MINUTES
Planning Services Committee Meeting
Held on Monday 15 July 2013 at 4:00pm
City of Rockingham Boardroom
City of Rockingham
Planning Services Committee Meeting Minutes
Monday 15 July 2013

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<td>SP-038/13 Bulk Earthworks (Lot 806) Mandurah Road</td>
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<td>SP-039/13 Proposed Home Business (Kite Boarding Office, Storage and Commercial Vehicle Parking)</td>
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<td>14. Addendum Agenda</td>
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<td>18.</td>
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1. Declaration of Opening

In the absence of the Chairperson the Chief Executive Officer assumed the Chair and called for nominations for the position of Acting Chairperson.

**Moved Cr Sammels, seconded Cr Hamblin:**
That Cr Liley be appointed Acting Chairperson for the meeting.

Carried – 3/0

The A/Chairperson declared the Planning Services Committee Meeting open at 4.02pm, welcomed all present, and recited the Acknowledgement of Country.

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

2.1 Councillors

Cr Leigh Liley A/Chairperson
Cr Allan Hill
Cr Barry Sammels
Cr Deb Hamblin

2.2 Executive

Mr Andrew Hammond Chief Executive Officer
Mr Bob Jeans Director Planning and Development Services
Mr John Woodhouse Director Legal Services and General Counsel
Mr Peter Ricci Project Manager Keralup
Mr Brett Ashby Manager Strategic Planning and Environment
Mr Richard Rodgers Manager Building Services
Mr Dave Waller A/Manager Statutory Planning
Mr Rod Fielding Manager Health Services (until 4.12pm)
Ms Melinda Wellburn PA to Director Planning and Development Services

2.3 Members of the Gallery:

6

2.4 Apologies:

Cr Richard Smith
Cr Chris Elliott

2.5 Approved Leave of Absence: Nil

3. Responses to Previous Public Questions Taken on Notice

Nil
4. **Public Question Time**

4.04pm The A/Chairperson invited members of the Public Gallery to ask questions.

4.1 Mr Ross Underwood, Planning Solutions - SP-036/13 Proposed Building Envelope Variation

The Chairperson invited Mr Underwood to present his questions to the Planning Services Committee. Mr Underwood read aloud the following questions:

1. Is the Committee aware that Planning Solutions, on behalf of the owner of adjacent Lot 14 (8) Almeria Place, Elizabeth Wiese & Associates, has lodged an objection to the proposed relocation of the building envelope at Lot 16 (7) Almeria Place, and that we are aware of and support the officer’s recommendation to refuse the building envelope relocation?

2. Is the Committee aware that my presence here today demonstrates our client intends to monitor this application closely, and has a strong desire for the officer’s recommendation to be supported by the Committee?

3. Is the Committee aware that the current proposal is essential identical to a 2009 proposal to relocate the building envelope that was ultimately rejected by Council in September 2009, and in our view the application should be similarly refused?

4. Is the Committee aware that TPS2 states Council can only vary a building envelope if it receives advice from a qualified environmental consultant that the variation will result in an environmental benefit, and that at best, the proposal may be considered ‘environmentally neutral’ without any demonstrated benefit?

5. Is the Committee aware that the proposal is to relocate the building envelope to the highest point of the site would result in development that would be extremely prominent when viewed from the public domain, including Almeria Place, the PAW, and for a significant distance along the Warnbro foreshore, and in our view would be clearly inappropriate and contrary to the intent of locating building envelopes in the Warnbro Dunes?

6. Is the Committee aware that the proposed relocation of the building envelope serves no purpose but to maximise the views available from any dwelling constructed on the site to the detriment of a substantial number of other residents and visitors to the area?

The A/Chairperson advised that the issues raised in Mr Underwood’s questions have been dealt with in the Officer’s Report which will be considered later in the meeting.

4.07pm There being no further questions the A/Chairperson closed Public Question Time.

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

Moved Cr Hill, seconded Cr Liley:

That Council **CONFIRM** the Minutes of the Planning Services Committee Meeting held on 17 June 2013, as a true and accurate record.

