be prepared.

### 3.12 Refining the role of Development Assessment Panels

#### Proposal

The WAPC has reviewed the operation of DAPs and identified that following refinement and improvements for consideration:

- **Optional and Mandatory Thresholds**

  These are generally appropriate as they include significant applications that should be determined by DAPs, while providing an opt-in option. Comment is sought on the appropriateness of the current thresholds and the need for modifications.

- **Include lower value regionally significant applications**

  The DAPs Review has identified that there may be significant applications that should be determined by a DAP that do not meet the thresholds as they are lower value proposals.

  It is proposed that applicants for basic raw materials or other regionally significant proposals be at the applicant’s discretion to opt-in to the DAPs process.
**Exclusions**

There are some small scale developments (i.e. storage and warehouses) where they are permitted in accordance with the scheme on industrial land zoned that could be added to the ‘exclusions’ list in the DAP Regulations.

**Configuration of panels**

For the Perth metropolitan region it is proposed to create a new Central-West Joint DAP by combining Metropolitan Central and Metropolitan West JDAPs. There is also an option to merge the City of Perth DAP with the Central-West JDAP. The City of Mandurah and Shire of Murray would also be moved from the regional DAPs to the Metropolitan South-West JDAP.

**Administration**

DAP Applications:- Some local governments have requested the DAP Regulations clarify the information required to be submitted as part of a DAP application, and what constitutes a complete application for the purposes of formally receiving the application and commencing the determination period. It may also be appropriate to allow for pausing or extending the determination period when further information is required from the applicant at any stage of the assessment process.

**Meeting quorum**

The DAP Regulations require a quorum of three members including the presiding member, another specialist member and a local government member. There have been times when a quorum has been unable to be achieved. It is proposed that three members of a panel regardless of their membership type, constitute a quorum. One of these members would act as a presiding member.

**Presiding Member**

When the presiding and deputy presiding member are unable to attend a meeting it is proposed that another specialist member, who has experience and planning qualifications may act as presiding member.

**Special members pool**

Currently specialist members including presiding and deputy presiding members are appointed to a specific panel. It is proposed that three pools be created and members appointed to either the metropolitan pool, or a northern regional or southern regional pool. Local government members would continue to be appointed to a specific panel.

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**Response - Not Support**

The following comments are provided on the proposed changes to the role of DAPs.

(a) **No Benefit**: Since the establishment of DAPs, as they have not lead to any greater transparency, consistency and certainty of decision making on complex development applications. DAPs have not delivered demonstrable improvements to the process of assessing and determining Development Applications, whether in terms of speed or other aspects of decision-making.

(b) **Restore Authority**: Local Government authority should be restored to determined applications in accordance with community expectations and policy objectives as required by planning legislation.

(c) **Disadvantages**: The ‘blanket approach’ applied through DAPs disadvantages ‘performing Councils’. DAPs were only introduced because of the development industry perception that there are some ‘non-performing Councils’.

(d) **Timeliness**: The DAP processes fail to consider appropriate delegations, where it is suggested that over a third of DAP applications would have been delegated from last year.

(e) **Transparency**: DAP decisions are not transparent when local government members and City Officers are constantly attending DAP meetings held in the Department of Planning Head Office. This does not facilitate public attendance.

(f) **Better Decisions**: Most of the DAP applications referred to SAT relate to conditions, which suggests that DAPs are not getting condition settings correct.
Incomplete Applications: The City agrees with the reform proposals for the administration of DAP applications to clarify the information required to be submitted as part of a DAP application, and what constitutes a complete application for the purposes of formally receiving the application and commencing the determination period.

The 50 day processing timeframe should start from the date of the receipt of a complete application, which includes the necessary technical reports (e.g. Detailed Area Plan, Traffic Report etc.).

Time Extensions: The City agrees with allowing for pausing or extending the determination period when further information is required from the applicant at any stage of the assessment process.

Quorum: The SWJDAP has only been unable to meet once when a local government member was unavailable and where a quorum could not be achieved. This was due to the City awaiting the Ministerial Appointment of Alternate local government members and DAP training. The City does not support the minimum quorum membership changing which enables a decision without local government member representation.

Responsible Authority Report (RAR) Local Government Delegation: It was the original intention of the DAP Regulations that the RAR be provided by a local government planning officer, not necessarily by Council. Department of Planning DAP Practice Note 5 encourages Councils to have sufficient delegation arrangements in place to facilitate a timely approvals process, but this is not legally possible.

All City of Rockingham RARs are reported through Council rather than at Officer level, as the City does not have the legal ability under Regulation 12 to make recommendation in a RAR directly to the Metro SWJDAP. The Council also does not have the legal ability to delegate authority to the CEO, as this is not provided for in the Regulations.

Officer Assessment of DAP applications: The City has taken legal advice that all RARs must be referred to Council. If the intention of the Regulations was for RARs to be administered by the City Officers this should be provided for in the Regulations, rather than generically referring to the ‘Responsible Authority’, which means either the Local Government or the Western Australian Planning Commission.

DAP Thresholds: The City does not agree with the mandatory DAP thresholds and considers that all DAP applications over $3 million in value should be optional. DAP thresholds linked to Council delegations would also improve the streamlining of applications, but inconsistencies would arise between local governments due to variations in delegation.

Basic Raw Materials: The City does not support basic raw materials applications (e.g. sand excavations) being referred to a DAP. There is no supporting information contained in the Planning Reforms which identify how this would be an improvement to the planning system. Under clause 32, dual planning approval is required from both local government and the WAPC for extractive industries in a Rural Zone in the MRS.

Industrial Development DAP Excluded: The City agrees that when industrial development is compliant with the local government planning scheme it should be added to the ‘exclusion’ list in the DAP Regulations. This should also be expanded to include ‘any development’ that is compliant with the local government planning scheme.

DAP Broadened: Moving the City of Mandurah and Shire of Murray from the regional DAPs to the Metropolitan South-West JDAP, and reducing the DAP numbers from 15 to 7 would completely work against transparency, because the DAP meeting venue could be held in a remote local government to the site.

DAP Membership Pay: DAP Specialist Members and Local Government Members should be paid professional salaries and not the token sitting fees currently being paid. This will encourage broader industry representation.

DAP Member Conflict of Interest: DAP Specialist Member representation is being impacted upon by members sometimes having to withdraw from participating in DAP meetings, due to a conflict of interest that would not have occurred if decisions were made by local government and the WAPC.
4.1 Design and Development

**Proposal**

The WAPC has set out its direction for growth in 2012 in a new draft State Planning Strategy where the Capital City Planning Framework for Perth and Peel as a city of 3.5 million people. Planning Reforms include:

(a) a State Planning Policy, design manual or scheme provisions enshrining the importance of and principles for, quality design, including architectural, urban, landscape and environmentally sensitive design;

(b) for local governments to establish design advisory panels and/or ‘city architects’ positions for larger urban local government;

(c) for development applications over certain thresholds (e.g. multi storey office or apartment developments) to be assessed by a design review panel prior to determination by a DAP; and

(d) to amend the Multi-Unit Housing R-Codes provisions to require multi-unit housing to be designed by a qualified, registered architect.

**Response - Support**

The City supports the establishment of Design Advisory Panels, subject to the preparation of a framework, including a terms of reference to consider for major development proposals.

4.2 Role of the Western Australian Planning Commission (WAPC)

**Proposal**

The WAPC is the statutory authority with statewide responsibilities for urban, rural and regional land use planning, which includes coordination and integration of land use and transport planning, economic and infrastructure, environment planning and urban and regional development.

A review of the role and functions of the WAPC will be completed to ensure it has the capacity to perform its key strategic functions. The key objectives of the review include the Department of Planning taking a more strategic focus towards the planning and development of the State; ensuring training, code of conduct, protocols and practices are in place and review structure and membership of the WAPC and its committees.

**Response – Conditional Support**

The City supports the key objectives for the review of the WAPC and in particular supports the Department of Planning taking a more strategic focus towards the planning and development of the State. Taking a more strategic focus is at odds with some of the planning reforms, such as the centralisation of Structure Plan approvals with the WAPC.

