MINUTES
Planning and Engineering Services Committee Meeting
Held on Monday 19 February 2018 at 4:00pm
City of Rockingham Boardroom
# Planning and Engineering Services Committee Minutes
Monday 19 February 2018

## CONTENTS

<table>
<thead>
<tr>
<th></th>
<th>Declaration of Opening</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Record of Attendance/Apologies/Approved Leave of Absence</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Responses to Previous Public Questions Taken on Notice</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Public Question Time</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>Confirmation of Minutes of the Previous Meeting</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>Matters Arising from the Previous Minutes</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td>Announcement by the Presiding Person without Discussion</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>Declaration of Member’s and Officer’s Interest</td>
<td>7</td>
</tr>
<tr>
<td>9</td>
<td>Petitions/Deputations/Presentations/Submissions</td>
<td>7</td>
</tr>
<tr>
<td>10</td>
<td>Matters for which the Meeting may be Closed</td>
<td>7</td>
</tr>
<tr>
<td>11</td>
<td>Bulletin Items</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Planning and Development Services Information Bulletin - February 2018</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Engineering and Parks Services Information Bulletin - February 2018</td>
<td>7</td>
</tr>
<tr>
<td>12</td>
<td>Agenda Items – Planning and Engineering Services Committee</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Planning and Development Services</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>PD-005/18 Proposed Amendment to Planning Policy 3.3.10 - Home Occupations and Home Businesses</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>PD-006/18 Joint Development Assessment Panel Application - Renewal of Approval for Educational Establishment - Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>PD-007/18 Proposed Street Naming Theme – ‘Paramount Studios Films and Actors’</td>
<td>61</td>
</tr>
<tr>
<td></td>
<td>Engineering and Parks Services</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td>EP-002/18 Tender T17/18-30 - Standing Offer for the Installation and Maintenance of Reserve Fencing</td>
<td>66</td>
</tr>
<tr>
<td>13</td>
<td>Reports of Councillors</td>
<td>69</td>
</tr>
<tr>
<td>14</td>
<td>Addendum Agenda</td>
<td>69</td>
</tr>
<tr>
<td>15</td>
<td>Motions of which Previous Notice has been given</td>
<td>69</td>
</tr>
<tr>
<td>16</td>
<td>Notices of Motion for Consideration at the Following Meeting</td>
<td>69</td>
</tr>
<tr>
<td>17</td>
<td>Urgent Business Approved by the Person Presiding or by Decision of the Committee</td>
<td>69</td>
</tr>
<tr>
<td>18</td>
<td>Matters Behind Closed Doors</td>
<td>69</td>
</tr>
<tr>
<td>19</td>
<td>Date and Time of Next Meeting</td>
<td>69</td>
</tr>
<tr>
<td>20</td>
<td>Closure</td>
<td>69</td>
</tr>
</tbody>
</table>
## City of Rockingham
### Planning and Engineering Services Committee
#### Meeting Minutes
**Monday 19 February 2018 - Council Boardroom**

### 1. Declaration of Opening

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

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

#### 2.1 Councillors
- Cr Chris Elliott
- Cr Matthew Whitfield
- Cr Barry Sammels (Mayor)
- Cr Leigh Liley (Deputising for Cr Deb Hamblin)
- Cr Katherine Summers
- Cr Joy Stewart (Observer)

#### 2.2 Executive
- Mr Michael Holland - A/Chief Executive Officer
- Mr Bob Jeans - Director Planning and Development Services
- Mr Peter Doherty - Director Legal Services and General Counsel
- Mr Sam Assaad - Director Engineering and Parks Services
- Mr Peter Ricci - Manager Major Planning Projects
- Ms Natalie Elliott - A/Manager Strategic Planning and Environment
- Mr Mike Ross - Manager Statutory Planning
- Mr Rod Fielding - Manager Health and Building Services
- Mr David Caporn - Manager Compliance and Emergency Liaison
- Mr Ian Daniels - Manager Infrastructure Project Delivery
- Mr Kelton Hincks - Manager Asset Services
- Mr James Henson - Manager Land and Development Infrastructure
- Mr Adam Johnston - Manager Parks Services
- Ms Melinda Wellburn - PA to Director Planning and Development Services

#### 2.3 Members of the Gallery:
- 8

#### 2.4 Apologies:
- Cr Deb Hamblin

#### 2.5 Approved Leave of Absence:
- Nil

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

#### 3.1 Mr Peter Green, 25 Nabberu Loop, Cooioongup - Lake Richmond and Mangles Bay Marina

At the Planning and Engineering Services Committee meeting held on 15 January 2018, Mr Green asked the following questions that were taken on notice and the Director Planning and Engineering Services provided a response in a letter dated 23 January 2018 as follows:
**Question**

1. Has the City considered applying for RAMSAR listing for Lake Richmond? I am aware of its heritage listing of last year.

**Response**

Wetlands recognised under the Ramsar Convention are afforded protection under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act). As Lake Richmond is already afforded protection under the EPBC Act for containing two Threatened Ecological Communities, the City is not considering making application for a Ramsar listing.

**Question**

2. If so, can copies of all correspondence/application/responses be made available referring to RAMSAR listing?

**Response**

See Question 1.

**Question**

3. As for Waterways Management the process for 25 year expenditure attributed to the City was completed in November 2016, as yet the income to be generated has not concluded. What is the dollar figure associated with the expenditure for the 25 years?

**Response (provided at meeting)**

The Chairperson advised that City Officers have been in discussion with Cedar Woods and LandCorp for a considerable time on this issue, however, negotiations have not been completed, so no amount has been reported to Council and no Councillor is in a position to respond to that question until that has happened.

**Question**

4. What stage is income assessment at with regard to Waterways Management. I note no correspondence between Cedar Woods and the City since February 2016, what stage are discussions at?

**Response (provided at meeting)**

Mr Andrew Hammond, Chief Executive Officer advised that until such time as the State Government decides whether or not it approves the MRS Amendment, City Officers and the proponent will not be in a position to have the level of detail necessary to do the analysis to provide a briefing for Council.

No assessment of potential revenue can be made until the design and area of waterways management and marina is known. The built form will provide the rateable areas on which the assessment on a special rate levy can be generated.

**Question**

5. That being the case, does that mean the original design has been changed or will potentially change?

**Response (provided at meeting)**

Mr Andrew Hammond, Chief Executive Officer advised that until such time as the State Government makes a decision the City does not know.

### 4. **Public Question Time**

<table>
<thead>
<tr>
<th>Time</th>
<th>Question</th>
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</thead>
<tbody>
<tr>
<td>4:01pm</td>
<td>The Chairperson invited members of the Public Gallery to ask questions.</td>
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<tr>
<td>4:1</td>
<td>Mr James Mumme, 36 Gloucester Avenue, Shoalwater - Brazilian Pepper</td>
</tr>
</tbody>
</table>
The Chairperson invited Mr Mumme to present his questions to the Planning and Engineering Services Committee. Mr Mumme asked the following questions:

(Preamble to Questions)

Regarding weeds on the DHA Palm Beach Caravan Park Site, thank you for whatever Council did to get monthly weed control.

Regarding Brazilian pepper (schinus terebinthifolia) I note that the response said “Brazilian Pepper is not listed under Schedule 1 of the Pest Plants Local Law 2000”. Neither is it listed under the 2010 update of the Law. However Council has in the past been proactive and asking the private owner of that lot and Landcorp to take action to deal with this weed. The approach produced action in both cases.

However I do have records that show that this weed was listed on the Council’s Local Law at least up until June 2017.

1. Can Council clarify what happened with this listing?
   
   The Chairperson advised that the question will be taken on notice.

2. In the interest of also protecting Lake Richmond’s already threatened vegetation, can Council please repeat the request to Rivormist P/L again as the peppers have clearly only been slashed but not either dug out or poisoned with the result that they are sprouting up to one metre in height?
   
   The Chairperson advised that the question will be taken on notice.

4.2 Mr Terry Sanfead, 5 Olive Hill Close, Karnup - PDS-006/18 - Joint Development Assessment Panel Application - Renewal of Approval for Educational Establishment - Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup

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

1. Is there a conflict of interest by anyone at the City present or not, such as related to or close friends with the Council contractors Foreshore Rehabilitation & Landscaping, also being the previous owners of lot 701 & the current owners of lot 700 who have already benefitted from this DA & stand to benefit much more once the DA is fully approved?
   
   The Chairperson advised that he was unaware of any conflict of interest, however, the question will be taken on notice.

2. We are at a loss to see how the over 200 Pinus Radiatus trees that were planted mid 2016 in clear straight lines with even spacing could be missed. They will become a major fire risk to the school. How could the pine trees have been missed?
   
   The Chairperson advised that the question will be taken on notice.

3. The original report had the area South of the Development as flat & no trees with a BAL rating of 29 now this new report is claiming it is a steep down slope & yes, it is woodland yet the fire risk remains the same. This is illogical. Other omissions were tabled in a document provided at the meeting. Why?
   
   The Chairperson advised that the question will be taken on notice.

4. No parking allowance for ‘P’ Plate drivers has been made in the development. Why? Where are they going to park?
   
   The Chairperson advised that the question will be taken on notice.

5. The fire report is deceptive and false and the RAR should not be supported. The fire report could endanger over 500 children, how can the City of Rockingham explain this occurrence? You have not looked at the report, why?
The Chairperson advised that both City staff and Councillors have looked at the matter very carefully and in fact, this is the second time, however, the question will be taken on notice.

6. Will the Council say 'No' to the RAR?

The Chairperson advised that this item will be debated later in the meeting and the Committee will make a recommendation for consideration at the Council meeting next Tuesday night.

7. The City of Rockingham only had one representative at the last JDAP meeting when it should have had 2 representatives. Will the Council have 2 representatives in attendance at the JDAP meeting?

The Chairperson advised that he is a representative on the JDAP Committee and a date for the meeting has not been set, but is most certain that the City will have its two members at that meeting.

Mr Sanfead tabled the following questions:

8. Is it accurate that if the fire rating at the development was higher than the claimed BAL of 29 the project could not go ahead?

9. Ask for clarification on Lot 700 being included with the application, as Lot 700 is Special Rural, making it clearly a prohibited use for an educational establishment?

10. Why hasn’t the City explained the development is six times in size together with the 6 acres and 38 acres of the development?

11. Why is the City not doing all it can. There are many amenity destroying implications of the DA that have been ignored?

12. Will our rights to operate machinery such as chainsaws & tractors within the guidelines for rural & semi-rural properties also be stopped because the noise upsets the school?

13. Will we be allowed to have 2 doberman guard dogs patrol our boundary or will that right also be taken from us?

14. Will our right to allow any member of the public access to our property be allowed or will the school’s requirements for security of its children also take precedent over these rights?

15. Will the rights of the 12 or so land owners all within the developments fire buffer lose their right to plant trees & other types of developments that would see the fire risk to this development increase?

16. Is the City going to remove all the fauna from the area as indicated?

17. Will the developments requirement for an acceleration lane do both shorten the Olive Hill lane deceleration lane & have accelerating vehicles leaving the school entering Mandurah Highway as any vehicle is slowing to enter the shortened Olive Hill Close deceleration lane?

18. Why is a Foreshore Rehabilitation & landscaping activity operating from Lot 700?

19. Why doesn’t the RAR mention the current DA shows the school sharing a driveway with trucks entering and leaving lot 700?

20. Has there been changes to the JDAP system that now requires the JDAP to explain the rational for their decision & if so will the City be requesting an explanation of any & all decision made on the JDAP on this application?

21. Will the Council petition the new Minister for Planning in regard to the pending JDAP decision preferably before this has occurred as these decisions cannot be appealed?
22. Mr Sanfead outlined 36 reasons why the application for an extension should not be approved. Can the City include our concerns & report with its JDAP?

The Chairperson advised that the above questions will be taken on notice.

4:15pm There being no further questions the Chairperson closed Public Question Time.

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

Moved Cr Whitfield, seconded Cr Sammels:

That Committee **CONFIRMS** the Minutes of the Planning and Engineering Services Committee Meeting held on 15 January 2018, 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**

4:16pm 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**

4:16pm The Chairperson asked if there were any interests to declare.

There were none.

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

9.1 **Appreciation**

Cr Whitfield expressed his appreciation to Rangers Services and all Officers involved, for their efforts with respect to recent bushfires matters in the Baldivis area.