Committee Voting – 4/0

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

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

4.08pm The A/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**

4.08pm Cr Hill declared the following Declaration of Interest:

<table>
<thead>
<tr>
<th>8.1</th>
<th>Item SP-035/13</th>
<th>Section 40 Liquor Licence Application – Totally and Partially Disabled Veterans of WA (Inc) Respite Centre</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Councillor/Officer:</td>
<td>Cr Hill</td>
</tr>
<tr>
<td></td>
<td>Type of Interest:</td>
<td>Impartiality Interest</td>
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<tr>
<td></td>
<td>Nature of Interest:</td>
<td>I am a member of the RSL and I attend functions at the property.</td>
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<tr>
<td></td>
<td>Extent of Interest (if applicable):</td>
<td>N/A</td>
</tr>
</tbody>
</table>

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

Nil

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

Nil

11. **Bulletin Items**

**Planning Services Information Bulletin – July 2013**

**Health Services**

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

Building Services
1. Building Services Team Overview
2. Human Resource update
3. Project Status Reports
4. Information Items
   4.1 Monthly Building Permit Approvals - (All Building Types)
   4.2 Private Swimming Pool and Spa Inspection Program
   4.3 Continued Service System – Where a Certificate of Design Compliance & Building Permit are Produced Individually
   4.4 Demolition Permit
   4.5 Permanent Sign Licence
   4.6 Community Sign Approval
   4.7 Temporary Sign Licence
   4.8 Street Verandah Approval
   4.9 Occupancy Permits
   4.10 Stratas
   4.11 Unauthorised Building Works
   4.12 Monthly Caravan Park Site Approvals
   4.13 R Code Variations

Strategic Planning and Environment
1. Strategic Planning and Environment Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Local Planning Strategy (LUP/1352)
   3.2 Karnup District Water Management Strategy (EVM/136)
   3.3 Water Campaign (EVM/56-02)
   3.4 Karnup District Structure Plan (LUP/1546)
4. Information Items
   4.1 Lifting of Urban Deferment – Portion of Lots Bounded by Pike, Eighty and Mandurah Roads, Baldivis (LUP/109)
   4.2 Delegated Final Adoption of Structure Plan
   4.3 East Rockingham Wastewater Treatment Plant
   4.4 Water Campaign – Achievement of Milestone 4 ‘Community’
**Statutory Planning**

1. Statutory Planning Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 CouncilsOnline (Planning Products via the Web) formerly eDA
4. Information Items
   4.1 Land Use – Planning Enforcement
   4.2 Subdivision/Development Approvals and Refusals by the WAPC
   4.3 Notifications and Gazettals
   4.4 Subdivision Clearances
   4.5 Subdivision Survey Approvals
   4.6 Delegated Development Approvals
   4.7 Delegated Development Refusals
   4.8 Delegated Building Envelope Variations
   4.9 Subdivision/Amalgamation Approved
   4.10 Subdivision/Amalgamation Refused
   4.11 Residential Design Codes (2013)

**Director Planning and Development Services**

1. Director Planning and Development Services Team Overview
2. Human Resource Update
3. Project Status Reports
   3.1 Northern Waterfront Sector - Development Policy Plan and Masterplan (LUP/1617)
   3.2 Campus Sector - Development Policy Plan and Masterplan (LUP/1618)
   3.3 Northern Smart Village Sector - Development Policy Plan and Masterplan (LUP/1595)
   3.4 Keralup
   3.5 Karnup Station Transit Oriented Development
4. Information Items
   4.1 Lots 401 and 404 Civic Boulevard, Rockingham (LUP/229 & LUP/227)

**Committee Recommendation**

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

Committee Voting – 4/0

4.12pm - Mr Rod Fielding, Manager Health Services left the Planning Services Committee meeting.
## 12. Agenda Items

### Building Services

#### Planning Services

### Building Services

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<th>Reference No &amp; Subject:</th>
<th>BS-002/13</th>
<th>Proposed Outbuilding</th>
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<tbody>
<tr>
<td>File No:</td>
<td>74.2013.75.1</td>
<td></td>
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<tr>
<td>Proponent/s:</td>
<td>Ms L D Black</td>
<td></td>
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<tr>
<td>Author:</td>
<td>Mr Ciaran McCormack, Building Surveyor</td>
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<tr>
<td>Other Contributors:</td>
<td>Mr Richard Rodgers, Manager Building Services</td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
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<tr>
<td>Date of Committee Meeting:</td>
<td>15 July 2013</td>
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<td>Previously before Council:</td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Tribunal</td>
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<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
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<th>Site:</th>
<th>Lot 946 (No.37) Kimberley Drive, Secret Harbour</th>
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<tr>
<td>Lot Area:</td>
<td>529m²</td>
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<td>LA Zoning:</td>
<td>Residential R20</td>
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<th>MRS Zoning:</th>
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<tr>
<td></td>
<td>Aerial Photo</td>
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<tr>
<td></td>
<td>View of Front of Property</td>
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<td></td>
<td>View of Street Facing North</td>
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<td>Site Plan</td>
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<td>Plans</td>
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CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY 19 AUGUST 2013

PRESIDING MEMBER
Purpose of Report

To consider an application for variations to the R-Codes for approval of a proposed Outbuilding at Lot 946 (No.37) Kimberley Drive, Secret Harbour.