In the Phase One planning reform agenda, the WAPC agendas and minutes were proposed to be placed on-line, to assist in transparency of decision making, but this has not occurred. All local government agendas and minutes are available on-line, whereas only a selection of the WAPC Committee agendas and minutes are currently available online.

4.3 Improve the function of the Infrastructure Coordinating Committee

**Proposal**

The Infrastructure Coordinating Committee (ICC) is established under the Planning Act, to advise the WAPC on planning for the provision of physical and community infrastructure in the State and perform other functions delegated from the WAPC. It is proposed to review the membership of the ICC to ensure it has a high strategic focus, including representatives from the Department of Premier and Cabinet, Treasury, State Development, Regional Development, Planning, Transport and Housing, with non-government expert membership also included.

**Response – Conditional Support**

The City supports the proposal to review the ICC membership to ensure it has a high strategic focus. All government agencies should review major infrastructure projects through the ICC.
The ICC focus should be on providing input into the outcomes of the Sub-Regional Structure Plans to ensure that the implementation recommendations are realistic and supported.

The ICC is not open and accountable as reports to the Minister are confidential.

The ICC reports are not provided in Agendas and Minutes that reflect open and accountable decision making. Agenda and Minute practices should reflect local government procedures.

The ICC terms of reference should clearly outline the infrastructure projects that must be referred to the ICC, to ensure that it gives a clear focus and proper direction for government projects.

There should be an improved link between Sub-Regional Structure Plans, District Structure Plans, Structure Plans and the provision of infrastructure.

The Department of Education should also be represented on the ICC, since the Schools Coordinating Committee no longer applies.

4.4 Local Government planning accreditation

Proposal

An accreditation system for local governments to formalise induction, training and professional development is being considered. Accredited local governments may then receive an increase in the range and volume of planning decisions and functions delegated to them from the Department of Planning and the WAPC. The system would include options for training and development of local government councillors and officers.

Response - Objection

The City does not support an accreditation system and annual audits for local governments. The WAPC has failed to recognise the planning expertise, qualifications and experience in local government where formal induction, training and professional development is currently undertaken.

An accreditation system is not needed to justify an increase in the range and volume of planning decisions and functions to be delegated to local government. There is no incentive for local government planning accreditation, an increased workload and annual audits.

This reform proposal is patronising, demeaning and oversteps the role of the Planning Act, by dictating changes to the administration and business functions of local government, which is regulated by the Local Government Act 1995.

The accreditation system will create more administration, more confusion and inconsistencies in the WA planning framework.

WALGA already has a comprehensive land use planning course that Councillors are able to attend.

4.5 Funding of region planning schemes and initiatives

Proposal

The Metropolitan Region Improvement Fund (MRIF) was established in 1960 to fund the delivery of the Metropolitan Region Scheme, including the costs of acquiring and maintaining regional reserves. The MRIF is financed by a land tax known as the Metropolitan Region Improvement Tax (MRIT). It is proposed to consider options for funding other region planning schemes outside the Perth Metropolitan Area to other parts of the State and establish separate region improvement funds for different regions.

Response - Support

The City supports this planning reform for the MRIF. The WAPC should commit more resources to undertake a strategic review of all Regional Reserves that have been acquired and are yet to be acquired in the context of Region Park Plans and identify those reserves where there are opportunities for better management arrangements between the WAPC, DEC and local government, funded through Area Assistance Grants.

4.6 Administrative review of the Planning and Development Act 2005

An administrative review of the operational effectiveness of the Planning Act was integrated with the Phase Two Reform agenda. The review identified section and wording opportunities for improvement, and was not a strategic review of the structure and content or issues covered by the Planning Act.
Review of the Planning and Development Act 2005 Discussion Paper

The key aim of the review was to consider the operation and effectiveness of the Planning Act in accordance with the statutory obligation of the Minister for Planning to review the legislation. The scope of the review was based upon identifying the specific provisions that do not operate well and recommend amendments that would improve the operation of the Act.

There are numerous provisions that have been reviewed, however, the City has identified the following key issues and proposals of relevance to the City of Rockingham.

<table>
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<tr>
<th>Proposals</th>
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<tr>
<td>1 Injurious affection and compensation</td>
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</table>
| The WAPC and local governments have taking powers under the Planning Act to enable land to be taken for the purposes of regional and local planning schemes. The Planning Act, also provides a separate and specific ‘compensation’ called ‘injurious affection’.
| The focus of injurious affection under planning legislation is compulsorily taking land for an immediate work. The right to compensation arises when the owner of reserved land in the MRS or local planning scheme is about to suffer ‘real’ injury such as upon the first sale of the property, or refusal of a development proposal.
| The proposals from the Law Reform Commission that are supported by the Department of Planning are set out below: |
| 1.1 Transference of jurisdiction to the State Administrative Tribunal to determine compensation and betterment matters |
| It is proposed that all matters relating to compensation and injurious affection should be determined by the State Administrative Tribunal, rather than a separate Board of Valuers or the Commercial Arbitration Act 1985. |
| 1.2 Ability of original owner to assign compensation rights |
| It is proposed to clarify that only the original owner is entitled to make a compensation claim. |
| 1.3 Definition of planning scheme |
| Minor text amendment. |
| 1.4 WAPC Capacity to take land |
| It is proposed to allow additional acquisition of zoned land where acquiring only the reserved land would leave a parcel of zoned land severed from road access. |
| 1.5 Ability to purchase adjoining land |
| It is proposed to clarify the WAPC powers to acquire the whole lot, not just the portion of a lot that has been reserved for a public purpose. |
| 1.6 Compensation payable only once |
| It is proposed to clarify that compensation can only be payable once, then no further compensation is payable, and prevent challenges to the WAPC acquiring land at its affected value when compensation has previously been paid. |
| 1.7 Interest accruing where election to purchase process delayed |
| It is proposed to clarify how the issue of interest is to be resolved in the case of a delay in the determination price in cases referred to the State Administrative Tribunal for resolution. |
| 1.8 Uniform compensation provisions |
| It is proposed to clarify that local governments are not liable to pay compensation where the injurious affection relates to State Government action over which the local government has no control. |
| 1.9 Other proposed modifications to injurious affection provisions |
| A number of clarifying amendments are proposed to improve certainty and effectiveness of the Planning Act relating to injurious affection claims. |

Response - Noted
Proposal

2 Region Planning Schemes

2.1 Amendment process for region planning schemes

Following the review of the Planning Act, it is proposed to review the text of the region planning schemes, in particular the MRS, to ensure that the provisions are current. The major changes proposed include a truncated process for MRS amendments, unless the WAPC considers an amendment constitutes a ‘substantial alteration’ to a region planning scheme, reduced advertising period from 90 days to 60 days and other various changes.

Response – Support

Refer also to Section 3.2 response (on page 7 of this report).

The City supports the proposed changes to region planning schemes and reducing the complexity and delays in the process through the reversal of the ‘default position’ for amending the MRS, for all amendments to follow a truncated process, unless proposals are a substantial alteration.

The City supports only referring amendments to the EPA of a class specified in the Regulations (developed in consultation with the EPA), and the other planning reforms which include a reduced advertising period from 90 days to 60 days.

Proposal

2.2 The Swan Valley Planning Act 2005

Region Planning Scheme amendments within the above Act are taken as ‘major’ amendments which may not be appropriate for minor amendments. It is proposed to amend the Planning Act to enable amendments to proceed through the minor region scheme amendment process (Division 4), unless the WAPC determines the amendment should proceed as a ‘major’ amendment (Division 3).

Response - Noted

Proposal

2.3 Concurrent advertising of Region Planning Scheme and Local Planning Scheme amendments.

Zoning changes sometimes require an amendment to a Region Planning Scheme such as the MRS and local government planning schemes. Legislation requires the local government planning scheme to be consistent with the MRS. It is proposed to amend s126 to allow for automatic amendments of local planning schemes concurrently with region planning scheme amendments for all types of zoning and reservation under the Region Planning Scheme (not just for reservations and urban zone as is currently the case). When for example the MRS is amended to remove or reduce reservations, local planning schemes should be automatically amended.

Response - Support

Refer to Section 3.4 (on page 8 of this report)

The City supports the proposed changes to concurrent and/or automatic amendments subject to local government agreement to the automatic amendments to local planning schemes, and s126 being amended to provide for scheme text changes in addition to scheme map changes.