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

Nil

11. **Bulletin Items**

Planning and Development Services Information Bulletin – February 2018

**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 Mosquito Control Program
   3.4 Environmental Waters Sampling
   3.5 Food Sampling
4. Information Items
   4.1 Mosquito-Borne Disease Notifications
   4.2 Food Recalls
<table>
<thead>
<tr>
<th>4.3</th>
<th>Food Premises Inspections</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.4</td>
<td>Public Building Inspections</td>
</tr>
<tr>
<td>4.5</td>
<td>Outdoor Public Event Approvals</td>
</tr>
<tr>
<td>4.6</td>
<td>Permit Approvals</td>
</tr>
<tr>
<td>4.7</td>
<td>After Hours Noise and Smoke Nuisance Complaint Service</td>
</tr>
<tr>
<td>4.8</td>
<td>Complaint - Information</td>
</tr>
<tr>
<td>4.9</td>
<td>Noise Complaints - Detailed Information</td>
</tr>
<tr>
<td>4.10</td>
<td>Animal Exemptions</td>
</tr>
<tr>
<td>4.11</td>
<td>Building Plan Assessments</td>
</tr>
<tr>
<td>4.12</td>
<td>Septic Tank Applications</td>
</tr>
<tr>
<td>4.13</td>
<td>Demolitions</td>
</tr>
<tr>
<td>4.14</td>
<td>Swimming Pool and Drinking Water Samples</td>
</tr>
<tr>
<td>4.15</td>
<td>Rabbit Processing</td>
</tr>
<tr>
<td>4.16</td>
<td>Hairdressing and Skin Penetration Premises</td>
</tr>
<tr>
<td>4.17</td>
<td>Caravan Park and Camping Ground Inspections</td>
</tr>
</tbody>
</table>

**Building Services**
1. Building Services Team Overview
2. Human Resource update
3. Project Status Reports
4. Information Items
   4.1 Monthly Building Permit Approvals - (All Building Types)
   4.2 Other Permits
   4.3 Monthly Caravan Park Site Approvals

**Compliance and Emergency Liaison**
1. Compliance and Emergency Liaison Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   4.1 Private Swimming Pool and Spa Inspection Program
   4.2 Ranger Services Action Reports
   4.3 Emergency Management and Fire Prevention
   4.4 Prohibited Burning Period
   4.5 CRM
   4.6 Rockingham SES
   4.7 Firebreak Inspections
   4.8 SmartWatch Key Result Area: Visibility
   4.9 SmartWatch Key Result Area: Engagement with Community
   4.10 SmartWatch Key Result Area: Increasing Perception of Safety
   4.11 SmartWatch Notable Statistics

**Strategic Planning and Environment**
1. Strategic Planning and Environment Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Local Planning Strategy (LUP/1352)
   3.2 Waterwise Council Program (EVM/56-02)
   3.3 Wetland Management Plan
   3.4 Lake Richmond Management Plan Review
   3.5 Coastal Hazard Risk Management and Adaption Plan
4. Information Items
   4.1 Notification of Approval of Structure Plans by the Western Australian Planning Commission
### Land and Development Infrastructure

1. Land and Development Infrastructure Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   - 4.1 Structure Plan Approval Referrals
   - 4.2 Subdivision Approval Referrals
   - 4.3 Urban Water Management Referrals
   - 4.4 Traffic Report Referrals
   - 4.5 Delegated Land and Development Infrastructure Assets Approvals
   - 4.6 Subdivision Clearance Requests
   - 4.7 Handover of Subdivisional Roads
   - 4.8 Development Application Referrals
   - 4.9 Delegated Subdivision Engineering and Public Open Space Practical Completions
   - 4.10 Delegated Authority to approve the release of Bonds for private subdivisional works

### Statutory Planning

1. Statutory Planning Team Overview
2. Human Resource Update
3. Project Status Reports
4. Information Items
   - 4.1 Land Use - Planning Enforcement
   - 4.2 Subdivision/Development Approval 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 Strata Plans
   - 4.12 Subdivision/Amalgamation Refused

### 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 Smart Village Sector - Masterplan, Development Policy Plan and Proposed Amendment No’s 161 and 162 to Town Planning Scheme No.2
   - 3.3 Leeuwin Sector – Masterplan, Development Policy Plan and Amendment to Town Planning Scheme No.2
   - 3.4 Northern Gateway Sector - Masterplan, Development Policy Plan and Amendment to Town Planning Scheme No.2
   - 3.5 Improvements to City Square and Civic Plaza (LUP/1933)
   - 3.6 ‘Mangles Bay Marina’
4. Information Items

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1 Correction of typographical error
Committee Recommendation

Moved Cr Sammels, seconded Cr Whitfield:
That Councillors acknowledge having read the Planning Services Information Bulletin – February 2018 and the content be accepted.

Committee Voting – 5/0

<table>
<thead>
<tr>
<th>Engineering and Parks Services Information Bulletin – February 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineering and Parks Services Directorate</strong></td>
</tr>
<tr>
<td>1. Engineering and Parks Services Directorate Team Overview</td>
</tr>
<tr>
<td>2. Human Resource Update</td>
</tr>
<tr>
<td>3. Information Items</td>
</tr>
<tr>
<td>3.1 Bushfire Risk</td>
</tr>
<tr>
<td><strong>Asset Services</strong></td>
</tr>
<tr>
<td>1. Asset Services Team Overview</td>
</tr>
<tr>
<td>2. Human Resource Update</td>
</tr>
<tr>
<td>3. Project Status Reports</td>
</tr>
<tr>
<td>3.1 Facilities and Reserve Accessibility Audits</td>
</tr>
<tr>
<td>3.2 Footpath Condition Audit</td>
</tr>
<tr>
<td>3.3 Specific Purpose Plan - Facility Security</td>
</tr>
<tr>
<td>4. Information Items</td>
</tr>
<tr>
<td>4.1 Asset Maintenance Team</td>
</tr>
<tr>
<td>4.2 Asset Maintenance – Buildings</td>
</tr>
<tr>
<td>4.3 Asset Maintenance – Reserves</td>
</tr>
<tr>
<td>4.4 Asset Management</td>
</tr>
<tr>
<td><strong>Infrastructure Project Delivery</strong></td>
</tr>
<tr>
<td>1. Infrastructure Project Delivery Team Overview</td>
</tr>
<tr>
<td>2. Human Resource Update</td>
</tr>
<tr>
<td>3. Project Status Reports</td>
</tr>
<tr>
<td>3.1 Rockingham Foreshore Masterplan – Stage One Construction</td>
</tr>
<tr>
<td>4. Information Items</td>
</tr>
<tr>
<td>4.1 Buildings and Facilities Construction Program</td>
</tr>
<tr>
<td>4.2 Lighting Construction Program</td>
</tr>
<tr>
<td>4.3 Park Infrastructure and Construction Program</td>
</tr>
<tr>
<td><strong>Parks Services</strong></td>
</tr>
<tr>
<td>1. Parks Services Team Overview</td>
</tr>
<tr>
<td>2. Human Resource Update</td>
</tr>
<tr>
<td>3. Project Status Reports</td>
</tr>
<tr>
<td>4. Information Items</td>
</tr>
<tr>
<td>4.1 Delegated Public Open Space Handovers</td>
</tr>
<tr>
<td>4.2 Corella Management</td>
</tr>
<tr>
<td>4.3 2017/2018 Parks Services Projects Summary</td>
</tr>
<tr>
<td>4.4 2017/2018 Parks Services Project Information</td>
</tr>
<tr>
<td>4.5 Parks Maintenance Program 2017/2018</td>
</tr>
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<td><strong>Engineering Services</strong></td>
</tr>
<tr>
<td>1. Engineering Services Team Overview</td>
</tr>
<tr>
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</tr>
<tr>
<td>3. Project Status Reports</td>
</tr>
<tr>
<td>3.1 Rockingham Future Traffic Modelling</td>
</tr>
<tr>
<td>4. Information Items</td>
</tr>
<tr>
<td>4.1 Delegated Authority for Temporary Thoroughfare Closure</td>
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<tr>
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<td>4.19</td>
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**Committee Recommendation**

**Moved Cr Sammels, seconded Cr Whitfield:**
That Councillors acknowledge having read the Engineering and Parks Services Information Bulletin – February 2018 and the content be accepted.

Committee Voting – 5/0
### Agenda Items

#### Planning and Development Services

#### Planning and Development Services

#### Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PD-005/18 Proposed Amendment to Planning Policy 3.3.10 - Home Occupations and Home Businesses</th>
</tr>
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<tbody>
<tr>
<td>File No:</td>
<td>LUP/1265-05</td>
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<td>Applicant:</td>
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<td>Owner:</td>
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<tr>
<td>Author:</td>
<td>Ms Gayle O'Leary, A/Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
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<tr>
<td>Date of Committee Meeting:</td>
<td>19 February 2018</td>
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<tr>
<td>Previously before Council:</td>
<td>March 2014 (PDS-025/14)</td>
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<td>Disclosure of Interest:</td>
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<td>Nature of Council’s Role in this Matter:</td>
<td>Executive</td>
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</tbody>
</table>

### Purpose of Report

To consider amending Planning Policy 3.3.10 - Home Occupations and Home Businesses (PP3.3.10) to reflect changes in legislation, terminology and planning requirements.

### Background

The current PP3.3.10 was amended by Council in March 2014 and was originally adopted in May 2008.

### Details

The following amendments to PP3.3.10 are proposed:
Legislation and Strategies

The following changes are proposed to the names of relevant legislation and strategies, with the associated terminology used in these documents also amended:

The Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

The Regulations were gazetted on 25 August 2015 and took effect on 19 October 2015, replacing the Town Planning Regulations 1967. PP3.3.10 terminology is amended to be consistent with the Regulations (e.g. 'Development Approval' in lieu of 'Planning Approval').

Terminology

Minor wording changes are proposed to simplify the Policy for ease of use, correct typographical errors and prevent duplication.

Requirements

The hours of operation are proposed to be extended by one hour to allow businesses to commence from 8:00am on Mondays to Saturdays in lieu of 9:00am. The extension in trading hours will provide for greater flexibility to home occupation and home business operators and for clientele attending the operation, whilst maintaining residential amenity.

Implications to Consider

a. Consultation with the Community

Under clause 4(1) of the deemed provisions in the Town Planning Scheme No.2 (TPS2), if the local government resolves to amend a Planning Policy, the local government must advertise the proposed amendments to the Policy as follows:

"(i) publish a notice of the proposed Policy in a newspaper circulating in the Scheme area giving details of:
(a) the subject and nature of the proposed amended Policy;
(b) the objectives of the proposed amended Policy;
(c) where the proposed amended Policy may be inspected; and
(d) to whom, in what form and during what period submissions in relation to the proposed amended Policy may be made;

(ii) if, in the opinion of the local government, the Policy is inconsistent with any State Planning Policy, give notice of the proposed Policy to the Commission;

(iii) give notice of the proposed Policy in any other way and carry out any other consultation the local government considers appropriate."

Under Clause 4(2), the period for making submissions in relation to a local Planning Policy must not be less than a period of 21 days commencing on the day on which the notice of the Policy is published under subclause (1)(a).

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

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

Aspiration D: Sustainable Environment

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

d. Policy

Nil

e. Financial

Nil
f. Legal and Statutory
Under the deemed provisions (Local Planning Policies) in TPS2 the Council may prepare, modify or revoke a Planning Policy. If the Council resolves to amend the PP3.3.10, the City is required to publicly advertise the proposed changes for a period of 21 days.

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

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

Nil

Comments

The Council's consent is sought to advertise amendments to PP3.3.10.
The text amendments proposed are predominantly administrative and operational to ensure legislation and strategies within the Policy are correct.
The proposed modification to the permitted hours of operation in PP3.3.10 will provide greater flexibility for home occupation and home business operators.
It is recommended the Council advertise the revised PP3.3.10.

Voting Requirements
Simple Majority

Officer Recommendation

That Council APPROVES the advertising of the revised Planning Policy 3.3.10 - Home Occupations and Home Businesses, for public comment (amendments marked in red).

Committee Recommendation

Moved Cr Sammels, seconded Cr Whitfield:
That Council APPROVES the advertising of the revised Planning Policy 3.3.10 - Home Occupations and Home Businesses, for public comment (amendments marked in red).

PLANNING POLICY 3.3.10
HOME OCCUPATIONS AND HOME BUSINESSES

1. Introduction
The City of Rockingham Town Planning Scheme No.2 provides for a small business to be carried out from a 'dwelling', provided that it does not adversely affect the 'amenity' of the locality. Such businesses are referred to as Home Occupations, Home Businesses and Home Offices. Town Planning Scheme No.2 defines these uses as follows:

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

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

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

(a) does not employ more than 2 people not members of the occupier's household;
(b) will not cause injury to or adversely affect the amenity of the neighbourhood;
(c) does not occupy an area greater than 50 square metres;
(d) does not involve the retail sale, display or hire of goods of any nature;
(e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and
(f) does not involve the use of an essential service of greater capacity than normally required in the zone.

'Home Office' means a home occupation limited to a business carried out solely within a dwelling by a resident of the dwelling but which does not entail clients or customers travelling to and from the dwelling, involve any advertising signs on the premises or require any external change to the appearance of the dwelling.

The purpose of this Planning Policy is to set out the objectives and policy provisions which the 'Council' shall have due regard to in the assessment and determination of applications for planning approval Development Approval for Home Occupations and Home Businesses.

Note: The A Planning approval Development Approval of from the Council is not required for a Home Office. Refer to clause 6.1.2(i) clause 61(2)(c) of the deemed provisions of Town Planning Scheme No.2.

In this regard, no person shall commence or carry out a Home Occupation or Home Business without first having applied for and obtained the planning approval Development Approval of the Council, pursuant to the provisions of Part 6 7 clause 60 of the deemed provisions of Town Planning Scheme No.2.

2. Policy Application

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

The permissibility of the Home Occupation use in Town Planning Scheme No.2 can be summarised as follows:

(a) The use is not permitted in the Residential, Development, City Centre, Waterfront Village, Baldivis Town Centre, Rural, Special Rural and Special Residential zones unless the Council has exercised its discretion by granting planning approval Development Approval;
(b) The use is not permitted in all other zones.