Background

In January 2013, an application for a Building Permit was received for a proposed outbuilding within the primary setback area. As the proposed outbuilding did not meet a number of the Acceptable Development Criteria of the Residential Design Codes (R-Codes), the City advised the Proponent that an application to vary the R-Codes (“Codes Approval Application”) was required to be submitted.

In February 2013, a Codes Approval Application was received seeking the variation of the primary street setback, reduced front setback average, location of an outbuilding in the front setback area and to have an outbuilding exceeding 2.70m wall height.

Details

The proponent seeks approval for an Outbuilding, which is to be 7.59m x 6.08m with a height of 3.05m to the top of the wall. The Outbuilding has a 400mm setback to the eastern boundary, 2m setback to the southern boundary (primary street setback), and 1.6m from the existing dwelling.

It is to be constructed of metal framework and cladding.
The proponent seeks approval for a number of variations to the Acceptable Development Criteria of the Residential Design Codes (R-Codes). The proposed variations are as follows:

**Variation 1**  The R-Codes requires buildings to be setback to achieve a 6m average from the primary street. The development proposes a 2m setback.

**Variation 2**  The R-Codes requires driveways to not occupy more than 40% of the frontage of a property and be less than 9m in aggregate width. The proposed vehicular access associated with the outbuilding would occupy 48% of the frontage and have an aggregate width of 11m.

**Variation 3**  The R-Codes does not allow outbuildings to be sited within the primary street setback area. The development is to encroach 4m into the primary street area.

**Variation 4**  The R-Codes require the outbuildings to not reduce the amount of open space to less than that required in Table 1. For this to be achieved 50% (264.5m²) of the site is to be retained as open space, whilst 245m² has been provided.

**Variation 5**  Planning Policy 3.2.23 – Residential Design Codes Alternative Acceptable Development Provisions allows walls to be built up to two side boundaries where walls are not higher than 3.0m, with an average height of 2.7m, up to 9.0m in length. The proposed shed has an average wall height of 3.05m for a length of 7.5m.
5. Site Plan
Implications to Consider

a. Consultation with the Community

Where the proposed development requires the exercise of discretion and in the opinion of the Council the development may adversely affect the amenity of an adjoining property, the R-Codes requires affected property owners to be consulted.

The proponent has provided written evidence of consultation with the adjoining affected property owner being, Lot 947 (No.39) Kimberley Drive, who does not object to the proposed garage.

b. Consultation with Government Agencies

Not Applicable

c. Strategic

Community Plan

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

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

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

The R-Codes provides for State-wide control of residential development in Western Australian. Acceptable Development requirements illustrate one way of satisfying the corresponding Performance Criteria of the R-Codes.

The following outlines the proposed variations to the Acceptable Development provisions within the R-Codes and comments on the acceptability of the variations.

**Setbacks of Buildings Generally**

Buildings (including outbuildings) are required to be set back 6m from the primary street. This setback requirement can be reduced by up to 50% providing an equal area is setback the same distance behind the primary street setback line. The proposed outbuilding is proposed to be set back 2m from the primary street boundary and cannot achieve the averaging setback requirements.

The Performance Criteria of this provision states:

“Buildings setback from street boundaries an appropriate distance to ensure they:

- Contribute to the desired streetscape
- Provide adequate privacy and open space for dwellings
- Allow safety clearances for easements for essential service corridors

The proposed outbuilding is not considered to contribute to the desired streetscape due to its projection forward of the building line and its bulk and scale being located close to the street.

It also reduces the amount of open space for the dwelling below the required amount, as discussed below, and as such does not provide for adequate open space around the dwelling to soften its impact.

The outbuilding is not considered to adversely impact the privacy of the adjoining neighbours.

**Vehicular Access**

Driveways are not to occupy more than 40% of the frontage of a property and not to exceed 9m in aggregate width. The proposed development would occupy to 48% of the frontage and be 11m in width.