S126 currently does not legally enable scheme text changes and this has prevented the City from agreeing to concurrent amendments to TPS2 together with the MRS in some cases. Concurrent and/or automatic amendments must also be subject to the same supporting scheme amendment documentation for local scheme amendments as provided for under the Town Planning Regulations 1967.

The City considers the advertising requirements of Region Planning Schemes should be brought into line with the advertising requirements of Local Planning Schemes under the Regulations.
Proposal

2.4 Conflict between a Region Planning Scheme and a Local Planning Scheme priority of instruments.

Section 124 of the Planning Act is proposed to be amended to clarify that any provision of the MRS prevails over the provisions of a local planning scheme to the extent of the inconsistency. If this occurs the local government provisions setting out when development approval is required would be inconsistent with the MRS, and the MRS will prevail.

The Planning Act provides that if a local region planning scheme is inconsistent with a local planning scheme, the region planning scheme (e.g. MRS) prevails over the local planning scheme to the extent of the inconsistency.

Clause 21 of the MRS, however, provides that where a local planning scheme provision is ‘at variance’ with any provision of Part III of the MRS, the provisions of the local planning scheme shall prevail.

Response - Support

The proposed changes to Section 124 of the Planning Act will resolve the inconsistencies between the development approval requirements in the MRS and local planning schemes, but there is insufficient detail on the scope of changes to provide any further comment.

The MRS should always prevail over a local planning scheme to the extent that MRS zones and MRS reserves may be inconsistent on a local planning scheme.

Clause 21 of the MRS should continue to provide that when a local planning scheme is ‘at variance’ with any provision of Part III of the MRS, the provisions of the local planning scheme shall prevail to the extent of the inconsistency.

Section 124(1) of the Planning Act, should recognise Clause 21 of the MRS to the extent that this currently applies. The MRS should be the priority planning instrument but not if there is an inconsistency with a local planning scheme.

Proposal

2.5 Electronic Versions

It is proposed to amend the Planning Act, to enable the electronic version of the planning schemes to be the official version, once the Department has implemented the appropriate technology, processes and supporting environment.

Response - Support

The City supports the proposed changes. The Planning Act should also be amended to enable electronic version of MRS Form 1 and planning applications under local planning schemes to be the official version, given the establishment of CouncilsOnline by WALGA, which enables applicants to lodge both planning and building applications.

Proposal

3 Local Planning Schemes

3.1 Amendment process for Local Planning Schemes

The preparation, review and amendment of local planning schemes is slow and expensive. Schemes are often long overdue for review before the review formally commences. Two of the key legislative requirements of the process for scheme amendments that are attributed to causing delay relate to (a) referral of all schemes to the EPA and (b) advertising and consultation periods of scheme amendments.

Since the introduction of environmental assessments to local planning schemes and amendments, these procedures have resulted in increased complexity, delays and costs in planning process without better planning or environmental outcomes.

It is proposed to amend section 81 to provide that only those scheme amendments that are of a class specified in the regulations (to be developed in consultation with the EPA) are required to be referred to the EPA.
It is proposed to insert a timeframe within which the local government must comply with the relevant instructions from the EPA.

It is proposed to amend section 84, to require the Minister’s consent to be obtained prior to advertising scheme amendments and in cases where a referral to the EPA is required under section 81, the Minister may consent to the advertising process proceeding simultaneously with the process of referring the scheme to the EPA.

Response – Support

Refer to Section 3.6 response (on page 9 of this report).

The City supports amending section 81 to provide that only those scheme amendments that are of a class specified in the regulations (to be developed in consultation with the EPA) are required to be referred to the EPA.

The timeframe to comply with the instructions of the EPA may be difficult to apply as this will depend on whether or not a scheme is assessed. Similar provisions should apply to the WAPC for amendments to region planning schemes as timeframes should not be exclusively applied to local government.

The requirement to obtain Ministerial consent prior to advertising a scheme amendment is going to significantly delay the progress of scheme amendments. By default it would be more expedient for the Regulations to identify the types of applications that should be referred to the EPA, to avoid the need for advertising to proceed simultaneously with the process of referring the scheme to the EPA.

Proposal

3.2 Objects of a local planning scheme and local planning strategies

The preferred view of the WAPC is that the local planning scheme text should be short and succinct and that the detailed strategic framework should be set out in the local planning strategy. Currently, the Planning Act does not make any reference to local planning strategies.

It is proposed to include a reference to the preparation of local planning strategies in the Planning Act, and outline the object of a scheme and matters that should be in a local planning strategy.

It is proposed to transfer certain procedural provisions into general Regulations for statewide consistency in planning approval requirements regarding Structure Plans, development contribution plans, special control areas and administrative procedures. There are two types of provisions; those that will automatically apply as regulations and those that must be approved and adopted as part of the scheme amendment process to have effect.

Response – Conditional Support

Refer to Section 3.5 response (on page 8 of this report).

Proposal

3.3 Restrictive Covenants

It is proposed to amend Schedule 7 to change the power of a local planning scheme to modify or extinguish a restrictive covenant so this power can only be used to extinguish or modify a restrictive covenant to the effect of the number of residential dwellings that may be constructed on the land which is less than that permitted by the local planning scheme.

Response - Support

The proposed changes are supported.

Proposal

3.4 Meaning of the term ‘adopt’

It is proposed to modify the Planning Act to clarify the use if the term ‘adopt’ in respect of local planning scheme amendments. A distinction is to be made between the initial adoption of an instrument prepared by landowners prior to being submitted through the advertising and referral process, and the final adoption by the Council of a proposed amendment for submission to the Minister for final approval.
Response – Support

The City supports the proposed changes to the meaning of the term ‘adopt’ as it applies to the preparation of a local planning scheme and scheme amendments.

Proposal

3.5 Regulation for Local Planning Schemes

The Planning Act enables the Minister to make regulations prescribing provisions in local planning schemes. When the Planning Act was introduced in 2005, it named the Minister and others the Governor as the approval authority for new regulations, which needs to be corrected. The Minister is to be replaced with ‘the Governor’.

Response - Noted

Proposal

4 Cash-in-lieu of public open space

4.1 Requirement of a condition to set aside land for Public Open Space

It is proposed to amend section 153 to allow the WAPC to impose a condition on subdivision approval that POS requirements be satisfied through the payment of cash-in-lieu (without the requirement of a prior condition).

It is also proposed to delete the limitations for cash-in-lieu or setting aside land may apply to subdivisions that create less than three lots, if it is considered a necessary contribution to the locality.

Response – Noted

Proposal

4.2 Trust Account

All money received by a local government for cash-in-lieu of public open space should be paid into a trust account rather than a reserve account. A change to allow reserve accounts is supported as they have strict constraints to changing the purpose.

Response - Not Support

Reserve funds can be changed by an Absolute Majority vote and a one month Public Notice or through the budget process. The City strongly recommends the retention of a Trust account unless a higher level statutory direction and control is instituted.

Proposal

4.3 Approval of the Minister

It is proposed to replace ‘Minister’ with the WAPC as the approving authority regarding the potential wider application of funds received as cash-in-lieu.

Response - Noted

Proposal

4.4 Joint subdivision agreement

There are four ways of using funds in a trust account. One way is to reimburse an owner of land included in a joint subdivision agreement for land that has been set aside for public open space where the first landowner set aside a great proportion of land than the other owner (second owner). The issue of what constitutes a joint subdivision agreement was raised, and whether it includes a local structure plan or POS strategy. It is proposed to clarify ‘joint subdivision agreement’.

4.5 Method of valuation

It is proposed to clarify the matters to be taken into account in calculating the market value of land for working out the amount of cash-in-lieu of POS payable (and also road costs recoverable by original subdividers). It is also proposed that any disputes on valuation be referred to SAT rather than determined under the Commercial Arbitration Act 1985.
Response - Noted

Proposal
5 Subdivision and development control
5.1 Conflict between subdivision and local planning schemes
In 2005 amendments were made to the Planning Act to require the WAPC to have due regard to local planning schemes when considering subdivision applications and to not give an approval that ‘conflicts’ with the provisions of a local planning scheme. Section 138(3) provides that the WAPC may approve a subdivision that conflicts with a local planning scheme in certain circumstances.
It is proposed to clarify the meaning of ‘conflicts’ in section 138(3) and/or to further iterate the circumstances in which a subdivision approval may be given that is contrary to the provisions of a local planning scheme.