The permissibility of the Home Business use in Town Planning Scheme No.2 can be summarised as follows:

(a) The use is not permitted in the Residential, Development, City Centre, Waterfront Village and Baldivis Town Centre zones unless the Council has exercised its discretion by granting planning approval Development Approval;
(b) The use is not permitted in the Special Rural Zone unless the Council has exercised its discretion by granting Development Approval, following a process of community consultation in accordance with clause 6.3.3-64 of the deemed provisions of the Scheme; and
(c) The use is not permitted in all other zones.
1. In the Development Zone, a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, landuses or Residential Design Codes. Where a Structure Plan has been approved, in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designation. Refer to clause 4.2.9 of Town Planning Scheme No.2 subject to clause 27 of the deemed provisions of Town Planning Scheme No.2, use class permissibility shall be determined in accordance with the provisions of the relevant Local Structure Plan.

Town Planning Scheme No.2 requires that in assessing applications for planning approval, the Council shall take into account the objectives of the particular zone and any Policy pertaining to that zone and this Planning Policy.

The Scheme also requires the Council to consider specific issues including the method and location of the operation, the potential for nuisance to the surrounding neighbourhood, impacts on neighbours, hours of operation, traffic generation, carparking requirements and the location of any associated storage areas.

3. Policy Objectives

The objectives of this Planning Policy are as follows:

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

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

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

4. Policy Statement

4.1 Town Planning Scheme No.2

The operation of either a Home Occupation or Home Business will only be permitted if applications comply with Town Planning Scheme No.2 and the objectives and requirements of this Policy.

4.2 Method of Operation

The Council shall only permit the operation of a Home Occupation or Home Business within a dwelling or within the boundaries of a lot where it is satisfied that the operation will not cause injury to or adversely affect the amenity of the neighbourhood.

In this regard, a Home Occupation or Home Business that involves the retail sale, display or hire of goods of any nature will not be permitted.

All client, staff and resident car parking must be accommodated within the driveway, garage or carport within the property boundaries.

Furthermore, a Home Occupation or Home Business that includes provision for the fuelling, repair or maintenance of motor vehicles will not be permitted.

A proposed business operation that involves the use of the dwelling solely for administration purposes (ie. bookwork, telephone etc) would be deemed a Home Office that does not require planning approval.

A mobile business that conducts all activities at the client’s address and where the dwelling is used solely for administration purposes would be deemed a Home Office that does not require planning approval. If maintenance of equipment associated with the mobile business is to be conducted within a dwelling or within the boundaries of a lot, the planning approval of the Council would be required.

4.3 Customers and Clients

A Home Occupation and Home Business operating will only be permitted to operate where customers and clients only arrive and depart the premises between the hours of:

(a) 9:00am to 8:00am and 5:00pm on Mondays, Tuesdays, Wednesdays, Fridays and Saturdays;

(b) 9:00am to 8:00am and 7:00pm on Thursdays; and
(c) Not at all on Sundays and Public Holidays.

When determining an application, the number of hours and/or days of clients visiting the premises or operation of a Home Occupation and Home Business may be limited, where it is necessary to protect the amenity of the surrounding area.

All customer and client visits must be made with 15 minute appointment intervals, unless there is adequate on-site carparking and the Home Occupation or Home Business is unlikely to affect the amenity of the neighbourhood.

4.4 Deliveries

Regular deliveries of goods and equipment including deliveries carried out at daily intervals are generally not considered appropriate. Proposals involving deliveries must take into account the following factors:

(a) The nature of the goods delivered;
(b) Frequency of deliveries;
(c) Type of delivery vehicle used;
(d) Delivery hours; and
(e) Likely inconvenience to existing traffic.

4.5 Scale of Operation

(a) Home Occupation

The Council shall only permit the operation of a Home Occupation within a dwelling or within the boundaries of a lot where it is satisfied that the operation:

- does not employ any person not a member of the occupier’s household;
- does not occupy an area greater than 20m²; and
- does not involve the use of an essential service of greater capacity than normally required in the zone.

(b) Home Business

The Council shall only permit the operation of a Home Business within a dwelling or within the boundaries of a lot where it is satisfied that the operation:

- does not employ more than 2 people not members of the occupier’s household;
- does not occupy an area greater than 50 m²; and
- does not involve the use of an essential service of greater capacity than normally required in the zone.

4.6 Traffic Generation

Home Occupations and Home Businesses that generate vehicular traffic to a site have the potential to adversely affect the amenity of the neighbourhood.

Consideration of traffic generating Home Occupations and Home Business will only occur when it can be demonstrated that visits to the site by clients can be controlled, i.e. by appointment only.

When considering an appointment based Home Occupation or Home Business, the Council will have due regard to the existing amenity of the neighbourhood. In this instance, the current capacity and nature of the street will be a consideration. If the traffic generated by a proposed Home Occupation or Home Business is likely to have an adverse impact upon the existing nature of the street or its amenity, the proposal is unlikely to be approved.

A Home Occupation that involves the presence, use or calling of a vehicle more than 2 tonnes tare weight will not be supported.

A Home Business that involves the presence, use or calling of a vehicle more than 3.5 tonnes tare weight will not be supported.
4.7 Parking

(a) Home Occupation

The operation of a Home Occupation or Home Business is only to be permitted within a dwelling or within the boundaries of a lot where it is satisfied that car parking is provided so as to adequately cater for the expected number of visitors and any employees attending the site at any one time, in addition to the bays associated with the dwelling on-site, and does not result in traffic difficulties as a result of the inadequacy of parking.

All client, staff and resident car parking must be contained onsite within the driveway, garage or carport.

Where visitor car parking cannot be provided on-site, the use of on-street car parking for visitors and clients may be permitted, where this has already been constructed as part of subdivision works.

(b) Home Business

The operation of a Home Business is only to be permitted within a dwelling or within the boundaries of a lot where it is satisfied that car parking is provided so as to adequately cater for the expected number of visitors attending the site at any one time and any employees, in addition to the bays associated with the dwelling on-site and does not result in traffic difficulties as a result of the inadequacy of parking.

4.8 Advertising Signs

In accordance with the provisions of Town Planning Scheme No.2, a Home Occupation and a Home Business is permitted to display a sign not exceeding 0.2m² in area (generally 0.4m x 0.5m). The same 0.2m² maximum size applies to Home Business signs.

A Home Occupation or Home Business sign shall only describe the name and type of business being carried out on the land and the contact name(s) and telephone numbers.

No more than one sign per lot shall be permitted and the sign shall be erected on the land on which the Home Occupation or Home Business is being carried out.

Pursuant to the provisions of Town Planning Scheme No.2 and the Council's Signs, Hoardings and Bill Posting Local-Law, a proposed advertising sign which does not exceed 0.2m² in area is exempt from the requirement to obtain a planning approval Development Approval and a Sign Licence.

4.9 Food Requirements

The use of a dwelling for commercial food preparation is limited by the provisions of the Health (Food Hygiene) Regulations 1993. The Council's Health Department should be consulted in this regard.

4.10 Noise Management

A Home Occupation and Home Business must comply with the Environmental Protection (Noise) Regulations 1997 at all times. If a proposal is likely to generate off-site noise impacts to neighbours, the applicant may be required to implement noise management measures or engage a consultant to prepare Noise Management Plan, demonstrating compliance with the Environmental Protection (Noise) Regulations 1997, and noise management measures recommended are to be implemented for the duration of the Home Occupation or Home Business.

4.11 Consultation

All applications for planning approval Development Approval for the operation of Home Occupations and Home Businesses in the Special Rural zone will be the subject of a process of community consultation in accordance with clause 6.3.3 of Town Planning Scheme No.2 clause 64 of the deemed provisions of the Scheme and Planning Procedure No.1.3 - Community Consultation.

Unless otherwise determined by the Manager, Statutory Planning, all other applications for planning approval Development Approval for the operation of Home Occupations and Home Businesses will be the subject of a process of community consultation in accordance with clause 6.3.3 clause 64 of the deemed provisions of the Scheme and Planning Procedure No.1.3 - Community Consultation.
5. Application Procedure

Applications for planning approval Development Approval for the operation of Home Occupations and Home Businesses shall be made on the form prescribed by the Council, and shall be signed by the owner(s), and accompanied by the following information:

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

(i) Confirmation that the Home Occupation or Home Business is to be conducted by an occupier of the dwelling;
(ii) The number of persons to be employed in the Home Occupation/Home Business and their relationship to the applicant;
(iii) Hours of operation;
(iv) Method of operation, including any equipment used for the Home Occupation/Home Business;
(v) Details of the storage of goods or equipment (if appropriate); and
(vi) Details on whether clientele will be attending the residence and if so, the manner in which appointments will be managed and likely frequency of visits.

(b) Such plans (to a scale of not less than 1:500) and other information that the Council may reasonably require to enable the application to be determined (Refer to clause 6.2.2 of Town Planning Scheme No.2). Plans to include:

(i) The room/s within which the Home Occupation/Home Business will be conducted;
(ii) The location and layout of car parking areas intended to be provided; and
(iii) The location and dimensions of any storage area associated with the Home Occupation/Home Business.

(c) Details of any proposed signage to be erected, together with a separate application for a sign licence to the City's Building Services.

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

6. Approval Period

Approvals issued by the City for Home Occupations or Home Business are valid for a period of two years. If the use is not substantially commenced within two years, a fresh application is required to be lodged with the City.

The City may grant approval for an initial period of twelve months, where it has concerns regarding the potential operation of the use on the residential amenity of the locality.

In such cases, the applicant will be required to seek a renewal of approval to continue to operate the Home Occupation or Home Business.

7. Post Approval Considerations

(a) Should the scale of the Home Occupation/Home Business operation increase above that initially approved, a revised application for planning approval Development Approval is required to be submitted. Any further assessment will be undertaken with reference to the Scheme provisions and the contents of this Planning Policy.

(b) Should the Council receive substantiated complaints from adjoining/nearby residents regarding a Home Occupation/Home Business, or if the Council observes that conditions of planning approval Development Approval are not being complied with, the Council will:

(i) by written notice served on the owner and/ or occupier of the land, require compliance with the conditions imposed on any approval granted; and/ or
(ii) prosecute the owner or occupier of the land as the case may be pursuant to section 10 of the Planning and Development Act 2005.
8. Authority
This Planning Policy has been adopted by the Council under clause 8.9.4 of the deemed provisions of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the Council in respect of any application for planning approval Development Approval, the Council is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

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

Amenity means all those factors which combine to form the character of an area and include the present and likely future amenity.

Council means the Council of the City of Rockingham.

Dwelling means a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:

(a) a single person;
(b) a single family; or
(c) no more than six persons who do not comprise a single family.

10. Delegation
All applications for planning approval for the operation of Home Businesses in the Special Rural Zone will be referred to the Council for determination.

All applications for planning approval Development Approval for the operation of Home Occupations and Home Businesses which generate substantiated objections following community consultation or where such applications have been received as a result of a complaint will be referred to the Council for determination.

All other applications for planning approval for the operation of Home Occupations and Home Businesses which comply in all respects with the objectives and provisions of this Planning Policy will be determined under delegated authority, pursuant to clause 8.10.83 of the deemed provisions of Town Planning Scheme No.2 and the Delegated Authority Register.

11. Adoption
This Planning Policy was adopted by the Council at its ordinary Meeting held on the 27 February 2018.

12. Revocation
This Planning Policy supersedes the Council’s Statement of Planning Policy No.4.1 - Home Occupations.

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
### Reference No & Subject:
**PD-006/18**

**Joint Development Assessment Panel Application - Renewal of Approval for Educational Establishment - Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup**

<table>
<thead>
<tr>
<th>File No:</th>
<th>DD20.2017.000000385.001</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>Rowe Group Pty Ltd</td>
</tr>
<tr>
<td>Owner:</td>
<td>Rockingham Montessori School Inc, and Mr and Mrs Smith</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Greg Delahunty, Senior Projects Officer</td>
</tr>
</tbody>
</table>
| Other Contributors: | Mr Mike Ross, Manager Statutory Planning  
|                   | Mr Bob Jeans, Director Planning and Development Services |
| Date of Committee Meeting: | 19 February 2018 |
| Previously before Council: | February 2015 (PDS-14/15), October 2015 (PDS-064/15), December 2015 (PDS-085/15) |
| Disclosure of Interest: | Executive |
| Nature of Council’s Role in this Matter: | |
| Site:             | Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup |
| Lot Area:         | 15.1ha                  |
| LA Zoning:        | Rural and Special Rural |
| MRS Zoning:       | Rural                   |
| Attachments:      | Responsible Authority Report |
| Maps/Diagrams:    | 1. Location Plan  
|                   | 2. Aerial Photo  
|                   | 3. Approved Masterplan  
|                   | 4. Proposed Master Plan  
|                   | 5. Administrative/Sports Centre  
|                   | 6. Administrative/Sports Cntr Elevations (1)  
|                   | 7. Administrative/Sports Cntr Elevations (2)  
|                   | 8. Site Sections (1)  
|                   | 9. Site Sections (2)  
|                   | 10. Staging Plan  
|                   | 11. Line of Sight Assessment  
|                   | 12. Clearing Area  
|                   | 13. Vegetation Clearing and Condition |
14. Black Cockatoo Habitat
15. Landscaping and Revegetation Plan
16. Length of acceleration/deceleration lanes

1. Location Plan

2. Aerial Photo
Purpose of Report

To provide recommendations to the Metro South West Joint Development Assessment Panel (SWJDAP) on an application for the renewal of approval and minor changes to an Educational Establishment at Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup.

Background

This application proposes an extension of time and some minor changes to a proposal previously approved by the SWJDAP.

The 'Munja Gardens' Reception Centre is located on Lot 700 Mandurah Road, Karnup. Single Dwellings and associated outbuildings are constructed on Lot 701 (No.1791) Mandurah Road and Lot 11 Mandurah Road.