The Performance Criteria of this provision states:

Vehicular access provided so as to minimise the number of crossovers, avoid street trees, to be safe in use and not detract from the streetscape.

The proposed outbuilding and its associated vehicular access would detract from the streetscape.

**Outbuildings - Setbacks & Open Space**

Outbuildings are not to be located within the primary street setback area or to reduce the amount of open space required in Table 1.

The proposed outbuilding encroaches into the primary street setback area by 4m.

For R20 coded land, a 50% area of open space, equating to 264.5m² for the subject site, is required to be provided. The proposed development would result in an open space area of 245m² or 46%.

The Performance Criteria for this provision states:

"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."

Whilst the deficiency in open space provision is not significant, the location and height of the proposed garage is considered to be such that it detracts from the streetscape, and adversely impacts on the visual amenity of residents and neighbouring properties. It is therefore considered to be compromising the Performance Criteria for this design element.
PP3.2.20 provides for alternative acceptable development provisions in order to meet the Performance Criteria of the R-Codes.

PP3.2.20 allows for walls of outbuildings to be no higher than 3.0m, providing they have an average height of 2.7m for a total length of 9.0m. The proposed outbuilding has a wall height of 3.05m, which exceeds both the maximum height and the average height.

The Performance Criteria for this provision states:

“Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.”

The excessive height of the building results in an adverse impact on the streetscape and the visual amenity in general. Thus the development is not considered to be consistent with the Performance Criteria.

e. Financial

Not Applicable

f. Legal and Statutory

Town Planning Scheme No.2

Under TPS2, the site is zoned Development. The associated Local Structure Plan identifies the site as Residential R20. The proposed development is classed as a Single House, which is a ‘P’ use in the Residential Zone.

Clause 4.1 of TPS2 requires residential development, unless otherwise provided for in TPS2, to comply with the R-Codes. Planning Approval is not required for a Single House, however, where the development requires the exercise of discretion, a Codes Approval is required.

Comments

It is considered that the development would result in an adverse impact on the streetscape and amenity of the locality by virtue of its projection forward of the dwelling and its excessive bulk and scale. The character of the street is considered to be further adversely impacted due to the views of the dwelling being obstructed and the outbuilding would be a large dominant element in the street, inconsistent with the form of housing along Kimberley Drive.

Given the overall impact on streetscape, it is recommended that the application be refused.

Voting Requirements

Simple Majority

Officer Recommendation

That Council REFUSE the Codes Approval Application (Residential Design Codes) for the proposed Outbuilding on Lot 946 (No.37) Kimberley Drive, Secret Harbour, for the following reasons:

1. The outbuilding fails to achieve an appropriate setback to the primary street in accordance with Performance Criteria 6.2.1 of the Residential Design Codes.
2. The vehicular access for the outbuilding results in excessive driveway width and coverage which is not consistent with Performance Criteria 6.5.4 of the Residential Design Codes.
3. The outbuilding encroaches into the primary street setback area, has an excessive wall height, and results in a deficient area of open space for the dwelling which is not consistent with Performance Criteria 6.10.1 of the Residential Design Codes.

Committee Recommendation

That Council REFUSE the Codes Approval Application (Residential Design Codes) for the proposed Outbuilding on Lot 946 (No.37) Kimberley Drive, Secret Harbour, for the following reasons:
1. The outbuilding fails to achieve an appropriate setback to the primary street in accordance with Performance Criteria 6.2.1 of the Residential Design Codes.

2. The vehicular access for the outbuilding results in excessive driveway width and coverage which is not consistent with Performance Criteria 6.5.4 of the Residential Design Codes.

3. The outbuilding encroaches into the primary street setback area, has an excessive wall height, and results in a deficient area of open space for the dwelling which is not consistent with Performance Criteria 6.10.1 of the Residential Design Codes.