Response – Conditional Support
The City would support clarification to a local planning scheme on the following conflicts:
(a) If subdivision is at odds with the R-Codes on a Scheme Map;
(b) If subdivision is at odds with an adopted Structure Plan,
(c) If subdivision is at odds with an adopted Integrated Development Guide Plan IDGP,
(e) If subdivision is at odds with the preparation and adoption of a Subdivision Guide Plan.

Proposal
5.2 Clearance of conditions
Frequently the WAPC imposes conditions that require a matter specified in the condition to be carried out to the satisfaction of a third party; such conditions are termed ‘ambulatory conditions’. In 2005, the Planning Act was amended in order to provide certainty by validating ambulatory conditions. The WAPC relies on local government and state agencies to liaise directly with subdividers to facilitate clearance of subdivision conditions is recognised in legislation by the circumstances in which formal advice from such agencies needs to be clarified. It is proposed to introduce provisions setting out a more formal resolution process for clearing subdivision conditions.

Response - Support
The City supports changes to the Planning Act which recognise the role of local government and state agencies liaising with subdividers to facilitate clearance of subdivision conditions.
The Planning Act should also establish the process for reconciling an impasse, when the local government and state agency consider a subdivision condition has not been satisfied and objects to the issue of subdivision clearance. The subdivider in this case, should liaise directly with the WAPC, and take advice from the local government before deciding on whether or not to issue a subdivision clearance.

Proposal
5.3 Recovery of costs of original subdivider
It is proposed to clarify the reimbursement of costs to the original subdivider being ‘one-half’ of the ‘reasonable costs’ from a later subdivider regarding improvements on land in the application of road and waterway costs.
Comments were also sought on the extent of recoverable costs to include other essential infrastructure of sewerage, water, drainage and telecommunications, by the original subdivider.

Response - Noted
The principle of enabling the original subdivider the ability to recover costs on essential infrastructure sounds fair and equitable, but this would be a matter for service authorities to consider the practicality of preparing a development contribution plan, administration and legal implications.
Proposal

5.4 Local government supervision of road design

Currently, there are no time limits that apply the local government consideration of designs and specification, nor any minimum standard published by the WAPC to guide them. It is proposed to clarify the requirements in Section 170 as to the timeframe and standards that a responsible authority is bound by in requesting a subdivider to comply with the requirements regarding roads and waterways.

Response - Noted

There are no specific timeframes or standards included in the discussion paper. Local government should have at least 28 days to consider the design and specifications of road designs submitted for approval under section 170. Engineering drawing assessments have become more complex since the introduction of Urban Water Management Plans, which often draws upon Engineering, Environment, Parks and Planning to provide comments prior to approval.

The City supports Section 170 referring to standards that a responsible authority is bound by but the discussion paper is silent on which standards would apply. The engineering standards of IPWEA refer to Liveable Neighbourhoods, Austroads and MRWA design Standards but these sometimes conflict.

Proposal

5.5 Definition of ‘development’

The term ‘development’ in the Planning Act is used both in the definition and in the explanation. This causes confusion when describing development as purely works being undertaken as opposed to any ‘use’ being undertaken. It is proposed to amend the term ‘development’ to mean the use of any land, or undertaking of ‘development’.

Response - Not Support

The fact that “development” encompasses two ideas – the first being the use of land and the second being activities which result in some physical alteration to land has been well known since the decision in 1980 of UWA v City of Subiaco [1980] LGRA 360 per Burt CJ 363. There is no need for any change, in the City’s view.

Proposal

6 Time limits on endorsement of subdivision plans

6.1 Expiry of plans under section 145

The Planning Act requires subdividers to lodge an original endorsed diagram or survey of the subdivision to the WAPC for endorsement before the subdivision approval expires. Subdivision Approvals are generally for four years for subdivisions creating more than five lots and three years for all other cases. It is proposed to address some inconsistencies between practice and regulatory provisions and forms in response to the Department of Planning proposing changes to a Form 1C (Subdivision Clearance Application) and lodgement process. Some proposed changes include the ability for the Department of Planning to process clearances after the expiry of subdivision approval in extenuating circumstances, and options to roll over subdivision approval for a further two years upon the payment of a reduced fee.

Response - Not Support

The City considers that ‘roll over’ subdivision approvals should still be the subject of assessment and referrals to local government and state agencies as local planning schemes may have been amended since a Subdivision Approval was granted by the WAPC, and there may be different planning provisions that must be considered prior to ‘rolling over’ approvals.

The City notes that ‘roll over’ development approvals could also be introduced in the Planning Act, but applications must still be assessed under the current provisions of the local planning scheme. If there are no changes in planning requirements, roll over approvals could be granted.
Proposal

6.2 Issuance of title under section 146

It is proposed to amend the Planning Act to clarify that when the time period to lodge with Landgate for the issue of title, a diagram or plan of survey endorsed with the approval of the WAPC has lapsed, the effect is that the WAPC is deemed revoked and the endorsed diagram or plan of survey ceases to be valid or effective.

Response - Noted

Proposal

7 Pre-selling – amendments to section 140

Pre-selling land off a plan describes a situation where developers make an offer to transfer or sell land that has not yet received title as an individual lot. The Planning Act prohibits dealing in land that has not yet received title as a separate lot unless certain preconditions are met in Section 140.

It is proposed to amend section 140 to provide that an agreement to pre-sell land may be entered into provided that the agreement is conditional upon approval of the subdivision by the WAPC, together with other modifications.

Response - Not Support

The City does not support pre-selling land off a plan through an agreement conditional upon approval of the subdivision by the WAPC. Prospective purchasers will not be aware of any special planning requirements that may apply to the land until after they have signed a pre-selling agreement. Matter such as Building Envelopes and Fire Management Plan (FMP) requirements can have significant development implications that purchasers should be made aware of prior to entering into a pre-selling agreement.

Local government is sometimes placed in a difficult situation where purchasers have designed new homes that fail to comply with Building Envelopes and FMP requirements. In other situations there may be restrictions on the type of development based upon soil classification, which may increase building construction costs.

Purchasers are at risk when entering into a pre-selling agreement without fully understanding the consequences, and where the subdivider may not be aware until all subdivision conditions have been cleared by local government.

The Planning Act should be amended so an agreement to purchase land is not entered into unless the land has Subdivision Approval by the WAPC. The Planning Act and subsidiary legislation should include a ‘cooling off’ period for Purchasers to opt out of a pre-selling contract if their agreement is misleading or fails to disclose important information to the purchaser relating to development or land use restrictions on the land.

Proposal

8 Enforcement and legal proceedings

8.1 Increase in penalty

It is proposed to review the penalty amount under the Planning Act based upon the current penalty amounts prescribed under comparable legislation in Western Australia and other jurisdictions. The current maximum penalty is $200,000 and the maximum daily continuing penalty is $25,000.

Response - Support

The City supports a review of the penalty amounts under the Planning Act.

Proposal

8.2 Enforcement of local planning schemes and the scope of section 211

Section 211 enables any person aggrieved by the failure of a local government to enforce or act in accordance with a Scheme to request the Minister to consider the matter. It is proposed to further specify the scope and process under section 211 to ensure that it is not used as a form of third party appeal right.
Response - Support

The City supports a review of section 211 to ensure that it is not used as a form of third party appeal right.

The Planning Act should be amended to include similar provisions that apply should the WAPC fail to enforce or act in accordance with a region planning scheme to request the Minister to consider the matter.