The following outlines the history of known Development Approvals on the site:

- December 1997 - Development Approval issued for a Reception Centre on Lot 10 Mandurah Road (now Lot 700).
- January 1998 - Development Approval issued for a Reception Centre and Restaurant (temporary) on Lot 10 Mandurah Road.
- November 1999 - Development Approval issued for a Reception Centre on Lot 10 Mandurah Road.
- December 2004 - Development Approval issued for a Chapel on Lot 10 Mandurah Road.
- July 2008 - Council resolved to initiate Amendment No.79 to Town Planning Scheme No.2 (TPS2) to rezone Lot 10 (No.1791) Mandurah Road from 'Rural' to 'Special Rural'.
- February 2009 - Council granted Final Approval to Amendment No.79 and it was gazetted in June 2009.
- January 2010 - the Western Australian Planning Commission (WAPC) granted approval for subdivision of Lot 10 Mandurah Road into two lots.
- July 2014 - the City received a Development Application for an Educational Establishment on Lot 11 Mandurah Road, Karnup, which was put on hold at the applicant's request pending additional information from the applicant with respect to extent of earthworks, vegetation clearing, fire management and access and egress to the site.
- December 2014 - the applicant lodged a Joint Development Assessment Panel application (DAP/14/00687) for a proposed Educational Establishment at Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup.
- March 2015 - the SWJDAP resolved to refuse DAP Application DAP/14/00687.
- March 2015 - the applicant withdrew the original Development Application for an Educational Establishment on Lot 11 Mandurah Road, Karnup as a result of the SWJDAP's decision.
- April 2015 - the applicant lodged an appeal with the State Administrative Tribunal (SAT) in relation to the refusal of the JDAP application. A number of mediation sessions were held as part of the SAT proceedings which the City was invited to participate in.
- August 2015 - the SAT invited the SWJDAP to reconsider its decision on or before 9 October 2015. The applicant failed to provide sufficient information in accordance with the SAT Orders for the City to prepare its Responsible Authority Report for the consideration of the SWJDAP by this date.
- October 2015 - SAT invited the SWJDAP to reconsider its decision on or before 22 December 2015. The applicant was required to submit amended plans and information for the City's assessment by 22 October 2015. The applicant provided the required information.
- December 2015 - SWJDAP reconsidered its decision pursuant to section 31 of the State Administrative Tribunal Act 2004 on 18 December 2015 where it resolved to approve the application for an Educational Establishment (DAP/14/00687).
- December 2017 - DAP approval DAP/14/00687 expired as the development had not substantially commenced within two years of the date of approval.
Details

The applicant seeks approval to extend the period within which an approved development must be substantially commenced and also for minor alterations to the previously approved Educational Establishment.

The applicant has been unable to satisfy the conditions of Development Approval and commence substantial construction of the development prior to the expiration of the approval, as Registration Approval has not been issued by the Department of Education Services due to a change in State Government and a restructure of the Education Portfolio. This has also impacted the ability of the owners to obtain funding for the development.

The proposed development will remain largely the same as the approved development, with the exception of minor modifications to the internal road network, car parking areas and the location of buildings, required for compliance with the latest version of *State Planning Policy 3.7 - Planning in Bushfire Prone Areas*. Details of the existing approved development and proposed modifications are as follows:

**Existing Approved Development:**

Educational Establishment to accommodate 516 students on the site, including the following elements:

- Administration building containing a sports hall, arts and science area and classrooms;
- A Senior Specialist Centre (converted from Munja Gardens Function Centre);
- A Children’s House/playgroup (converted from existing chapel building);
- Environmental Centre (converted from the existing dwelling);
- An Early Childhood building;
- Two new Primary Classroom Buildings;
- Two new Senior Classroom Buildings;
- Retention of three Storage Sheds;
- Retention of existing Hard-courts;
- A Senior play area and a Junior play area;
- A play garden;
- A new car park containing 74 parking bays and 16 drop off bays; and
- Internal access roads.

All of the Educational Establishment development is contained on Lots 11 and 700. Lot 701 is only used for access as it provides a right of carriageway easement for access to Lot 700.

The programs offered at the Educational Establishment are proposed with staggered operating times as, follows:

<table>
<thead>
<tr>
<th>Program</th>
<th>Operating Times</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant Toddlers Program</td>
<td>9:15am to 11:15am</td>
</tr>
<tr>
<td>School Readiness Program</td>
<td>8:45am to 12:00pm</td>
</tr>
<tr>
<td>Children’s House Program (3 year olds)</td>
<td>8.45am to 12:00pm</td>
</tr>
<tr>
<td>Children’s House Program (4 and 5 year olds)</td>
<td>8:45am to 3:00pm</td>
</tr>
<tr>
<td>Primary Program (6-12 year olds)</td>
<td>8:45am to 3:00pm (changing to 2:45pm when numbers in the Adolescent Program increase)</td>
</tr>
<tr>
<td>Adolescent Program (12-18 year olds)</td>
<td>8:45am to 3:00pm</td>
</tr>
</tbody>
</table>

By 2020, student and teacher numbers at the Educational Establishment will be as follows:

<table>
<thead>
<tr>
<th>Program</th>
<th>Student Numbers</th>
<th>Teacher Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children’s House Classes</td>
<td>72</td>
<td>3 teachers and 3 education assistants</td>
</tr>
<tr>
<td>Program</td>
<td>Student Numbers</td>
<td>Teacher Numbers</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Lower Primary Classes</td>
<td>72</td>
<td>3 teachers and 3 education assistants</td>
</tr>
<tr>
<td>Upper Primary Classes</td>
<td>72</td>
<td>3 teachers and 3 education assistants</td>
</tr>
<tr>
<td>Adolescent Program (Middle School) Classes</td>
<td>150</td>
<td>9 teachers and 3 education assistants</td>
</tr>
<tr>
<td>Adolescent Program (Senior School) Classes</td>
<td>150</td>
<td>9 teachers and 3 education assistants</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>516</strong></td>
<td><strong>42</strong></td>
</tr>
</tbody>
</table>

**Proposed Minor Modifications to Approved Development:**
- Relocation and reconfiguration of the following buildings:
  - Primary school blocks;
  - Senior school blocks; and
  - Administration Centre and Sports Hall Building.

The applicant has provided the following updated technical reports in support of the application:
- Updated Transport Assessment;
- Updated Hydraulic Services Assessment;
- Updated Bushfire Management Plan;
- Updated Environmental Assessment Report;
- Updated Acoustic Assessment; and
- Updated Engineering Assessment.
3. Approved Masterplan
4. Proposed Masterplan

Legend

Proposed Change

Changes to internal road network

Realignment of building footprint

Removal of Early Childhood Building

Changes to Parking
CONFIRMED AT A PLANNING AND ENGINEERING SERVICES MEETING HELD ON MONDAY 19 MARCH 2018

PRESIDING MEMBER
6. Administrative/Sports Centre Elevations (1)

7. Administrative/Sports Centre Elevations (2)
8. Site Sections (1)
9. Site Sections (2)
CONFIRMED AT A PLANNING AND ENGINEERING SERVICES MEETING HELD ON MONDAY 19 MARCH 2018

PRESIDING MEMBER

10. Staging Plan
<table>
<thead>
<tr>
<th>Implications to Consider</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. <strong>Consultation with the Community</strong></td>
</tr>
<tr>
<td>In accordance with Clause 77(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, readvertising of the proposal was not required as the proposal has been previously approved by the SWJDAP and the modification to the plans are minor in nature.</td>
</tr>
<tr>
<td>b. <strong>Consultation with Government Agencies</strong></td>
</tr>
<tr>
<td>Comments on the revised proposal were sought from the following government adjacencies:</td>
</tr>
<tr>
<td>- Department of Fire and Emergency Services (DFES)</td>
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<tr>
<td>- Main Roads WA</td>
</tr>
<tr>
<td>- Department of Biodiversity, Conservation and Attractions (formerly Department of Parks &amp; Wildlife)</td>
</tr>
<tr>
<td>- Department of Water and Environmental Regulation (formerly Department of Water)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>1. Department of Fire and Emergency Services</th>
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<tr>
<td><strong>Submission:</strong></td>
</tr>
<tr>
<td>(i) DFES understands that approval already exists for the development and the application seeks to extend the validity of the approval subject to minor modifications. Consequently, there is little influence DFES can advocate in relation to the full application of the bushfire protection criteria for the existing land use.</td>
</tr>
<tr>
<td>It is noted that ‘A3.5 - Private Driveway’ has been addressed via a performance principle based solution and the justification is accepted in this circumstance.</td>
</tr>
<tr>
<td>The Landscape plan within the BMP states that mulch or cleared understory is proposed within Asset Protection Zones (APZ). In some instances, mulch may not be considered low threat as per AS3959. When mulch is continuous and placed up against buildings, it increases the bushfire risk as discussed in the attached DFES Information Note - Mulch and Cigarette Fires (2014). Please refer to the attached School APZ guidance (specifically Item 7) regarding mulch to assist in understanding which type of mulch to use and why alternatives to mulch should be considered. Also attached is a Landscaping for bushfire prone areas guide for schools used in Victoria and there is a section about the type of mulch which should be used on page 3.</td>
</tr>
<tr>
<td><strong>DFES advises that the proponent has adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved with the submitted BMP. However, a modification to the BMP is necessary as indicated below:</strong></td>
</tr>
<tr>
<td>- amendments to the Landscape Plan and BMP which require the landscaping to be in accordance with the guidance provided by DFES (attached PDFs); and</td>
</tr>
<tr>
<td>- this modification should be undertaken prior to construction of the development.</td>
</tr>
<tr>
<td><strong>As the modification will not affect the overall development design, the revised BMP does not need to be forwarded to DFES for further consideration.</strong></td>
</tr>
</tbody>
</table>
City's Comment:
It is acknowledged that the BMP is compliant with the requirements of the Planning in Bushfire Prone Areas Guidelines. The applicant has advised that it intends to make the DFES requested modifications to the BMP. This was not completed in time for the finalisation of the City's RAR.

2. Main Roads WA

Submission:
(i) Main Roads is supportive of the extension of time request and has no objection for a period of two (2) years.

City's Comment:
Noted

3. Department of Biodiversity, Conservation and Attractions

Submission:
(i) DBCA provided no further comment with the expectation that it was expected that the Department of Water and Environmental Regulation will be consulted regarding requirements for a native vegetation clearing permit.

City's Comment:
Noted

4. Department of Water and Environment Regulation

Submission:
(i) Since DWER’s previous comments in 2015, the Draft Government Sewerage Policy (Western Australian Government, 2016) has been released. This site is located within a ‘sewage sensitive area’. If the site is unable to connect to a reticulated sewerage scheme, on-site disposal shall utilise secondary treatment systems with nutrient removal.

Also as previously detailed, the site is located within the Stakehill Groundwater Area (Churcher East subarea) as proclaimed under the Rights in Water and Irrigation Act 1914 and is over allocated. There is a current groundwater license for this site, however if further groundwater is needed, an alternative non-potable water source for irrigation will need to be sourced or seek trading of a groundwater entitlement.”

City's Comment:
If the application were to be approved, this should be included as an advice note.

c. Strategic

Community Plan

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

Aspiration D: Sustainable Environment

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

**State Government Policies**

**State Planning Policy 2 - Environment and Natural Resources Policy (SPP2)**

SPP2 defines the principles and considerations that represent good and responsible planning in terms of environment and natural resource issues within the framework of the State Planning Strategy.

The proposed revised development is not considered to meet the objectives of SPP2 as it does not protect, conserve or enhance the natural environment, as outlined in the assessment against the policy measures of SPP2 in the attached Responsible Authority Report (RAR).

**State Planning Policy 2.5 - Rural Planning Policy (SPP2.5)**

SPP2.5 is the basis for planning and decision-making for rural and rural living land across Western Australia. Specifically, the purpose of SPP2.5 is to:

"to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is inherent in this approach."

**Objectives**

The objectives of SPP2.5 relevant to the proposed development are to:

"(d) provide a planning framework that considers rural land and land uses comprehensively, and facilitates consistent and timely decision-making;

(e) avoid and minimise land use conflicts;

(g) protect and improve environmental and landscape assets."

The proposed development is considered to be inappropriate for the subject site. It results in extensive vegetation clearing and requires extensive earthworks to facilitate it. This results in adverse environmental and visual impacts and consequentially the amenity and landscape values of the locality. The proposed development is therefore contrary to the objectives of SPP2.5.

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

The purpose of SPP3.7 is to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

The accompanying *Guidelines for Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7.

**Objectives**

The objectives of SPP3.7 are as follows:

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

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

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

5.4 Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change."
The proposal is considered to fail to comply with objective 5.4 of SPP3.7 as extensive clearing is required to achieve the required bushfire risk management measures. The extent of vegetation clearing has been further discussed in the Comments section of this report.

Vulnerable Land Uses

The applicant has provided a Bushfire Management Plan (BMP) and an Emergency Evacuation Plan in support of the application which have been endorsed by DFES. This has been further discussed in the Consultation section of this report.

Guidelines for Planning in Bushfire Prone Areas (the Guidelines)

The Guidelines provide bushfire protection criteria to assist in the assessment of proposed bushfire risk management measures. The BMP is compliant with the requirements of the Guidelines as is demonstrated in the attached RAR.

Development Control Policy 5.1 - Regional Roads (Vehicular Access) (DC5.1)

DC5.1 sets out the principles to be applied when considering proposals for vehicle access to or from developments abutting regional roads.