Committee Voting – 4/0

<table>
<thead>
<tr>
<th>The Committee’s Reason for Varying the Officer’s Recommendation</th>
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<tr>
<td>Not Applicable</td>
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<tr>
<th>Implications of the Changes to the Officer’s Recommendation</th>
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<tr>
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# Strategic Planning and Environment

## Planning Services

### Strategic Planning & Environment Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject: SPE-013/13</th>
<th>Proposed Structure Plan (‘East Baldivis’) - Adoption</th>
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<tbody>
<tr>
<td>File No:</td>
<td>LUP/1660-04</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Development Planning Strategies</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Tristan Fernandes, Senior Strategic Planning Officer</td>
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<tr>
<td>Other Contributors:</td>
<td>Mr Jeff Bradbury, Coordinator Strategic Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Brett Ashby, Manager Strategic Planning &amp; Environment</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>15 July 2013</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td>February 2013 (SPE-003/12)</td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Legislative</td>
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<tr>
<td>Nature of Council’s Role in this Matter:</td>
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### Site:
- Lots 104, 105, 541, 543, 544 and 1000 Baldivis Road, Baldivis
- Lot Area: 59.0700ha
- LA Zoning: Development
- MRS Zoning: Urban

### Attachments:
1. Advertised Structure Plan
2. Schedule of Submissions

### Maps/Diagrams:
1. Location Plan
2. Proposed Structure Plan Considered By Council in February 2013
3. Advertised Structure Plan
4. Location of Advertising
5. Bush Fire Setback Treatment outlined in the Bush Fire Hazard Assessment
6. Lots Identified to be Potential Impacted by Bushfire
7. Modified Structure Plan following Advertising

## Purpose of Report

To consider a proposed Local Structure Plan (LSP) over Lots 104, 105, 541, 543, 544 and 1000 Baldivis Road, Baldivis (‘East Baldivis’) following the completion of public advertising.

CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY 19 AUGUST 2013

PRESIDING MEMBER
1. Location Plan

**Background**

**Amendment No.122 to Town Planning Scheme No.2**

At its ordinary Meeting held of the 27 November 2012, the Council resolved to adopt Amendment No.122 to Town Planning Scheme No.2 (TPS2) for Final Approval (subject to modifications) following the consideration of submissions received during public advertising period to:

(i) Rezone Lots 104, 105, 541, 543, 544 and 1000 Baldivis Road, Baldivis (the land subject to the Proposed LSP) from ‘Rural’ and ‘Special Rural’ to ‘Development’ and the unconstructed, unnamed road reserve bounded by Lots 1000, 105 and 541 Baldivis Road, Baldivis from ‘Local Road Reserve’ to ‘Development’, following the Western Australian Planning Commission's (WAPC) decision to lift Urban Deferment over the land; and

(ii) Introduce provisions for the requirement, preparation and operation of District Structure Plans.
On the 30th January 2013, the Western Australian Planning Commission (‘WAPC’) advised that Hon Minister for Planning had decided not to approve the Amendment until such time as the proposed District Structure Plan provisions were removed.

The City subsequently implemented the decision of the Minister for Planning and Amendment No.122 was gazetted on 26th March 2013.

**East Baldivis District Structure Plan**

In October 2008, the City was approached by a group of planning consultants representing the majority of landowners in the ‘East Baldivis’ locality (referring to themselves as the East Baldivis Stakeholder Team or ‘BEST’ group) to prepare a District Structure Plan (DSP) over the land to generally guide development of the urban cell, including the subject land. The City agreed to facilitate the preparation of the DSP with the ‘BEST’ group, however, advised the group that the preparation of the DSP should not be dictated by land ownership and at the expense of orderly and proper planning of the locality.

In February 2013, the Council resolved to approve advertising of the East Baldivis DSP, subject an amended Traffic and Transport Management Plan being submitted. At the time of writing this report, the City had received the amended documentation and was reviewing it to determine if the proposal was suitable for the purposes of advertising.

The Proposed LSP has been prepared in general accordance with the draft East Baldivis DSP.

**East Baldivis Local Structure Plan**

In February 2013, the Council resolved to advertise the Proposed Structure Plan for public comment subject to following matters being satisfactorily addressed:-

1. A revised Structure Plan Report being provided that addresses the issues raised in this report. Including the incorporation of an Odour Impact Assessment;
2. Notional vegetation protection areas being shown on the Proposed LSP;
3. Justification for the minimum detention basin variation proposed for drainage swales in Public Open Space;
4. A revised Acoustic Consultant Report being prepared to demonstrate a 3 metre acoustic attenuation wall abutting the Kwinana Freeway in lieu of a 2 metre wall originally proposed within the report; and

The Council also required the following matters be considered in further detail during the advertising period:

1. The revised Traffic Impact Report being the subject of a detailed assessment;
2. The configuration of the south-eastern POS area in terms of its usability and ensuring the space can be utilised by all nearby prospective residents; and
3. Further investigation being undertaken to ensure development in the south-western corner of the LSP area is not adversely affected by its proximity to a potential bushfire risk.