<table>
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<th>Proposal</th>
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<tr>
<td><strong>8.3 Minister's enforcement powers under section 212</strong></td>
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<tr>
<td>The Minister has the power to take action on behalf of a local government if it fails to comply with an order or direction such as reviewing a local planning scheme or preparing scheme amendments and other matters. It is proposed to clarify section 212 to ensure this power extends to all relevant directions and orders given by the Minister pursuant to the Planning Act.</td>
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Response - Noted

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<tr>
<td><strong>8.4 Powers of responsible authority - section 214</strong></td>
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<tr>
<td>It is proposed to expand the range of measures that a responsible authority may direct a proponent of unauthorised development to undertake. This will be in addition to the power to direct removal of the development and restoration of the subject land.</td>
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</table>

Response - Support

The City supports a review of Section 214 to expand the range of measures available to direct a proponent of unauthorised development to undertake. Restoration of land should be clarified to mean ‘reinstating natural ground level, replanting remnant vegetation’.

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<td><strong>8.5 Unauthorised subdivision works - section 219</strong></td>
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</table>
| Section 219 provides a person who commences, continues or carries out works for the purpose of enabling the subdivision of land otherwise than (a) as shown on a plan of subdivision approved by the WAPC; or (b) as required by the WAPC to be carried out as a condition of approval of the plan of subdivision commits an offence.

It is proposed to amend section 219 to remove the requirements that the purpose of the works needs to be established for an offence to have occurred. It will be sufficient for the works to have been commenced or carried out on land that is the subject of a subdivision application and otherwise than as shown on a plan of subdivision approved by the WAPC, as required by the WAPC to be carried out as a condition of approval. |

Response - Support

The City supports the proposed changes to section 219.

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<td><strong>8.6 Planning Infringement notices - section 228</strong></td>
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<tr>
<td>Section 228 provides for infringement notices to be issued and refers to the ‘designated person’, but this term is not defined. It is proposed to amend this section to include a definition of ‘designated person’.</td>
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Response - Support

The City supports the proposed change to section 228.
Proposal

9 Public works exemption

9.1 Range of public and minor works

The development approval process for public works throughout the State is in need of review. The existing provisions in section 5 & 6 of the Planning Act have been the subject of frequent legal advice as to whether or not a particular body or type of work comes within the scope of a public works exemption. If a work does not come within an exemption under the Public Works Act 1902, a development application needs to be lodged with the WAPC for approval under a region planning scheme (e.g. MRS), unless it comes with one of the separate list of exemptions set out in the region planning scheme.

Section 6 of the Planning Act provides an exemption from development approval for public works undertaken by any of the agencies specified in section 6. The outcome of this is that section 6 bodies may be required to apply for approval to commence development, including public works, under a relevant region planning scheme (e.g. MRS).

The definition of public works will be expanded to include the range of works identified by the WAPC as not requiring approvals. This may be done either by expanding the list to iterate a list of specific works (to be subscribed in subsidiary legislation) or by revisiting the definition to allow more flexibility in determining whether or not work amounts to public work for the purposes of section 6.

Response - Support

The City supports a review of the development approval process for public works throughout Western Australia.

The City supports a review of the term ‘public works’ to give more flexibility to determine if development approval is required under the MRS and local government planning scheme.

Section 6 bodies are required to apply for development approval under the MRS, unless the public works are permitted works and are exempt from development approval. The process for establishing if development approval is required is complicated and often involves a review of the relevant sections of the Planning Act, Public Works Act, the Agency enabling Act, and the Department of Planning Bulletin on Public Works, and the land reservation under the MRS.

The Planning Act should list all Section 6 Bodies where an exemption from development approval for public works undertaken under the MRS applies.

A review of the development approval process for public works in region planning schemes should also be undertaken (e.g. MRS).

Proposal

9.2 Public and private bodies

There is confusion about the range of public and private bodies that can claim the public works and other region planning scheme exemptions. There is also complexity where there are partnerships between State and private bodies doing public works. It is not always clear where corporate or semi-corporate bodies providing utilities and other services that previously were provided by the State, when and if certain exemptions apply. It is proposed to further clarify the bodies that may claim exemptions for public works under the Planning Act or region planning scheme (e.g. MRS).

Response - Support

Section 6 of the Planning Act is difficult to interpret for corporate organisations such as the Water Corporation, Western Power, Landcorp, which undertake ‘public works’ that were previously undertaken by the State.

The City acknowledges this issue and welcomes the clarification of the bodies that may claim exemptions for public works under the Planning Act or region planning scheme. The Water Corporation and other similar bodies undertaking public works should be exempt from obtaining planning approval under the MRS.
Proposal

9.3 Discrepancies between local government and State agencies

Under section 5 & 6 the ‘Crown’ is bound by a region planning scheme, but not by a local planning scheme in relation to public work. This position came from a legal case in 2000, that involved the City of Bayswater (WASCA 151). Section 6 bodies are required to apply for development approval, including public works under the Metropolitan Region Scheme. This has led to a situation where local government is exempt from approval under the MRS for public works, but a State department or agency is not exempt.

It is proposed that section 5 is amended so the legislative position returns to the situation prior to the Bayswater case. That is, neither the Crown nor local governments will be bound by region planning schemes in undertaking public works.

Response - Support

The City supports the return of the situation where the Crown and local governments are not bound by region planning schemes in undertaking public works and controlled through the requirements of the Environmental Protection Act 1986.

Proposal

9.4 Consultation where exemption applies

Where an exemption under section 6 applies and development approval is not required for public works, there have been implementation issues regarding the requirement to consult with relevant authorities and have regard to the proper planning and objects of schemes applicable, even though there is not requirement to submit a formal application. It is proposed to more specifically prescribe the consultation requirements in cases where a section 6 exemption does apply.

Response

Section 6 bodies should undertake consultation not just with local government but with local communities on major public works that could have a significant impact on the amenity of adjacent properties (e.g. installation of 132KV Power Lines, Substations, and Sewerage Treatment Plants). This would require Section 6 bodies to operate in an open and transparent way and to take into account public views before proceeding with major public works.

Consultation with local government should occur, however, if there are any additional utility services proposed within local roads or reserved land under the responsibility of local government.

Proposal

10 Crown and State land

It is proposed to amend the Planning Act to allow more efficient delegation of the functions under section 267A, to appropriate officers under applicable legislation, relating to the process of giving of approval or signature of the owner of Crown land or freehold land in the name of the State.

Response - Noted

Proposal

11 State planning policies

The Minister now has the power to direct a local government to amend its local planning scheme to be consistent with a particular State Planning Policy. To ensure a fair implementation of these powers it is proposed to prescribe more particular requirements regarding the format and content of SPPs. An option is being considered that gives the WAPC the discretion to adopt a supplementary guideline as a State Planning Guidelines to give it greater weight in the decision making process. To the extent of the inconsistency the provisions of a State Planning Policy shall prevail over the provisions of supplementary guidelines. The most recent example is the explanatory guidelines prepared as part of the Residential Design Codes.

Response - Support
The City supports the proposed changes to enable the implementation of State Planning Guidelines, and where to the extent of an inconsistency the provisions of a State Planning Policy shall prevail over the provisions of supplementary guidelines.

**Proposal**

12 **Interaction of the Planning Act with other legislation**

It is proposed to review the interaction of the Planning Act with other key legislation. (e.g. Environmental Protection Act 1986)

**Response** - Noted

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council **ENDORSE** the Officer Report as the basis for preparing a City of Rockingham submission on the Planning Reforms - Planning Makes it Happen: Phase Two Discussion Paper.

**Committee Recommendation**

That Council **ENDORSE** the Officer Report as the basis for preparing a City of Rockingham submission on the Planning Reforms - Planning Makes it Happen: Phase Two Discussion Paper.

Committee Voting – 5/0

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

Not Applicable

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

Not Applicable
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PDS-015/13 Proposed Subdivision – Lot 2005 Palermo Cove, Secret Harbour (Secret Harbour Surf Life Saving Club)</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>28/5544; CSV/1891; CSV/1565/04</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Ms Tamara Vreeken, Special Projects Officer</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Ashley Pittard, Manager Community Infrastructure Planning</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Bob Jeans, Director Planning and Development Services</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>2 December 2013</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td>23 August 2011 (CIP-016/11)</td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Executive</td>
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<tr>
<td>Site:</td>
<td>Lot 2005 Palermo Cove, Secret Harbour</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>9,968m²</td>
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<tr>
<td>LA Zoning:</td>
<td>Parks and Recreation</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Parks and Recreation</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Concept Plan</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
</tr>
<tr>
<td></td>
<td>2. Area Plan</td>
</tr>
</tbody>
</table>
1. Location Plan

**Purpose of Report**

1. To consider proceeding with a subdivision process to excise a portion of Lot 2005 Palermo Cove, Secret Harbour, owned by the Secret Harbour Pty Ltd, for the purposes of constructing the replacement clubrooms for the Secret Harbour Surf Life Saving Club (SHSLSC).