Mandurah Road is classed as a 'Primary Regional Road' under the Metropolitan Region Scheme. Primary Regional roads form the top level of the road network for the urban region, and are designed to carry longer distance traffic to, from, and across the urban area.

Objectives

In considering applications for access onto regional roads, the primary consideration of DCP5.1 is the effects of proposals on traffic flow and road safety. The objectives of DCP5.1 are as follows:

- To outline planning principles to be applied in the determination of proposals for vehicle access to regional roads;
- To ensure that vehicle access to regional roads and the type of abutting developments is controlled and conforms with sound town planning principles; and
- To improve traffic flow and safety on all regional roads, either new or existing, by minimising the number of junctions or driveways."

The site only has access to Mandurah Road. The applicant is proposing to use the existing vehicle crossover to Lot 700 Mandurah Road, and is not proposing additional vehicle access points to Mandurah Road apart from emergency access on Lot 11. This access arrangement is consistent with the previous development approval.

A complete assessment of traffic impacts is provided in the Comments section of this report. In summary, the proposed development would not provide for safe access to and from the site and would compromise the functioning of Mandurah Road as a result of the intensification of development and subsequent modifications required to the road to facilitate the development.

Local Policies

Planning Policy 3.1 - Rural Land Strategy (PP3.1.1)

PP3.1.1 applies to rural land within the City and provides a framework for the assessment of proposals to develop rural land.

The proposed development, by virtue of its size and the nature of the use, requires the removal of a large amount of vegetation and involves substantial earthworks. The development therefore does not protect or conserve the landscape values of the site.

The amount of vegetation required to be cleared to facilitate the development and to achieve acceptable fuel loads and hazard separation across the site will significantly modify the existing vegetated landscape, which includes Carnaby's Black Cockatoo Habitat. The development therefore does not protect or conserve the environmental significance of the site.
A complete assessment of the development against the provisions of PP3.1.1 is located within the attached RAR where it is considered that the proposal is not compliant in the following areas:

- It is not consistent with the objective of Planning Unit 4C;
- The development is not considered to protect or conserve the landscape values of the site as the extent of earthworks and loss of vegetation required to facilitate the development will significantly alter the existing landform of the site;
- Development is located within the setback areas; and
- The proposed development is not considered to be of a scale that minimises intrusion into the landscape as a result of the extent of earthworks and loss of vegetation required to facilitate the development.

e. Financial

Nil

f. Legal and Statutory

Metropolitan Region Scheme (MRS)

Clause 32 Resolution

Clause 32 of the MRS provides the ability for the WAPC to require that certain classes of applications be referred to the Commission for its determination.

Resolution (RES 2014/01) published in 9 May 2014 Government Gazette, requires that any use, in the opinion of the Local Government, that may not be consistent with the Rural zone be referred to the WAPC for its determination. The proposed Educational Establishment is not considered consistent with the rural zoning of Lot 11. Separate MRS approval is therefore required, with a separate RAR being provided to the SWJDAP by the WAPC.

Planning and Development (Development Assessment Panel) Regulations 2011 (DAP Regulations)

Regulation 17(1)(a) states that an owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply for the DAP to amend the approval so as to extend the period within which any development approved must be substantially commenced.

Regulation 17(2)(a) states that an application made under Regulations 17(1) may be made during or after the period within which the development approved must be substantially commenced.

As this application is made in accordance with Regulation 17(1)(a) of the DAP Regulations 'to amend the approval so as to extend the period within which any development approved must be substantially commenced', the City is required to consider the following relevant planning considerations:

- Whether the planning framework has changed substantially since the Development Approval was granted;
- Whether the development would likely receive approval now; and
- Whether the holder of the Development Approval has actively and relatively conscientiously pursued the implementation of the Development Approval.

The following comments are made in this respect:

- With the exception of State Planning Policy 3.7 - Planning in Bushfire Prone Areas, the planning framework has not substantially changed;
- For reasons outlined in this report, the City maintains its position that the application should be refused, and would not receive approval if it was considered now under the planning framework; and
- The holder of the Development Approval has not actively pursued the implementation of the Development Approval on the basis of outstanding matters pertaining to finance and the school's registration process under the Department of Education Services.
These factors are not considered to be relevant planning considerations in the implementation of a Development Approval.

Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations)

Clause 67 of Schedule 2 of the Planning Regulations outlines the matters to which the Local Government is to have due regard when considering an application for development approval. Where relevant, these matters have been discussed in the Comments section of this report.

City of Rockingham Town Planning Scheme No.2 (TPS2)

Clause 3.2 - Zoning Table

Lot 11 is zoned Rural and Lots 700 and 701 are zoned Special Rural under TPS2.

The proposed development is defined as an 'Educational Establishment' under TPS2. In the Rural Zone, 'Educational Establishment' is an 'A' use, which means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with the Planning Regulations. In the Special Rural zone 'Educational Establishment' is an 'X' use, which is a use not permitted by the Scheme. Given that the proposal was previously approved and contains only minor amendments to the plans, readvertising of the proposal was not required. This is discussed further in the consultation section of the report.

Despite an 'Educational Establishment' being an 'X' use in the Special Rural Zone, Clause 7.3 of TPS2 permits a change of an existing non-conforming use under certain circumstances. This is further considered below.

Given the subject site contains two different zones, the following is an assessment against the TPS2 provisions relating to both Lot 11 (zoned Rural under TPS2) and Lots 700 & 701 (zoned Special Rural under TPS2).

Clause 4.11 - Rural Zone

Clause 4.11.1 - Objectives

Lot 11 is zoned 'Rural' under TPS2. The objective of the Rural Zone is as follows:

"to preserve land for farming and foster semi-rural development which is sympathetic to the particular characteristics of the area in which it is located, having due regard to the objectives and principles outlined in the Rural Land Strategy and supported by any other Plan or Policy that the Council may adopt from time to time as a guide to future development within the Zone."

The area in which the proposed development is located is characterised by low density rural residential style development, with a number of low intensity rural and semi-rural land uses such as horse agistment facilities, a cattery and a plant nursery. The eastern side of Mandurah Road, where the subject site is located, is highly vegetated with remnant native vegetation on a steep and undulating dune network. There is an extensive chain of wetlands and significant landscape amenity extending north and south of the subject site. In general, the area provides a rural transition to urban development to the east and west.

Semi-rural development is considered to be typically low density in scale, and non-urban in nature or operation. The proposed development is of a large scale, affecting approximately 50% of Lot 11. The operation of the development is also rural or semi-rural in purpose or operation and is therefore not considered to be consistent or sympathetic to the character of the locality.

The scale of the development, and the general intensity associated with the activity and traffic generation of the number of students and teachers proposed, is not considered to be consistent with the character of the locality.

An assessment of the proposed development against the principles of Planning Policy 3.1.1 - Rural Land Strategy (PP3.1.1) is contained within the attached RAR. This assessment concluded that the proposed development does not comply with the objectives and principles of the PP3.1.1, as it is not considered to be of a scale that minimises intrusion into the landscape and it is considered to adversely impact the landscape attributes of the site.
The proposed development is therefore considered to be inconsistent with the objectives of the Rural Zone.

Clause 4.11.2 - General Provisions

Clause 4.11.2 of TPS2 sets out the General Provisions relating to the Rural Zone. A detailed assessment against the provisions of Clause 4.11.2 is contained within the attached RAR where it is concluded that proposed development is not compliant as the proposed development includes a car park and vegetation clearing within the required 10m boundary setback.

Clause 4.11.3 - Precinct Planning

Clause 4.11.3 provides the following with respect to the assessment of applications against the Rural Planning Precincts of PP3.1.1:

"(a) The Rural Land Strategy divides the Scheme area into Rural Planning Units which reflect varying development potential based on land capability, location and the committed nature of land. The Rural Planning Precincts are shown on Plan No.2.

(b) The specific requirements and performance standards under each Planning Units, as set out in the Strategy, shall be considered by the Council in dealing with any application for development approval."

An assessment of the proposed development against the requirements and performance standards of PP3.1.1 is contained in attached RAR. This assessment concludes that the proposed development fails to comply with the requirements and standards of the Rural Zone as the development is not considered to be of a scale that minimises intrusion into the landscape.

Clause 4.11.4 - Planning Control

Clause 4.11.4 of TPS2 provides the following with respect to Planning Controls in the Rural Zone:

"In assessing applications for rezoning, development approval and formulating comments and recommendations on applications for the subdivision of land, the Council shall take into account the objective for the particular Zone and the principles and policies as set out in the Rural Land Strategy."

The assessment of the proposed development against the objectives of the Rural Zone is contained in Clause 4.11.1 above.

An assessment of the proposed development against the principles and policies of the Rural Land Strategy is contained in the attached RAR, which concludes that the proposed development fails to comply with the objective of the Rural Zone and the principles and policies as set out in PP3.1.1.

Clause 4.12 - Special Rural Zone

Clause 4.12.1 - Objectives

Lots 700 and 701 are zoned 'Special Rural' under TPS2. The objectives of the Special Rural Zone are as follows:

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

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

Whilst much of Lot 701 and the access to Lot 700 contain vegetation of introduced species, it still provides for heavily landscaped environment with glimpses of built form development. This provides for a high level of amenity which is reflected in the zone objectives. The importance of the retention of this visual amenity, as a buffer to the higher density development to the east and west, is reflected in the principles and objectives of PP3.1.1.
The proposed development will require removal of a substantial area of vegetation. For Lot 701, half of the area of existing vegetation will need to be cleared to facilitate play areas, APZs, and vehicular access. Whilst specific details have not been provided, additional clearing would be required along the access handle of Lot 700 to facilitate the upgraded intersection and driveway to the proposed development. The removal of the vegetation will erode the existing amenity of the area through the loss of vegetation and increased visibility of development.

The City is concerned that the significant earthworks required to construct the development, particularly the large carpark, roads travelling directly up slopes, and required minimal grade footpaths for accessible buildings, will also have a detrimental environmental impact.

The intensity of use of the development will be far greater than anticipated by the objectives of the area. This combined with the vegetation removal will adversely impact the rural landscape and amenity of the area. Whilst the development includes some revegetation, it is not considered on balance to result in an enhancement of the natural environment.

A full assessment of the proposed development against the relevant provisions of Schedule No.4 of TPS2 is provided in attached RAR. It concludes that the proposed development does not comply with the provisions set out in Schedule No.4.

From the above, it can be seen that the development is not consistent with the objectives of the Special Rural Zone.

Clause 4.12.3 - Planning Control

Clause 4.12.3 requires Council to consider the following:

“In assessing applications for development approval and formulating comments and recommendations on applications for the subdivision of land, the Council shall take into account the objectives of the Special Rural Zone, the principles and policies as set out in the Rural Land Strategy and the Provisions Relating to Specified Areas as identified on Plan No’s 3 and 4 and set out in Schedule No.4.”

The assessment of the proposed development against the objectives of the Special Rural Zone is provided above.

An assessment of the proposed development against the principles and policies of PP3.1.1 as well as the Provisions set out in Schedule No.4 is contained in the attached RAR. It concludes that the proposed development is not compliant as it fails to protect and conserve landscape values and it is not considered to be of a scale that minimises intrusion into the landscape.

Clause 4.12.4 - Special Provisions

Clause 4.12.4 requires consideration of the provisions set out in Schedule No.4 of TPS2.

An assessment of the proposal against the provisions of Planning Unit 4C set out in Schedule No.4 of TPS2 is contained within the attached RAR where it is considered that the development is not compliant in the following areas:

- The land use is not permissible;
- Excessive clearing of vegetation will occur;
- There is incursion of development into the lot boundary setbacks; and
- New buildings will create an unacceptable visual impact.

Clause 4.15 - Carparking

A detailed assessment of the carparking requirements for the development is contained within the attached RAR where it is considered that the parking provision is considered to be acceptable subject to the inclusion of one accessible bay.

Clause 7.1 - Non-Conforming Use Rights

The Munja Gardens Reception Centre on Lot 700 Mandurah Road is an existing non-conforming use. Clause 7.1 outlines the situations in which an existing use can continue to operate. Essentially, the use must be lawful immediately prior to the gazettal date of the current Scheme, including any approvals required to authorise the development to be carried out were obtained and are current. Development Approval for the Munja Gardens Reception Centre was initially granted in 1997.
**Clause 7.3 - Change of Non-Conforming Use**

Clause 7.3 provides the ability to change an existing non-conforming use to another non-conforming use under the following circumstances:

"Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the Council is not to grant its development approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the Council, closer to the intended purpose of the zone."

To enable consideration of a change of a non-conforming use to another non-conforming use, two tests must be satisfied:

- the proposed use must be less detrimental to the amenity of the locality than the existing use; and

- the proposed use must be closer to the intended purpose of the zone.

These matters have been discussed in detail in the attached RAR and in the Comments section of this report where it is concluded that the proposed development has a greater impact on the amenity of the locality than the existing non-conforming use based on visual and environment impacts, hours of operation and increased peak hour and overall traffic volumes.

It can be seen that the proposed change of non-conforming use would not have a less detrimental impact on the amenity of the locality when compared to the existing non-conforming use and is not closer to the intended purpose of the zone. In this regard the development cannot be considered as a change to a non-conforming use and is therefore not permissible in the Special Rural Zone.

The proposed use meets neither test and therefore, pursuant to Clause 7.3 of TPS2, development approval should not be issued for the use.

**g. Risk**

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

Implications and comment will only be provided for the following assessed risks.