**Description of the Proposal**

The landholding is approximately 59ha and the proposed LSP incorporates the following elements:

**Residential Density and Population**

- The creation of approximately 880+ lots (approximately 900+ dwellings);
- Residential density coding ranges from R25 - R60 (average lots areas from 180m² - 350m²); and
- An ultimate population of approximately 2,340 people (based on the average occupancy rate of 2.6 persons per household).
Public Open Space
- A total of 6ha of Public Open Space provided in eight parcels, ranging in area from 0.19ha to 2.15ha.

Road and Pedestrian Network
- Two ‘Neighbourhood Connector’ Roads provided to link north outside the LSP area, one of which to link into the existing Paparone Road Reserve;
- One ‘Neighbourhood Connector’ road provided to link south outside the LSP area;
- Two Connections to Baldivis Road at the intersections of Ingram Road and Amazon Drive;
- A generally permeable grid local street road network; and
- A footpath and shared path network provided in accordance with Liveable Neighbourhoods.

Modified Structure Plan following Council Resolution

Following the Council Resolution in February 2013, the Proponent subsequently submitted a revised Structure Plan Report and updated Technical Appendices which satisfactorily addressed the matters raised in the Council’s Resolution.

As a result of the changes required by the Council Resolution, a number of minor modifications were made to the Structure Plan for the purposes of public advertising. Figure 2 below shows the Proposed Structure Plan considered by the Council in February 2013 and Figure 3 shows the Advertised Structure Plan which was modified in accordance with the Council Resolution.
2. Proposed Structure Plan Considered by Council in February 2013

3. Advertised Structure Plan
Implications to Consider

a. Consultation with the Community

Advertising Methodology

The Proposed Structure Plan was advertised for a period of 29 days, commencing on 24th April 2013 and concluding on the 22nd May 2013. Public advertising was carried out in the following manner:-

- Nearby owners and occupiers (175 referrals as shown on Figure 4), servicing agencies and the Baldivis Residents Association were notified of the proposal in writing and invited to comment;
- The Proponent erected two (2) signs on site in prominent locations advertising the Proposed Structure Plan;
- A notice was placed in the Sound Telegraph for two consecutive weeks, appearing in the newspaper on the 24th April 2013 and 1st May 2013; and
- Copies of the Proposed Structure Plan and relevant documents were made available for inspection at the City’s Administrative Offices and placed on the City’s website.

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

4. Location of Advertising
Public Submissions: Following the close of the advertising period, the City had received nine (9) submissions from nearby landowners. A full copy of all submissions received during the advertising period is set out in the Schedule of Submissions (Attachment No.2 to this Report). The content of each submission is summarised and addressed as follows:

### Traffic

<table>
<thead>
<tr>
<th>Submission:</th>
<th>Proponent's Response:</th>
<th>City's comment:</th>
</tr>
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<tbody>
<tr>
<td>(i) Request for speed limit to be reduced from 80km/hr to 60km/hr on Baldivis Road.</td>
<td>Noted by the consultant team, however traffic speeds along Baldivis Road are the jurisdiction of City in conjunction with Department of Transport/MRWA as required.</td>
<td>The submission is noted. As with other portions of Baldivis Road, the City will request a modification to the speed limit to Main Roads in light of the future urban land uses abutting Baldivis Road.</td>
</tr>
<tr>
<td>(ii) The proposed development will generate an adverse amount of traffic onto existing roads such as Amazon Drive, Baldivis Road and Ingram Road.</td>
<td>Amazon Drive has always been designated as Neighbourhood Connector Road pursuant to the North Baldivis District Structure Plan and subsequent Local Structure Plans; this road providing a strategic link between Baldivis Road and Nairn Drive. This road has been suitably designed (7.4m single carriageway) to accommodate both local traffic, and low volume of external traffic generated by the East Baldivis cell. Baldivis Road is a designated 'Integrator B' road; this to include upgrade to a single lane boulevard design that can comfortably accommodate up to 15,000 vehicles per day. Ingram Road will be subject to minimal traffic generation from the East Baldivis cell; Ingram Road is designed for localised traffic and with no through connection to Nairn Drive.</td>
<td>The City has assessed the traffic modelling provided within the Structure Plan Report and has concluded that Amazon Drive, Baldivis Road and Ingram Road have sufficient capacity to accommodate the additional traffic generated by the development of the Structure Plan area.</td>
</tr>
<tr>
<td>(iii) Request for Baldivis Road to be widened to accommodate traffic generated from the proposed development.</td>
<td>Baldivis Road will be upgraded to a single lane boulevard design consistent with the upgrade already undertaken south of the development site.</td>
<td>A condition of Subdivision Approval will be requested by the City for the upgrade of Baldivis Road. As outlined by the Proponent, Baldivis Road will be upgraded to a single lane boulevard treatment in accordance with the Baldivis Roads Needs Study.</td>
</tr>
<tr>
<td>(iv) Request for a footpath from Hoover Street to the Baldivis Church.</td>
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CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY 19 AUGUST 2013