2. To seek Council’s endorsement of the preferred concept plan for the redevelopment.

**Background**

At its Ordinary meeting held in August 2011, Council resolved to:

“**ENDORSE Concept Plan 2 – Construction of a new facility within Lot 4142 and minor upgrades to the current facility within Lot 4248 Palermo Cove, Secret Harbour subject to approval being granted by the State Land Authority, as the preferred redevelopment option of the Secret Harbour Surf Life Saving Club in 2013/14 as per the City Business Plan 2011/12 to 2020/21.”**

Since that time, further site investigations and a concept plan review has been undertaken to better determine a functional building design to meet the needs of the SHSLSC, community and the City. This concept design review process has now produced an enhanced concept design on an alternate location within the Secret Harbour foreshore precinct.

**Details**

Secret Harbour Foreshore

Secret Harbour Beach is considered one of the most utilised beaches in the City of Rockingham with over 50,000 visitors recorded by Surf Life Saving WA during the recent summer (Australian Life Guard Service, City of Rockingham Report 2012/13).
Such high patronage is attributed to the ‘patrolled’ nature of the beach and population growth within Secret Harbour area, which is projected to continue to increase. The southern-central section of the beach is the highest energy in Comet Bay with waves averaging up to 1.5 m, with rips regularly spaced along the beach whilst the northern section of the beach reaches a low sandy point and as a result waves decrease, the bar narrows and rips diminish. Given these somewhat hazardous beach conditions, and increasing beach patronage statistics, the need to improve existing surf life saving infrastructure has been identified as a high priority within the City Business Plan 2013/14 to 2022/23 and Community Infrastructure Plan.

Secret Harbour Surf Life Saving Club

Current membership of the SHSLSC is capped at 800 and unfortunately the Club has had to turn people away from participating in the sport and community service (comprising seniors, juniors, cadets, parents and social) due to the inability to adequately house and operate the Club’s burgeoning membership in the existing facility. Such growth, if permitted, will establish SHSLSC as one of the largest surf life saving clubs within Western Australia and importantly will further encourage physical activity based upon the values of volunteering, family, leadership, teamwork, meeting challenges, pursuing excellence and community service. Given the growth in general beach patronage, strong membership of the Club and its contribution to the community, as well as the desire by the City to better activate the Secret Harbour foreshore precinct for the community, the SHSLSC redevelopment is a committed priority for the City of Rockingham to deliver.

The SHSLSC continues to be successful in winning and being finalists in a range of Surf Life Saving, community and City of Rockingham Awards. It continues to harness the capabilities of its volunteers to contribute to the fabric of the local and regional community. It is progressive in hosting a range of national and state events and the requirement for a facility to support major events is mandatory.

Infrastructure Planning

The City, in conjunction with the SHSLSC, undertook a Needs Assessment and Facility Provision Option followed by a Feasibility Study and Business Plan which were accepted by Council in August 2011.

The current ageing premises is in the form of a 545m$^2$ clubhouse containing an equipment store, first aid room, male and female change rooms, training office, function hall, bar and kitchen servery. The redeveloped facility has been designed to support various elements which will complement the overall purpose of the facility. There is provision for a kiosk and café, as well as capabilities to host large and small community and corporate functions.

There is the potential for increased employment through the appointment of a dedicated facilities and function coordinators and part-time and casual employment through the running of the café and kiosk as well as maintenance and caretaking roles.

The proposed SHSLSC pavilion shall provide a diverse range of services, activities and public amenities for the Club members, visitors and families from throughout the Rockingham municipality and surrounding region. Such a facility will provide beach safety and patrols, general sport and recreation, community use to multi-purpose meeting rooms, education and training opportunities, commercial prospects, health and well-being for people of all ages and abilities.

The project plan is to construct a new facility adjacent to the existing 20 year old structure and following commissioning; the old building will be demolished. This will create additional usable space for the Club and the broader community, increase storage of life saving equipment and offer new services and attractions to this significant foreshore area. The new SHSLSC pavilion shall include:

- SHSLSC Operational areas including First Aid Room, Operations Room, Change rooms, Wet and Dry training areas, Office/Administration, Gymnasium/Health and Wellbeing studio;
- Boats, Equipment and Training area;
- Community Meeting Rooms/Function area, Café and Kiosk; and
- Universal Access Public Toilets.
The project will result in at least four additional hirable spaces for access by the community and private groups as well as the clear separation of the social and operational areas of the club which will improve and enhance the functionality, safety and efficiency of the club. There shall be space available for community groups to host health and wellbeing activities such as fitness, dance classes, art classes, as well as support services such as counselling for a wide age demographic.

In addition to the construction of the new building, upgrades and improvements to the beach access track are part of this project. This concept involves widening the existing beach access track and reducing the gradient to improve line of sight for pedestrians and emergency vehicles accessing the beach and also improving access for people with limited mobility or persons with a disability.

Construction is anticipated to take approximately 12 months from tender awarding, estimated to be approximately April 2014 to April 2015. During this time the Club will continue to operate from its current facility whilst construction of the new building is occurring, thus minimising any impact to beach safety or inconvenience over the peak summer season.

**Design Clarification**

Whilst continuing the concept design refinement, a number of factors remained outstanding and required clarification to finalise the concept design. Officers and stakeholders have continually been examining all options to ensure all design factors have been completely explored and exhausted and that the resultant design delivers the best community outcome. These factors included:

1. When Council endorsed the previous concept in 2011, it was based upon the Committee having preference to ‘Option 2’ as it resulted in less disruption to the SHSLSC activities during the facility construction phase. The design and project timing had to ensure the minimum disruption to the operations of the SHSLSC.

2. Throughout the extensive planning, the initial design had presented a two-storey facility with the intention to have a balcony overlooking the ocean. Two questions were raised:
   (a) Is a view of the ocean achievable from a second storey?
   (b) Due to construction costs, how much of the pavilion needs to be located on the second storey to meet the needs of the club and provide the most functional building design?

   Firstly, to capture any view may be dependent on nature as the sand dunes continually move and grow. Secondly, the design must maximize the view for function, social and event management needs, but to be considerate to not having to build extensive second storey areas that are upstairs just for the sake of it. Every square metre of construction to a second storey will be significantly more expensive as well as may impact on the amenity and vistas in the area. With this objective, City Officers used a cherry-picker to go to a height of 4 metres in the immediate vicinity of the existing pavilion, where dunes are at their smallest, to confirm an ocean view is obtained by a person standing on a second storey balcony. Any redevelopment of a beach access path would open up a guaranteed but narrow view of the beach and ocean environs.

3. To endeavour to maximise the SHSLSC redevelopment central to the foreshore precinct to enhance access and amenity and better activate the precinct throughout the year. The possibility of utilising the adjacent land (Lot 2005) or a portion of it to build a new pavilion as close to existing building as practicable was investigated. The resultant outcome would be the best design and functional use of space to suit future community use, precinct activation, Club operations and development.

4. A level of inconvenience may be caused by the dune access works and how the SHSLSC and community may access the beach during that period.

5. The previous ‘Option 2’ straddled two land allotments, included minor upgrades to the current facility which is an ageing asset within Lot 4248 and impacted on car parking provision. It was determined that the concept design should, wherever practicable, be based upon one land area, not waste money upgrading or modifying ageing infrastructure and should minimise parking loss.

With these factors in mind the Project Control Group, supported by the SHSLSC Redevelopment Project Reference Group, has been able to investigate and determine the best concept design in the preferred location, namely located on a portion of Lot 2005.
Lot 2005

As a portion of Lot 2005 Palermo Cove was identified as the preferred location for the new premises, the City has been progressing discussions between the representatives of owners of Lot 2005, being Secret Harbour Pty Ltd and the Western Australian Planning Commission (WAPC) to secure the required portion, as shown in yellow in Figure 2 below. The portion of Lot 2005 required for the building and for the boat access is approximately 2,348m².