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

**Nil**

**Comments**

**Land Use Permissibility**

When considering applications for a change of an existing non-confirming use to another non-confirming use, Clause 7.3 of TPS2 requires Council to consider:

(i) **if the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use; and**

(ii) **if the proposed use is closer to the intended purpose of the zone.**

These matters have been further discussed below.

**Impact on Amenity**

The City does not believe the proposed development would be less detrimental to the amenity of the locality in which the subject site is located for the following reasons:

**Increase in hours of operation**

The overall/cumulative hours of operation for an Educational Establishment greatly exceed the hours of operation for the existing Reception Centre. The Munja Gardens Reception Centre operates on an appointment only basis, with functions only being held at the centre when bookings are made. Functions are typically held on weekends only. The Educational Establishment will operate a minimum of 5 days per week for all school terms throughout the year. It is expected that some functions also would occur on weekends.
Therefore the cumulative hours of operation for an Educational Establishment greatly exceed the hours of operation for the existing Reception Centre.

**Increase in peak hour traffic volumes**

The hours of operation for an Educational Establishment correlate to peak traffic periods (i.e. 9:00am and 3:00pm) on Mandurah Road. This will increase congestion on Mandurah Road, otherwise not experienced by the Reception Centre, which whilst having a high peak, the peak demand typically occur outside of peak traffic periods on Mandurah Road.

The applicant has advised that staggered school starting and finishing times could be utilised to reduce the impact on traffic volumes during peak traffic periods. Whilst this approach may reduce the intensity of the peak traffic periods, the varied starting and finishing times will result in vehicles attending the site over a greater time period, which is considered to add to the intensity of the proposed development. It may also have the impact of adding additional vehicle trips if parents have children with different starting and finishing times.

**Increase in overall traffic volumes**

The volume of traffic associated with the proposed development exceeds that of the existing Reception Centre. The Munja Gardens reception hall has the capacity to seat 150 guests. At ultimate development completion, the proposed Educational Establishment will accommodate 516 students and 42 staff members.

The applicant proposes to address the issue of overall traffic volumes by requiring up to 75% of students to be transported to and from the school via a designated bus service; unless there are extenuating circumstances that require drop off/pick up by private vehicle.

There is no way to ensure that the development operates with the majority of students arriving and department by bus. Furthermore, a different school operator other than Montessori could utilise the Development Approval which may not incorporate bus travel. Therefore the traffic generation should be assessed on the basis of worst case scenario.

If it is determined that the overall traffic generation is unacceptable and therefore requires bussing of students, this would indicate that the site is not suitable for the development.

If the development was conditioned to require that 75% of students arrive and depart the site via bus, ensuring compliance is considered to be both unrealistic and place an unreasonable burden on the city.

Overall, the proposed development will increase the volume of traffic to and from the site and is therefore not considered to be less detrimental to the amenity of the locality.

**Increase in overall development**

The overall development footprint is greater than the existing Reception Centre due to the need to provide vehicular accessways, carparking and vehicle circulation areas which were not required for the operation of the Reception Centre.

**Intended purpose of the zone**

The objectives of the Special Rural Zone under TPS2 are:

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

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

From the objectives of the Special Rural Zone, the intended purpose of the zone can be taken to be an area that provides for a rural lifestyle that is not associated with more intense and larger scale rural activities. Developments should retain the rural landscape and amenity of the area and conserve and enhance the natural environment. In this particular area, PP3.1.1 identifies the importance of retaining the visual buffer between development to the east and west.
Given this, the proposed development is not considered to be closer to the intended purpose of the Special Rural zone for the following reasons:

- The proposal does not foster semi-rural development which is sympathetic to the characteristics of the area in which it is located.

- The proposal does not result in the effective management of the land or conserve or enhance the natural environment, due to the loss of vegetation and modification to the natural topography of the land;

- The proposed development is considered to adversely impact on the existing rural landscape and amenity, due to the extent of development and impacts associated with the operation of the development, such as loss of vegetation and traffic, which are not associated with a rural lifestyle; and

- The proposal development is not consistent with the objectives of PP3.1.1 as it fails to protect and conserve landscape values and areas of environmental significance.

The City considers that the proposed development has a greater impact on the amenity of the locality than the existing non-conforming use based on visual and environment impacts, hours of operation and increased peak hour and overall traffic volumes.

It can be seen that the proposed change of non-conforming use would not have a less detrimental impact on the amenity of the locality when compared to the existing non-conforming use and is not closer to the intended purpose of the zone. In this regard the development cannot be considered as a change to a non-conforming use and is therefore not permissible in the Special Rural Zone.

As the proposed Educational Establishment does not meet the prerequisites of change to a non-conforming use, by virtue of Clause 7.3 of TPS2, the SWJDAP is not to grant Development Approval for an Educational Establishment on Lots 700 and 701 Mandurah Road. The SWJDAP did not accept this argument in its prior approval of the proposal.

Compatibility of development

Clause 67(m) of the Regulations requires the Council, in considering the application, to have due regard to:

the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

The following comments are provided in relation to the compatibility of the proposed development with its setting.

Scale of Development

The locality has a distinctly rural character, exemplified by small scale rural and semi-rural land uses such as horse agistment facilities, plant nurseries and hobby farming and low density rural residential development. These developments typically occupy a small area of the site in comparison to their lot size.

With the exception of the removal of the early childhood centre and formal carparking from Lot 700, the scale of the development remains unchanged from that originally proposed. The proposed development, including clearing, will impact approximately 40% of the area of Lots 11 and 701.

The steeply undulating topography of the site and the bushfire hazard exacerbates the scale of the development as additional earthworks and vegetation removal are required to facilitate the development along with vegetation removal to provide the APZ.

For these reasons, the scale of the proposed development is considered inconsistent with the existing and desired future character of the locality and therefore is considered to be incompatible with its setting.

Visual Impacts

The applicant has submitted a Line of Sight Assessment (see Figure 11) to illustrate the visual impacts the proposed development will have on Mandurah Road and surrounding properties. No assessment has been undertaken to determine the impact of the vegetation removal from Lot 700.
The plan shows that a large portion of the proposed development on Lot 11 will be visible from Mandurah Road and from the adjacent Lot 302 and 303 Olive Hill Close. The existing building forming the environmental centre and existing sheds are visible from Lot 812 Greenham Place.

The City previously requested the applicant provide a Viewshed Analysis from Lot 701 Mandurah Road, which was not been provided. The City has been unable to assess the visual impacts to this property associated with the proposed development.

No Visual Analysis has been undertaken for Lot 301 Olive Hill Close, which is directly to the south of the subject site. From the information provided, it appears that it would not have sightlines to the development.

The scale of the development, extent of earthworks and the removal of vegetation required to facilitate the construction of buildings, access and carparking areas and the APZ is considered to be visually intrusive in the existing low density highly vegetated rural landscape. The location and design of the carpark is considered to have a detrimental visual impact from Mandurah Road.

In summary, a large portion of the proposed development on Lot 11 will be visible either directly from Mandurah Road or from the adjacent Lot 302 Olive Hill Close, and insufficient information has been provided to determine if the development will have visual impacts on Lot 701 Mandurah Road and the extent of the visual impact from the clearing on Lot 700.

The proposed development is therefore considered to result in a detrimental visual impact for both users of Mandurah Road and adjacent residential development. The proposed development is therefore not considered to be compatible with its setting.
11. Line of Sight Assessment
Amenity

Clause 67(n) of the Regulations requires the Council, in considering the application, to have due regard to the amenity of the locality including the following:

(i) environmental impacts of the development;
(ii) the character of the locality; and
(iii) social impacts of the development.

The area is considered to be rural in nature, characterised by rural and semi-rural development, large lot sizes with low density development and areas of significant vegetation.

Factors likely to impact the amenity of the locality in relation to the proposed development are considered below.

Environmental impacts of the development

The environmental impacts of the development have been considered extensively in the following section below. In summary:

- The development will result in extensive clearing of the site, including both native vegetation and introduced species, to facilitate the buildings, car park and access roads, and the required APZ.
- To facilitate the development on the steeply undulating site, large areas of cut and fill will be required, consequentially changing the landform.

The amenity of the locality is considered to be adversely affected as a result of the environmental impacts resulting from the proposed development.

Character of the locality

The locality is characterised by rural lifestyle and semi-rural developments. The land to the east of Mandurah Road contains highly vegetated steeply undulating dune system. This area provides an important visual interlude to the urban land to the west.

The scale and nature of the development along with its physical impacts, due to the site constraints, would result in an adverse impact on the character of the locality.

Environmental Impacts

Clause 67(o) of the Regulations requires consideration be given to:

the likely effect of the proposal on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource.

The subject site has a highly varied topography made up of parabolic dune structures with significantly steep slopes. Lot 11 is largely covered by Cottesloe vegetation complex, with mainly introduced species on Lot 700. The following environmental impacts have been considered.

Earthworks

The applicant has not adequately demonstrated the extent of cut and fill which will be required to facilitate the entirety of the development. Therefore there is inadequate information available to properly assess the impacts of the proposed development. The City remains concerned that the significant earthworks required to construct the development, particularly the large carpark, roads travelling directly up slopes, and required minimal grade footpaths for accessible buildings, will have a detrimental environmental impact.

Apart from the extent of built form on the site that would require earthworks, the topography of the site will also require significant battering to facilitate it. This results in more earthworks than just the building footprints.

Vegetation Removal

The 2015 Development Approval required in 50% of the site to be cleared. The revised proposed development will result in the clearing of 5.7ha of the 10.3ha site, or 55.3% of the site (see Figure 12). The proposed development results in an increase in vegetation required to be cleared to facilitate the development.
Vegetation clearing is required to facilitate:

- The overall footprint of the proposed development;
- Earthworks to facilitate the proposed development, which could extend beyond the building footprint;
- Bushfire mitigation measures, including reducing the overall fuel load on the site and to facilitate the APZs;
- The area required to facilitate the on-site effluent disposal system; and
- Clearing of vegetation within the road reserve to accommodate the required acceleration and deceleration lanes and 'U' turn facility.

The applicant has assessed the condition of the vegetation in the clearing footprint on site in accordance with the Bush Forever Classification Scale (see Figure 13). The assessment determined that:

- 0.84ha is good condition;
- 1.42ha is degraded; and
- 1.97ha is completely degraded.

It should be noted that this classification system relates to ecological integrity and does not reflect the importance of the vegetation from a visual or amenity point of view. For example, the "completely degraded" classification is defined as:

"The structure of the vegetation is no longer intact and the area is completely or almost completely without native species. These areas are often described as ‘parkland cleared’ with the flora comprising weed or crop species with isolated native trees or shrubs."

Whilst the applicant's assessment indicates that a large portion of the proposed clearing is completely degraded vegetation, the vegetation still holds important values in terms of amenity and cannot be discounted given the intent of the planning controls for this specific area.
12. Clearing Area
13. Vegetation Clearing and Condition
Indigenous Fauna and Rare Flora

The subject site contains a large area of Carnaby's and Forest Red-tailed Black Cockatoo Habitat. Figure 14 shows the location of the habitat and significant trees. Of the 5.4ha across the site, approximately 2.56ha of the habitat will be cleared as part of the development. This is an increase from the 2015 Development Approval, which required the removal of 2.35ha.

The site also potentially provides habitat for the Rainbow Bee-eater, Perth Slider Lined Skink and Quenda Southern Brown Bandicoot. The assessment determined the clearing would have a negligible impact on these species.
During the previous vegetation surveys undertaken as part of the Environmental Assessment Report (EAR) of 2014, there was no rare or priority flora identified. The surveys were, however, undertaken outside of the detectable period for the Grand Spider Orchid and *Drakaea micrantha*. Whilst the assessment concluded that it is unlikely that these species would occur on site based on their preferred habitat and closest recorded occurrences, the EAR recommended a targeted Spring survey be undertaken. The updated EAR provided in support of this application has not included the recommended Spring survey, despite being prepared three years after the time of the original assessment. The City would expect that this survey be undertaken to appropriately consider impacts on locally and regionally significant flora, prior to an approval being issued.

In addition to the above, in September 2016, the Banksia Woodlands of the Swan Coastal Plain ecological community has been listed as endangered under the Environment Protection and Biodiversity Conservation Act 1999. The remnant native vegetation within the site is consistent with Threatened Ecological Community (TEC); Banksia Woodlands of the Swan Coastal Plain. A total of 0.84ha of the 2.22ha of Banksia Woodlands TEC will be impacted to facilitate the development.

The proposal was referred by the applicant to the Federal Department of Environment and Energy (DoEE) for assessment under the Environment Protection and Biodiversity Conservation Act 1999 to assess impacts on foraging habitat for the endangered Carnaby’s Black Cockatoo and Banksia Woodland Threatened Ecological Community. The proposal was determined to be a non-controlled action. Notwithstanding this, DoEE noted that whilst the proposed action is not likely to have a significant impact on matters of national environmental significance, the site may still contain important local, regional or state environmental values. These issues, and decisions as to whether development is appropriate, are for the City to consider. The City considers that the vegetation on site is of local and regional significance and should be retained.

It is acknowledged that the applicant has proposed to take environmental characteristics of the site into consideration in the design of the development to retain areas of best quality vegetation, however, the net loss of vegetation across the site results in adverse impacts to the natural environment and amenity of the locality which is inconsistent with planning intent of the area.

**Landscaping**

Clause 67(p) of the Regulations requires consideration of:

> whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.

The applicant has provided a detailed landscaping and revegetation plan (Figure 15). It can be seen that the applicant proposes an extensive amount of revegetation throughout the site.