PRESIDING MEMBER
**Proponent’s Response:**
The suggested footpath is outside the East Baldivis Local Structure Plan boundary, thus is the responsibility of adjoining development and/or the City. Notwithstanding a dual use path will be constructed within the Baldivis Tramway Reserve to provide safe north-south linkages adjacent Baldivis Road.

**City’s comment:**
The request for a footpath is noted and the City's Engineering Services Department will investigate the provision of a footpath in due course.

---

**Infrastructure**

**Submission:**
(i) The development of the Structure Plan area is likely to impact existing infrastructure (such as usability of nearby railway train stations).

**Proponent’s Response:**
The LSP area is zoned ‘Development’ under the City’s Town Planning Scheme thus is permitted to be developed for residential purposes. The development of the East Baldivis cell will only assist to improve local infrastructure by:
- Providing new, or upgrading existing, infrastructure to service its own development, which in turn may be used by external parties;
- Contribute to community infrastructure by providing its own amenity (i.e. Parks, Baldivis tramway upgrade) as well as developer contributions towards district and regional community infrastructure; and
- An increase in population will correlate to more frequent and extended transport services (i.e. bus services to the nearby train stations and local community nodes).

**City’s comment:**
The City acknowledges the concerns of the community with respect to the lack of State Government facilities and services within the area and will advocate wherever possible for increased services to residents. Notwithstanding the above, the Proponent has appropriately accounted for the provision of road infrastructure and areas of Public Open Space to service existing and prospective residents.

**Submission:**
(ii) Request for a Post Office and additional retail to accommodate the increasing population.

**Proponent’s Response:**
The proposed development is not obligated to provide any commercial development pursuant to the City’s Local Commercial Strategy. Commercial development (Local Centre) is planned within the North Baldivis Structure Plan to the west of Baldivis Road, as the nearby Baldivis District Activity Centre provides general and specialised commercial needs.

**City’s comment:**
There is no requirement for the Proponent to provide additional land for commercial purposes and facilities such as a Post Office. Notwithstanding this, the City can advise that:
- It is understood that Australia Post is in the process of providing a new Post Office within the Baldivis Town Centre within the short term;
- The Joint Development Assessment Panel has approved a $100 million dollar expansion to the Baldivis Shopping Centre within the Baldivis Town Centre;
- In December 2012, the Council and WAPC adopted an Activity Centre Structure Plan for the Baldivis Town Centre to accommodate approximately 36,000m² of retail floor space and 38,000m² of non-retail commercial floor space to accommodate the retail requirements of residents in Baldivis.
- The Council has recently adopted the ‘Spires’ Local Structure Plan which provides for a Neighbourhood Shopping Centre at the intersection of Amazon Drive and Nairn Drive.

Submission:
(iii) Request for additional street lights.

Proponent’s Response:
Street lights will be provided in accordance with City and Western Power requirements.

City’s comment:
Street lighting is a requirement of the subdivision process to be provided within the Structure Plan area. Additional Street lighting will also be accommodated with upgrades to Baldivis Road.

Submission:
(iv) The additional infrastructure and sewer requirements needed are likely to increase Council Rates.

Proponent’s Response:
Service infrastructure requirements are not associated with Council rates. All individual development is responsible for costs towards connection with (or upgrade to) existing infrastructure.

City’s comment:
As noted by the Proponent’s response, service utility infrastructure is not associated with the Council's Rate Revenue and the Proponent is responsible for upgrades to all infrastructure associated with the development through the subdivision process.

Amenity

Submission:
(i) Concern ‘R60’ Lots will devalue existing residential areas.

Proponent’s Response:
Submission is not substantiated as it assumes ‘density’ has bearing on residential values. The higher density offers opportunity for a variety of lot and house product for the benefit of prospective purchasers from all demographics.