Lot 2005 was created as a freehold lot through a subdivision approved by the WAPC in November 2007. The subject land is within a Regional Reserve - Parks and Recreation under the Metropolitan Region Scheme. The land has a corresponding reservation in Town Planning Scheme No.2.

The WAPC only supported the subdivision of the land on the basis of a historical precedent with the intention that the land would be developed and used as an Activity Node along the coast. Lot 2005 was previously occupied by shops and other buildings constructed by Secret Harbour Pty Ltd, which has explained why the WAPC supported the creation of Lot 2005 as a freehold lot, that was retained in private ownership.

As part of the condition to support Lot 2005 being retained in private ownership, the WAPC required Secret Harbour Pty Ltd entering into a legal agreement with the WAPC to exempt the Commission from any claim for compensation either for the land or improvements thereon, or acquisition of the land under the terms of the Metropolitan Region Town Planning Scheme Act. The Deed of Covenant was subsequently entered into in October 2008 between Secret Harbour Pty Ltd and the WAPC.

Secret Harbour Pty Ltd has agreed for the City to undertake the process for the area shown in yellow above, to be subdivided from Lot 2005 for the purposes of creating a new Lot for the new SHSLSC premises. Once the new lot is created Secret Harbour Pty Ltd will transfer the land to the WAPC, which in turn, will transfer the land to the State. The land will then be created as a Crown Reserve with a Management Order vesting control in the City with the power to lease.

Implications to Consider

a. Consultation with the Community

The SHSLSC Redevelopment Project Reference Group has community representation.
b. **Consultation with Government Agencies**
   The WAPC is involved in the process. Further consultation with Government agencies will occur as part of the subdivision process.

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 4:** A healthy community engaging in positive and rewarding lifestyles with access to a range of passive and active recreational and personal development opportunities.

   **Aspiration 5:** Community facilities and services delivered in a timely manner, able to meet expectations and serve new and growing neighbourhoods.

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

   **Aspiration 7:** Community facilities and services that are well utilised, accessible and cost effective and where appropriate, multi-functional.

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

d. **Policy**
   The proposed beach access works remain subject to State Planning Policy 2.6 State Coastal Planning Policy (SPP2.6) which provides criteria for assessment of Coastal Development, Development Control Policy - Country Coastal Planning Policy (DC6.1) which is used throughout the State and the City’s Rockingham Foreshore Strategy 2001.

e. **Financial**
   An amount of $5,013,949 has been allocated in 2013/14 Council Budget for the redevelopment of the SHSLSC as per the City Business Plan. The project budget is outlined below:

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<thead>
<tr>
<th>Capital Cost Breakdown</th>
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</tr>
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<tbody>
<tr>
<td>Planning and Design</td>
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<tr>
<td>Earthworks and site services</td>
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<tr>
<td>Construction Costs</td>
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<tr>
<td>External Infrastructure</td>
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<tr>
<td>Allowances and Contingencies</td>
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<tr>
<td>Beach Access Works</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>5,013,949</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Income Breakdown</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Rockingham (Committed)</td>
<td>3,613,949*</td>
</tr>
<tr>
<td>Department of Sport &amp; Recreation Western Australia (CSRFF) Committed</td>
<td>700,000</td>
</tr>
<tr>
<td>Lotterywest (anticipated)</td>
<td>700,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5,013,949</strong></td>
</tr>
</tbody>
</table>

   *Previous Federal Government Announcement (to be confirmed) | 2,000,000
f. Legal and Statutory
The SHSLSC is situated on a Metropolitan Region Scheme Regional Reserve for ‘Parks and Recreation’. The proposed development is considered to be public works under section 6 of the Planning and Development Act 2005 and accordingly Planning Approval is not required.

Comments

Land Tenure
The process will be as follows:-
- The portion of Lot 2005 (as identified in yellow in Figure 2) be subdivided from Lot 2005 and created as a free simple lot and subsequently transferred to the WAPC.
- The WAPC will transfer the management of the Lot to the City.
- The City is able to construct the new Surf Life Saving Club on the subject site.
- Secret Harbour Pty Ltd will be consulted on the building plans for the new Surf Life Saving Club.
- Secret Harbour Pty Ltd is able to undertake landscape works on the remaining portion of Lot 2005, which would be still in its ownership, subject to application and approval.
- The balance of Lot 2005 would be subject to future negotiations between the WAPC and Secret Harbour Pty Ltd with respect to transfer/acquisition.
- The Deed of Agreement between the WAPC and Secret Harbour Pty Ltd would need to be amended to remove the subject portion of Lot 2005 from the current agreement in place.

Concept Plan
The rationale for redevelopment of the SHSLSC has been clearly demonstrated through the Project Needs Assessment, Feasibility Study and Business Plan. The findings that such redevelopment is necessary given the increased patronage at Secret Harbour Beach and projected population increases throughout the municipality, are also supported through the City’s Community Infrastructure Plan and subsequent City Business Plans. Whilst the project justification has been confirmed, it remained necessary to determine the most favourable and functional redevelopment option based on community and club needs. In selecting the preferred redevelopment option it is necessary to balance perspectives from all stakeholders, and most importantly the imperatives of both the City of Rockingham and SHSLSC.

The concept design option now developed is able to meet the needs of all stakeholders especially in meeting the future requirements of the SHSLSC and beach patrons.

Based upon consideration of a range of factors, and consultation with various stakeholders, it is recommended that Council endorse the revised redevelopment concept plan 2013 on the following basis:
- The plan meets all functionality and building requirements as identified within the Needs Assessment, Feasibility Study and Business Plan;
- The associated capital cost estimate is within the project budget identified within the City Business Plan 2013/14 to 2022/23;
- The plan is consistent with the City’s asset management imperatives given that it results in one building (rather than two associated with the previous option), it delivers one new building rather than the retention of an ageing asset and incorporates public toilet provision thus reducing the need for any additional standalone public buildings within the foreshore node;
- The building shall be in the best location to obtain a view to the ocean from the second storey;
- The above ground construction requirements shall be only as required by the design needs and provide a cost effective outcome;
- The estimated lifecycle costs less per annum given that an ageing asset is not retained, and given the extended lifespan of these public buildings (estimated 50 years) is a significant financial saving;
- There is minimal disruption or inconvenience to the SHSLSC operations and beach access thoroughfares throughout construction;
- There is minimal impact on car parking provision within the foreshore node; and
- There is negligible impact on adjacent landowners who propose residential developments on adjacent land allotments.

The construction of a new enhanced multipurpose SHSLSC Pavilion is a major infrastructure priority for the City of Rockingham. With significant growth in the number of persons visiting the Secret Harbour beach and the ageing nature and limited capacity of the existing clubhouse, this is an important project for the City to enhance beach safety provision, activate a foreshore precinct and ensure the sustainability of the SHSLSC and local community groups.

**Conclusion**

In light of the above, it is recommended that the City undertake the subdivision process to excise a portion of Lot 2005, to be created as an individual lot, to enable the development of the new Secret Harbour Surf Life Saving Club and endorse for the revised Concept Plan on the new location.

### Voting Requirements

**Simple Majority**

#### Officer Recommendation

That Council:

1. **APPROVE** the subdivision process to excise a portion of Lot 2005 Palermo Cove, Secret Harbour to enable the development of the new Secret Harbour Surf Life Saving Club.

#### Committee Recommendation

That Council:

1. **APPROVE** the subdivision process to excise a portion of Lot 2005 Palermo Cove, Secret Harbour to enable the development of the new Secret Harbour Surf Life Saving Club.