The net loss and disturbance to the existing vegetation on the site to facilitate the development is, however, considered greater than what could adequately be offset by revegetation, given the extent of the development, reduced fuel load requirements of the APZ. Despite proposed revegetation, the clearing required to facilitate the development is still considered to adversely impact on the site and its surrounds.

The applicant has not adequately demonstrated the extent of earthworks required to facilitate the development. The City is therefore unable to accurately assess the impact of earthworks on vegetation retention or landscaping.

Overall, the development requires an excessive level of clearing. Even with the proposed landscaping, the rehabilitation proposed is not considered to sufficiently replace the lost vegetation.
15. Landscaping and Revegetation Plan
Risk

Clause 67(q) of the Regulations requires the Council, in considering the application, to have due regard to the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk.

The subject site and its surrounds are subject to a bushfire risk. The applicant has provided a revised BMP to address the risk. The assessment and suitability of the BMP has been discussed in the State Government Policy section of the report, which concludes that the BMP is compliant with the requirements of SPP3.7.

Access and Egress

Clause 67(s) of the Planning and Development (Local Planning Scheme) Regulations 2015 requires consideration of the adequacy of:

(i) the proposed means of access to and egress from the site; and
(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles.

This has been discussed in detail below.

Site Access

The revised application proposes one 'left in left out' access point to Lot 700 from Mandurah Road. The existing driveway on Lot 11 Mandurah Road is to be used for emergency access only.

The 'left turn' only movement to enter and exit the site is expected to receive long delays on the site, due to the high egress traffic volumes and school bus movements, which would require larger 'gaps' in the traffic to accommodate egress of buses. Whilst it is acknowledged that a large circular turn-around area on site has been provided, should vehicles exiting the site be required to queue to wait for a 'break' in traffic on Mandurah Road, there is concern that the functionality of carparking and manoeuvrability on the site would be compromised, particularly where buses are involved.

The revised application includes deceleration and acceleration lanes for the access to the site. The applicant has, however, failed to provide details as to the length and exact location of the acceleration and deceleration lanes and the extent of works required to facilitate them.

Based on the current 100km/hr speed environment (110km/hr design speed), the deceleration lane would need to extend 150m north of the site and the acceleration lane 235m south of the Olive Hill Close intersection (see Figure 16). This would mean significant works to the intersection of Olive Hill Close and blocking of access to Lot 13 (No.1857) and Lot 14 (No.1859) Mandurah Road.

If the speed limit on Mandurah Road was reduced to 80km/hr, the deceleration lane would need to extend 120m north of the site and the acceleration lane 315m south of the site. This would be able to be accommodated with only minor modifications to the Olive Hill Close intersection. It is, however, important to note that MRWA has not approved any change to the current 100km/hr speed limit, nor has the City received any advice from MRWA that it would support such a reduction. In any case, such an approval is separate to the planning process and in the absence of an approval existing, the City can only consider what is currently in place.

The resultant intersection design for the 110km/h design speed would result in unacceptable impacts, through the blocking of access for Lot 13 (No.1857) and Lot 14 (No.1859) Mandurah Road. The design changes required to Olive Hill Close intersection would need to be borne by the applicant. Any lesser design, being a shorter acceleration lane to avoid blocking property access, would be unsafe given the speed environment. Therefore safe access cannot be provided to the subject site.
16. Length of acceleration/deceleration lanes

**U-Turn Bay**

The Transport Assessment recommends the existing median break to the west of the proposed entry be closed to traffic to prohibit the right turn into and out of the site. The Assessment also recommends the installation of a U-turn facility located north of Surf Drive. Details of the design and exact location of the proposed U-turn facility have not been provided.
There are significant level differences between the northbound and southbound carriageways along this portion of Mandurah Road. Along with the camber of each of the carriageways, the City has significant concerns as to whether a U-turn facility could in fact be achieved given the level differences.

To ensure the functionality of Mandurah Road is not compromised, acceleration and deceleration lanes must be provided to the 'U' turn facility, to allow free flowing turning of traffic. It is not clear whether, given the spacing between the carriageways and the height differences, the additional acceleration and deceleration lanes could be achieved. If not, then turning traffic would be required to perch before entering traffic on the northbound lane. This would require the inclusion of storage into the deceleration lane, consequentially lengthening the lane. Further assessment would be required to determine then whether sufficient distance is available between the site and U-turn deceleration lane in order to allow accelerating vehicles from the site to cross two lanes of traffic before reaching the U-turn facility.

In addition to this, it is not clear that there is sufficient sight distance to the south of the U-turn facility, particularly relating to the bend in the road and the intersection of Surf Drive. A Safety Audit is recommended by MRWA to address this.

It should also be noted that Mandurah Road is to be widened to six lanes in the future, which may compromise the ability to provide the U-turn facility.

The U-turn facility is fundamental to the safe functioning of the proposed development given the absence of a full movement intersection. Until, and unless, it can be adequately demonstrated that both the site intersection and the U-turn facility can be designed and provided to an acceptable MRWA standard, the application cannot be supported as safe access cannot be provided for the development.

**Carparking**

Carparking provision has been discussed in the Legislation section of this report. The amount of carparking provided is deemed adequate to service the proposed development. It is not clear from the information provided whether the carparking bays will comply with User Class 1 (for staff parking) and User Class 3 (for short term parking) of *Australian Standard AS2890.1:2014 - Parking facilities Part 1: Off-street car parking*.

**Traffic Generation, Flow and Safety**

Clause 67(t) of the Regulations requires the Council to consider:

> the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

The traffic report provided by the applicant has demonstrated that sufficient capacity exists within Mandurah Road to accommodate the additional traffic generated by the development.

Access to and from the site is, however, problematic as outlined above. It has not been demonstrated that, given the current environment, safe access can be provided for the development.

Consequentially it is concluded that the development would compromise the functioning of Mandurah Road as a result of the intensification of development and subsequent modifications required to the road to facilitate the development.

**Public Transport, Servicing, Waste and Pedestrian and Cyclist Access and Access for the Aged and People with Disability**

Clause 67(u) of the Regulations requires consideration of the availability and adequacy for the development of the following:

(i) public transport services;
(ii) public utility services;
(iii) storage, management and collection of waste;
(iv) access for pedestrian and cyclist (including end of trip, toilet and shower facilities); and
(v) access by older people and people with disability.
Each of these issues has been discussed below:

Public Transport
The applicant has advised that approximately 75% of arrivals and departures to and from the school would likely be via a bus operated by the school. The enforcement of this is problematic as outlined above.

The nearest public transport route (a bus service) is located approximately 1.2km from the subject site. There are no Transperth bus services along Mandurah Road in this location. The subject site is considered to be a poor location for an Educational Establishment due to the lack of available public transport.

Public Utility Services
The applicant has advised that it intends to extend the reticulated water supply available from Surf Drive (approximately 1.3km to the south west of the subject site) to service the proposed development. This approach is supported by the City.

The applicant will be required to liaise with relevant service authorities for the provision of power and telecommunications.

Waste
The applicant has not provided details of waste storage, management or collection. Should the application be approved, a condition should be imposed requiring the submission of a detailed Waste Management Plan to the City's for approval and implementation throughout the operation of the development.

Pedestrian and Cyclist Access
The site only has access from Mandurah Road. There is no public footpath network or pedestrian crossings across Mandurah Road in the vicinity of the site. Given the high speed traffic environment of Mandurah Road (100km/hr), pedestrian access via Mandurah Road is not considered safe.

There are also no designated cycle lanes or cycle paths on or adjacent to Mandurah Road. Given the high speed traffic environment of Mandurah Road (100km/hr), access for student cyclists via Mandurah Road is not considered safe. There are no requirements for bicycle parking and end-of-trip facilities under the City's Planning Policy 3.3.14 - Bicycle Parking and End of Trip Facilities.

The subject site is not considered a suitable location for an Educational Establishment due to the lack of pedestrian and cycling facilitates. This arrangement is unlikely to change given Mandurah Road is classed as a Primary Distributor road for the purposes of providing movement of inter-regional traffic.

Access for the Aged and People with Disability
No detail has been provided as to the grades of the footpath network around the site, and whether it is adequate to enable access for the aged and people with disability. No parking spaces have been identified on site for the aged or people with disability.

Submissions
Clause 67(y) of the Regulations require consideration of any submissions received on the application.

When the original application was advertised, the City received 147 public submissions (of which 139 were pro forma) objecting to the proposal. All of which contained relevant issues on the proposed development application. The following issues which were raised within submissions objecting to the proposal are still not considered to be resolved:

- Access, Traffic and Parking;
- Traffic Generation;
- Loss of Flora and Fauna;
- Loss of Amenity;
- Inappropriate Location; and
- Policy Compliance.
These issues have been discussed throughout this report. The City still considers there are outstanding matters that must be addressed by the applicant to enable the City to resolve the concerns raised by submissioners, and on this basis, is unable to recommend the application for approval.

**Conclusion:**
From the above assessment it has been clearly demonstrated that:

- The revised proposed development does not comply with the objectives or provisions of the Regulations, TPS2, State Planning Policy 2 - Environment and Natural Resources Policy, Planning Policy 3.1.1 - Rural Land Strategy, and Development Control Policy 5.1 - Regional Roads (Vehicular Access).

- The proposed use is prohibited on Lot 700 as it does not meet the prerequisites of a change of non-conforming use required by Clause 7.3 of TPS2 as the development is not less detrimental to the amenity of the locality nor closer to the intended purpose of the zone.

- Insufficient information has been provided by the applicant to enable full and proper assessment of the impacts of the development relating to vehicular access, U-turn facilities, parking provision, and the extent of earthworks required.

- It has not been adequately demonstrated whether the site can achieve safe and functional access and whether providing access to the site will compromise the functioning and safety of Mandurah Road. Furthermore, the absence of sufficient information prohibits the complete understanding of the environmental impacts of the development.

- The proposed development is considered to detrimentally impact the amenity of the locality, the existing landscape quality of the site and have adverse visual impacts from the vegetation. This is a result of the clearing and significant earthworks required to facilitate development due to the steep topography of the site, and bushfire hazard separation requirements.

- The proposed development is considered to result in adverse environmental impacts as a result of modifying the existing landscape through loss and modification of vegetation and earthworks required to facilitate the development.

- The site is not considered suitable for the development due to the lack of safe access to the site and the extensive amount of earthworks and clearing required to facilitate the development and provide a suitable level of protection from bushfire.

It is therefore recommended that Council endorse the attached RAR requesting that the SWJDAP refuse the application.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council **ADOPTS** the Responsible Authority Report for the application for an Educational Establishment at Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup contained as Attachment 1 as the report required to be submitted to the presiding member of the South-West Joint Development Assessment Panel (SWJDAP) pursuant to Regulation 17 of the Planning and Development (Development Assessment Panels) Regulation 2011, which recommends:

That the Metro South-West Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 dated 29 November 2017 is appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011;

2. **Refuse** the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 date 29 November 2017 and accompanying plans:
   - Administrative/Sports Centre, Drawing No.SK08 Rev B, dated 15.08.2017;
- Administrative/Sports Centre, Drawing No.SK07 Rev B, dated 15.08.2017;
- Administrative/Sports Cntr Elevations, Drawing No.SK09 Rev B, dated 15.08.2017;
- Administrative/Sports Cntr Elevations, Drawing No.SK010 Rev B, dated 15.08.2017;
- Site Sections, Drawing No.SK02 Rev B, dated 14.09.2017;
- Site Sections, Drawing No.SK03, dated 14.09.2017; and
- Staging Plan, Drawing No.SK00 Rev C, dated 03.11.2017.

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of the 6.2 of the City of Rockingham Planning Scheme No.2, for the proposed minor amendment to the approved Educational Establishment at Lot 11 (No.1809) and Lot 700 (No.1791) Mandurah Road, Karnup, for the following reasons:

Reasons

1. An 'Educational Establishment' is not permitted on Lots 700 and 701 Mandurah Road by virtue of not meeting the prerequisites of clause 7.3 of Town Planning Scheme No.2 for a change of non-conforming use, as the development would be more detrimental to the amenity of the locality than the existing non-conforming use, and it would not be closer to the intended purpose of the zone than the existing nonconforming use.

2. The proposed development is inconsistent with clause 4.11.1 of Town Planning Scheme No.2, being the objectives of the Rural Zone, as the proposal does not preserve land for farming nor foster semi-rural development which is sympathetic to the characteristics of the area in which it is located.

3. The development cannot provide for safe and efficient access to and from Mandurah Road.

4. The proposed development is inconsistent with the objectives of Planning Unit No.4C of Planning Policy 3.1.1 - Rural Land Strategy, Planning Unit C as the proposed development is not setback 10m from all lot boundaries and the scale of the development is considered to intrude into the landscape.

5. The traffic generated by the development will adversely affect the functioning and safety of Mandurah Road, which is inconsistent with its role as a Regional Road.

6. The proposed development is inconsistent with clause 1.6.2(b) of Town Planning Scheme No.2 as it is not considered to secure the amenity, health and convenience of the Scheme Area and the inhabitants thereof by virtue of:

   (a) introducing a land use that substantially increases traffic and noise and results in adverse visual impacts; and

   (b) not demonstrating that the method of providing drinking water to service the development will not result in an unacceptable risk to human health by virtue of the effluent disposal area being on the same site as the groundwater abstraction.

7. The proposed development is inconsistent with clause 1.6.2(e) of Town Planning Scheme No.2, which aims to protect and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically and environmentally sustainable land use and development which minimises resource use and waste, as the development:

   (a) will result in extensive vegetation clearing and reduction; and

   (b) requires extensive cut and fill.

8. The development is inconsistent with Clause 4.11.2(a) of Town Planning Scheme No.2 as it does not achieve the required 30 metre setback to Mandurah Road which is required to provide for a vegetated visual buffer and the intrusion of parking and access areas within the required setback area results in an adverse visual impact.

9. The proposed development fails to comply with State Planning Policy 3.7 - Planning in Bushfire Prone Areas, as an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity has not been achieved.
10. The development will adversely impact on local rural amenity as a result of the substantial vegetation clearing and modification and earthworks required to facilitate the development on the site.

**Committee Recommendation**

**Note:** 4:26pm - The Chairperson and Acting Chief Executive Officer repeatedly requested Mr Sanfead to refrain from interjecting the meeting and should he not do so, he would be requested to leave the room.

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

That Council **ADOPTS** the Responsible Authority Report for the application for an Educational Establishment at Lot 11 (No.1809) and Lots 700 and 701 (No.1791) Mandurah Road, Karnup contained as Attachment 1 as the report required to be submitted to the presiding member of the South-West Joint Development Assessment Panel (SWJDAP) pursuant to Regulation 17 of the Planning and Development (Development Assessment Panels) Regulation 2011, which recommends:

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   - Administrative/Sports Cntr Elevations, Drawing No.SK010 Rev B, dated 15.08.2017;
   - Site Sections, Drawing No.SK02 Rev B, dated 14.09.2017;
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in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of the 6.2 of the City of Rockingham Planning Scheme No.2, for the proposed minor amendment to the approved Educational Establishment at Lot 11 (No.1809) and Lot 700 (No.1791) Mandurah Road, Karnup, for the following reasons:

**Reasons**

1. An 'Educational Establishment' is not permitted on Lots 700 and 701 Mandurah Road by virtue of not meeting the prerequisites of clause 7.3 of Town Planning Scheme No.2 for a change of non-conforming use, as the development would be more detrimental to the amenity of the locality than the existing non-conforming use, and it would not be closer to the intended purpose of the zone than the existing nonconforming use.
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3. The development cannot provide for safe and efficient access to and from Mandurah Road.
4. The proposed development is inconsistent with the objectives of Planning Unit No.4C of Planning Policy 3.1.1 - Rural Land Strategy, Planning Unit C as the proposed development is not setback 10m from all lot boundaries and the scale of the development is considered to intrude into the landscape.
5. The traffic generated by the development will adversely affect the functioning and safety of Mandurah Road, which is inconsistent with its role as a Regional Road.
6. The proposed development is inconsistent with clause 1.6.2(b) of Town Planning Scheme No.2 as it is not considered to secure the amenity, health and convenience of the Scheme Area and the inhabitants thereof by virtue of:

(a) introducing a land use that substantially increases traffic and noise and results in adverse visual impacts; and

(b) not demonstrating that the method of providing drinking water to service the development will not result in an unacceptable risk to human health by virtue of the effluent disposal area being on the same site as the groundwater abstraction.

7. The proposed development is inconsistent with clause 1.6.2(e) of Town Planning Scheme No.2, which aims to protect and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically and environmentally sustainable land use and development which minimises resource use and waste, as the development:

(a) will result in extensive vegetation clearing and reduction; and

(b) requires extensive cut and fill.

8. The development is inconsistent with Clause 4.11.2(a) of Town Planning Scheme No.2 as it does not achieve the required 30 metre setback to Mandurah Road which is required to provide for a vegetated visual buffer and the intrusion of parking and access areas within the required setback area results in an adverse visual impact.

9. The proposed development fails to comply with State Planning Policy 3.7 - Planning in Bushfire Prone Areas, as an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity has not been achieved.

10. The development will adversely impact on local rural amenity as a result of the substantial vegetation clearing and modification and earthworks required to facilitate the development on the site.

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
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<th>PD-007/18 Proposed Street Naming Theme – ‘Paramount Studios Films and Actors’</th>
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<tr>
<td>Applicant:</td>
<td>Roberts Day</td>
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<tr>
<td>Owner:</td>
<td>Paramount Stud Unit Trust</td>
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<tr>
<td>Author:</td>
<td>Ms Nicole D’Alessandro, Planning Administration Officer</td>
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<tr>
<td>Other Contributors:</td>
<td>Mrs Sharon Peacock, Projects Research Officer</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>19 February 2018</td>
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<td>Previously before Council:</td>
<td></td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Executive</td>
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<tr>
<td>Nature of Council’s Role in this Matter:</td>
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<td>Site:</td>
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<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
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<td>2. Structure Plan</td>
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<tr>
<td></td>
<td>3. Subdivision Plan</td>
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1. Location Plan

Purpose of Report

To consider an application seeking approval for a street naming theme based on ‘Paramount Studios Films and Actors’ for a residential subdivision located on Lots 635, 739 and 740 Baldivis Road, Baldivis. The site is to be marketed as ‘Paramount Private Estate’.

Background

In December 2014 the Western Australian Planning Commission (WAPC) granted approval to the Structure Plan covering Lots 635, 739 and 740 Baldivis Road, Baldivis. The Structure Plan was adopted by Council in April 2015.

The approved Structure Plan contains the following elements:
- The creation of 879 residential lots, with densities ranging from ‘R20’ through to ‘R40’;
- A Primary School Site;
- A Community Site and future Retirement Village;
- A Neighbourhood Centre; and
- A total of 9.76ha of Public Open Space.

In September 2014, a subdivision application for the subject site was conditionally approved by the WAPC comprising a total of 894 lots.
2. Structure Plan

3. Subdivision Plan
Details

The proposed street naming theme for the Paramount Private Estate is based on ‘Paramount Studios Films and Actors’.

Property records and site history indicate that the subject land formerly operated as ‘Paramount Stud’, a livestock breeding establishment. This informal connection between Paramount Studios and the subject site offers an opportunity to establish a nuanced street naming theme which indirectly interprets the site’s history.

Examples of the proposed street names are as follows:

- Arlen - Richard Arlen (September 1, 1899 - March 28, 1976) was an American actor of film and television best known for his role in Wings (1927).
- Canyon - ‘Copper Canyon’ is a 1950 Paramount Pictures western film directed by John Farrow.
- Scarlet - ‘The Scarlet Express’ is a 1934 American historical drama film about the life of Catherine the Great.

Implications to Consider

a. Consultation with the Community
   Nil

b. Consultation with Government Agencies
   Consultation with the Geographic Names Team is required following the Council’s decision.

c. Strategic
   Community Plan
   This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2015-2025:
   
   **Aspiration D:** Sustainable Environment
   **Strategic Objective:** Land Use and Development Control - Planning for population growth and guiding development and land use to ensure that future generations enjoy a sustainable city and a genuinely desirable lifestyle.

d. Policy
   Nil

e. Financial
   Nil

f. Legal and Statutory
   The Land Administration Act 1997 (section 26A) requires developers of new subdivisions to submit street names for support by the Council. The responsibility for approving street names rests with the Geographic Names Team. The proposed theme is in accordance with the Geographic Names Committee Principles, Procedures and Guidelines.

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

The City’s Planning Procedure No.1.4 – Street Names and Their Themes (Planning Procedure No.1.4) provides guidelines and procedures for street naming themes and associated street names for subdivisions within the City. All applications for approval of street naming themes are assessed by the City for compliance with Planning Procedure No.1.4 and are referred to Council for determination.

The proposed theme relating to ‘Paramount Studios Films and Actors’ complies with the City’s Planning Procedure No.1.4 and the Geographic Names Committee Principles, Procedures and Guidelines, as a thematic source of names which is relevant to the site formerly known as the Paramount Stud.

In light of the above, it is recommended that the Council support the proposed street naming theme.

Next Steps

Street names that are consistent with the Council approved street naming theme and comply in all respects with Planning Procedure No.1.4, will be pre-approved by the City and referred to the Geographic Names Team for further assessment and final approval.

Voting Requirements

Simple Majority

Officer Recommendation

That Council SUPPORTS the proposed street naming theme based on ‘Paramount Studios Films and Actors’ for the residential subdivision located at Lots 635, 739 and 740 Baldivis Road, Baldivis, known as ‘Paramount Private Estate’.

Committee Recommendation

Moved Cr Whitfield, seconded Cr Sammels:

That Council SUPPORTS the proposed street naming theme based on ‘Paramount Studios Films and Actors’ for the residential subdivision located at Lots 635, 739 and 740 Baldivis Road, Baldivis, known as ‘Paramount Private Estate’.

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
Purpose of Report

Provide Council with the results of the tender assessment for Tender T17/18-30 - Standing Offer for the Installation and Maintenance of Reserve Fencing, document the results of the tender assessment and make recommendations regarding award of the tender.

Background

Tender T17/18-30 - Standing Offer for the Installation and Maintenance of Reserve Fencing was advertised in the West Australian on Saturday, 25 November 2017. The tender closed at 2.00pm, Wednesday, 13 December 2017 and was publicly opened immediately after the closing time.

Details

The scope of work for this tender includes:

- supply of materials and installation of new public open space fencing and gates
• supply of materials and installation of timber bollards
• removal and disposal of existing fencing
• repairs to existing public open space fencing

The period of the contract shall be from the date of award for a period of 60 months (5 years).

The Director of Engineering and Parks Services appointed a tender assessment panel comprising Coordinator Projects and Contracts, Contract Management Supervisor and Environmental Supervisor.

The pricing schedule submitted by Foreshore Rehabilitation and Landscaping (FRL) was not completed correctly and also contained a qualifying statement that pricing was based on a minimum volume of work. The assessment panel therefore deemed the tendered price to be non-conforming.

The Contract rates are subject to a price variation every twelve (12) months from the date of award. Calculation of such price variation will be in accordance with the variation in the Consumer Price Index (CPI) for Perth Western Australia for all groups for the 12 months preceding the last completed CPI quarter as at the date the price variation is due.

### 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 Aspirations and Strategic Objectives contained in the Community Plan 2015-2025:

   **Aspiration A:** Tourism Lifestyle
   **Strategic Objective:** Safety, Appearance and Cleanliness - Attractive, appealing and welcoming foreshores, beaches and public spaces that are clean, safe and litter free.

   **Aspiration C:** Quality Leadership
   **Strategic Objective:** Infrastructure - Civic buildings, sporting facilities, public places and transport infrastructure planned, designed, constructed and maintained using best practice principles and life cycle cost analysis, and implemented in line with informed population growth analysis.

   **Aspiration D:** Sustainable Environment
   **Strategic Objective:** Coastal and Bushland Reserves - Coastal and bushland reserves that are well used and sustainably managed preserving them for future generations to enjoy.

d. Policy

   In accordance with the City’s Purchasing Policy, for purchases above $150,000, a public tender process is to be conducted in accordance with the provision of section 3.57 of the Local Government Act 1995; and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11A(1).

e. Financial

   Capital expenditure will be in accordance with the City’s Business Plan and operational expenditure will be in accordance with the Engineering and Parks maintenance budgets as allocated in the 2017/18 - 2021/22 operational budgets.

f. Legal and Statutory

‘Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than $150,000 unless sub regulation (2) states otherwise’

In accordance with 1.11 of the request for tender and the Local Government (Functions and General) Regulations 1996, Part 4, Division 2, Regulation 18, tenders can be declined.

g. Risk

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

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

Nil

Comments

The assessment panel considered the two tender submissions in accordance with the tender assessment criteria. Tenderers were requested to submit pricing based on lineal metre rates for the installation of several styles of public open space fencing.

Tenders were not provided with work volume indicators or the ability to schedule pricing based on a range of work volumes. On review by the assessment panel, it was considered that this price schedule method contributed to Foreshore Rehabilitation and Landscaping submitting a non-conforming price schedule and FenceWright’s pricing not representing best possible value.

The City proposes to amend the tender price methodology and readvertise the tender. It is therefore recommended that the Council decline both tenders in accordance with clause 1.11 of the Request for Tender and the Local Government (Function and General) Regulations 1996, Part 4, Division 2, Regulation 18, and following amendments to the tender price methodology and the tender be readvertised.

Voting Requirements

Simple Majority

Officer Recommendation

That Council DECLINES the tender submission received for T17/18-30 - Standing Offer for the Installation and Maintenance of Reserve Fencing.

Committee Recommendation

Moved Cr Sammels, seconded Cr Summers:

That Council DECLINES the tender submission received for T17/18-30 - Standing Offer for the Installation and Maintenance of Reserve Fencing.

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
13. **Reports of Councillors**

### 13.1 Appreciation

Cr Whitfield expressed his appreciation for the installation of shade sails in Harrington Waters.

### 13.2 Request

Cr Whitfield advised that he had been approached by two residents in Karnup querying why they are charged a higher rate for the delivery of parcels, just because it is classed as a 'regional' area. Cr Whitfield asked if this was something the City could investigate.

14. **Addendum Agenda**

Nil

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

Nil

16. **Notices of Motion for Consideration at the Following Meeting**

Nil

17. **Urgent Business Approved by the Person Presiding or by Decision of the Committee**

Nil

18. **Matters Behind Closed Doors**

Nil

19. **Date and Time of Next Meeting**

The next Planning and Engineering Services Committee Meeting will be held on **Monday 19 March 2018** in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.

20. **Closure**

There being no further business, the Chairperson thanked those persons present for attending the Planning and Engineering Services Committee meeting, and declared the meeting closed at **4.38pm**.