**Committee Voting – 5/0**

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

Not Applicable

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

Not Applicable
### Engineering and Parks Services

#### Asset Services

**Reference No & Subject:**
- EP-029/13

**File No:**
- T13/14-35

**Proponent/s:**
- Mr Kelton Hincks, Manager Asset Services

**Author:**
- Mr Kelton Hincks, Manager Asset Services

**Other Contributors:**
- Mr Kelton Hincks, Manager Asset Services

**Date of Committee Meeting:**
- 2 December 2013

**Previously before Council:**
- 

**Disclosure of Interest:**
- 

**Nature of Council’s Role in this Matter:**
- Executive

**Site:**
- 

**Lot Area:**
- 

**LA Zoning:**
- 

**MRS Zoning:**
- 

**Attachments:**
- 

**Maps/Diagrams:**
- 

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### Purpose of Report

Provide Council with details of the tenders received for Tender T13/14-35 – Maintenance and repairs of decorative street lights, car park lights and sports oval flood lighting, document the results of the tender assessment and make recommendations regarding award of the tender.

### Background

Tender T13/14-35 – Maintenance and repairs of decorative street lights, car park lights and sports oval flood lighting was advertised in the West Australian on Saturday, 21 September 2013. The Tender closed at 2:00pm, Wednesday, 9 October 2013 and was publicly opened immediately after the closing time.

### Details

#### Tender Summary:

The scope of works covers:
• Specified or unspecified replacement, repair and maintenance of the City owned streetlights, car-park lights, park area lighting and oval tower lighting.
• Annual auditing of all oval tower lighting.
• Auditing of all decorative street lights, car park lights and sports oval flood lighting every two years.
• Supply and installation of minor replacement components.
• Supply of access equipment.
• Response for emergency works 24 hours a day, seven days a week.

The Contract period shall be from the date of award for a 24 month period.

Tender submissions were received from:

<table>
<thead>
<tr>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surun Services Pty Ltd</td>
</tr>
<tr>
<td>JDS Technical Services Pty Ltd</td>
</tr>
<tr>
<td>KRE Electrical Pty Ltd</td>
</tr>
<tr>
<td>Alltech Electrical &amp; Data Services Pty Ltd</td>
</tr>
<tr>
<td>UAM Pty Ltd</td>
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<tr>
<td>Electrix Pty Ltd</td>
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<tr>
<td>Austindo WA Pty Ltd</td>
</tr>
<tr>
<td>M Power U Electrical Contracting Pty Ltd</td>
</tr>
<tr>
<td>Wembley Electrics Pty Ltd</td>
</tr>
</tbody>
</table>
A panel comprising of the Manager Asset Services, Building Maintenance Coordinator and Building Maintenance Officer undertook tender evaluations. Evaluation of the tender, in accordance with the advertised tender assessment criteria, produced the following weighted scores:

<table>
<thead>
<tr>
<th>Assessment Criteria</th>
<th>Max. Points</th>
<th>KRE Electrical Pty Ltd</th>
<th>M Power U Electrical Contracting Pty Ltd</th>
<th>Surun Services Pty Ltd</th>
<th>Wembly Electrics Pty Ltd</th>
<th>Austindo WA Pty Ltd</th>
<th>JDS Technical Services Pty Ltd</th>
<th>UAM Pty Ltd</th>
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<th>Alltech Electrical &amp; Data Services Pty Ltd</th>
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<tbody>
<tr>
<td>Level of Service</td>
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<td>18.3%</td>
<td>21.3%</td>
<td>17.7%</td>
<td>18.3%</td>
<td>21.7%</td>
<td>23%</td>
<td>28.3%</td>
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<tr>
<td>Performance and Experience of Tenderer</td>
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<td>19%</td>
<td>18.7%</td>
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<td>4%</td>
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<td>5.7%</td>
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<td>30.8%</td>
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<td>15.8%</td>
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<td>69.8%</td>
<td>62.5%</td>
<td>60.8%</td>
<td>69.4%</td>
<td>72%</td>
<td>68.5%</td>
<td>68.3%</td>
<td>66.1%</td>
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Subject to the mutual agreement of both the Principal and the Contractor, and with the absolute discretion of either party not to extend, the Contract may be extended for a maximum of up to 24 additional calendar months, in periods not greater than 12 calendar months.
Implications to Consider

a. **Consultation with the Community**
   Not Applicable

b. **Consultation with Government Agencies**
   Not Applicable

c. **Strategic**
   **Community Plan**
   This item addresses the Community’s Vision for the future and specifically the following Aspiration contained in the Community Plan 2011:
   
   **Aspiration 6:** Civic buildings, public places and transport infrastructure of contemporary design, constructed and maintained using best practice principles.

d. **Policy**

e. **Financial**
   The level of expenditure for this contract is estimated to be $1,000,000 on average per annum.
   Capital and operational expenditure will be in accordance with the Engineering and Parks 2013/2014 budget.

f. **Legal and Statutory**

Comments

The City receives approximately 800 customer requests each year relating to street and park lighting faults. The causes of these faults vary in nature from wear and tear and corrosion to damage from vehicle collisions. A large percentage of the requests are considered to be high in priority where the lighting is located in areas such as busy intersections, playing fields and known anti-social hangouts. Other more critical priorities such as live exposed wires and light poles obstructing traffic following a vehicle collision are the reason why the service is required 24 hours a day, seven days a week.

In 2011, City Officers categorised the common types of lighting faults and reviewed the expected timeframes for rectification works. In addition to this, an overall key performance indicator (KPI) was set for the lighting network to be not less than 95% operational.

In order to achieve the desired level of service, City Officers resolved to restructure the lighting maintenance processes and separated the operational lighting inspections from maintenance and renewal works. This will not only provide a third party to audit the works completed by contractors, but also provide a greater pool of labour to attend to priorities.

Of the nine submissions assessed, the following two companies sufficiently met the selection criterion and achieved the highest combined totals.

- JDS Technical Services Pty Ltd
- M Power U Electrical Contracting Pty Ltd

To avoid a bias toward any one contractor and to establish a fair process, tasks will be allocated to both contractors for an equal estimated value in accordance with the projected yearly expenditure using the pricing schedule to determine best value.
To maintain the veracity of the contract outcomes, the performance of the contractors will be measured against the tendered scope, where the quality, timeliness, health and safety and overall value for money will be monitored and documented.

Random inspections on the standard of workmanship and compliance with the scope will also be undertaken to ascertain the contractors’ reliability.

### Voting Requirements

Simple Majority

### Officer Recommendation

That Council **ACCEPT** the tenders submitted from M Power U Electrical Contracting Pty Ltd, 5/5 Nasmyth Street, Rockingham WA 6168 and JDS Technical Services Pty Ltd, Unit 3, 195 Bannister Road, Canning Vale for Tender T13/14-35 – Maintenance and repairs of decorative street lights, car park lights and sports oval flood lighting in accordance with the tender documentation for the contract period being from the date of award for a period of 24 months.

### Committee Recommendation

That Council **ACCEPT** the tenders submitted from M Power U Electrical Contracting Pty Ltd, 5/5 Nasmyth Street, Rockingham WA 6168 and JDS Technical Services Pty Ltd, Unit 3, 195 Bannister Road, Canning Vale for Tender T13/14-35 – Maintenance and repairs of decorative street lights, car park lights and sports oval flood lighting in accordance with the tender documentation for the contract period being from the date of award for a period of 24 months.

Committee Voting – 5/0

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

Not Applicable

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

Not Applicable

4.35pm - Mr Kelton Hinks, Manager Asset Services left the Planning and Engineering Services Committee meeting.
<table>
<thead>
<tr>
<th></th>
<th><strong>Reports of Councillors</strong></th>
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<tbody>
<tr>
<td></td>
<td>Nil</td>
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<td><strong>Addendum Agenda</strong></td>
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<td>Nil</td>
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<td><strong>Motions of which Previous Notice has been given</strong></td>
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<td><strong>Notices of Motion for Consideration at the Following Meeting</strong></td>
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<td>Nil</td>
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<td><strong>Urgent Business Approved by the Person Presiding or by Decision of the Committee</strong></td>
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<td><strong>Matters Behind Closed Doors</strong></td>
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<tr>
<td>19.</td>
<td><strong>Date and Time of Next Meeting</strong></td>
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<td></td>
<td>The next Planning and Engineering Services Committee Meeting will be held on Monday 17 February 2014 in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.</td>
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<td>20.</td>
<td><strong>Closure</strong></td>
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<td>There being no further business, the Chairperson wished all Councillors, staff and their families compliments of the season and a Happy New Year, thanked them for their contribution over the past year and declared the meeting closed at 4.44pm.</td>
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