City’s comment:
The proposed residential densities satisfy the minimum density requirements of Liveable Neighbourhoods and are therefore considered appropriate. The potential impact to property values is not a valid planning consideration in the City’s assessment of a Proposed Structure Plan.
**Submission:**
(ii) Sharing Amazon Drive with another residential estate devalues the exclusiveness of living in a private estate.

**Proponent’s Response:**
Amazon Drive has always been designated as a ‘Neighbourhood Connector’ road pursuant to the North Baldivis District Structure Plan and subsequent Local Structure Plans; this road providing a strategic link between Baldivis Road and Nairn Drive. This road has been suitably designed (7.4m single carriageway) to accommodate both local traffic, and low volume of external traffic generated by the East Baldivis cell.

**City's comment:**
Amazon Drive is a designated ‘Neighbourhood Connector’ road which is designed to accommodate traffic accessing the future extension of Nairn Drive and a future Neighbourhood Shopping Centre.

The proposed road connection to Amazon Drive provides for appropriate road access for the ‘East Baldivis’ development corridor to access existing urban development west of Baldivis Road.

The City has assessed the increase in traffic volumes projected by the Traffic Impact Report and is satisfied that the volumes are appropriate to the ‘Neighbourhood Connector’ road profile outlined within Liveable Neighbourhoods.

**Submission:**
(iii) The proposed development will impact the semi-rural character of the locality.

**Proponent’s Response:**
The subject site and broader ‘East Baldivis’ cell is designated for urban development; this is pursuant to state and local development strategies.

**City’s comment:**
The subject landholding is zoned for urban purposes and as such the Proposed Structure Plan provides for land uses consistent with the zone classification of the land.

The balance of the ‘East Baldivis’ corridor generally bounded by Millar Road, the Kwinana Freeway, Safety Bay Road and Baldivis Road is zoned ‘Urban Deferred’ under the Metropolitan Region Scheme and is intended for future urban development. As such, it is intended that the existing semi-rural character of in this location will progressively change to urban in the future.

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**Environment**

**Submission:**
(i) Potential impact of the development on existing local fauna and habitat.

**Proponent’s Response:**
Whilst the majority of the site has been cleared for semi-rural pursuits, a significant tree survey was undertaken across the site as part of the EPBC Act referral and assessment by botanist Dr Paul Van Der Moezel. In reviewing the significant tree assessment the Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) determined in negotiation with Australand the significant trees and associated Black Cockatoo habitat to be retained in Public Open Space. The Local Structure Plan was amended to reflect this outcome. This was the basis for the EPBC Act approval of a ‘not a controlled action’ outcome.
City's comment:
The City supports the retention of vegetation proposed for the Structure Plan and acknowledges the approval of vegetation conservation by the Federal Government Department of Sustainability, Environment, Water, Population and Communities.

Submission from Proponent: The Proponent also took the opportunity to make a submission seeking several minor changes to the advertised Structure Plan, as follows:

Submission from Proponent

Submission:

(i) POS 'C' Reconfiguration

Concurrent with the City's assessment, the proposed LSP was referred to the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) in response to the proposed clearing of remnant native vegetation areas within the project area.

As identified in the LSP report, the project area has a long history of agricultural use, in particular cattle and sheep grazing. There is very limited to no understorey or mid-storey vegetation across the site. The vegetation communities and condition has been detailed in the RPS flora and vegetation report, and the Terrestrial Ecosystem's black cockatoo assessment (PGV Environmental). PGV Environmental (Dr. Paul van der Moezel) mapped and assessed the quality foraging habitat and identified that most of the LSP area had been historically cleared; with native trees remaining in parkland cleared or isolated trees in a paddock setting.

The Terrestrial Ecosystem assessment did identify the north-east portion, particularly the area to the west of the existing house, as a 'very good' foraging area. This was based on the key Marri trees present along with the occasional Sheoak and Banksia species. The assessment did not identify any native understorey vegetation which could be used by black cockatoos for foraging. The majority of the understorey consists of pasture weeds e.g. African lovegrass.

Since the City's initiation of advertising, RPS has reviewed the recent EPBC assessment of vegetation areas within the Baldivis area. The vast majority of these assessments have in fact used tree canopy to measure black cockatoo foraging/roosting areas. By removing the cleared areas (ie. open paddock areas without trees and therefore black cockatoo habitat) the total tree canopy covered area (for black cockatoo foraging) was reduced to 5.7 ha.

This area is broken into the following vegetation condition categories:

• 2.3 ha 'very good';
• 1.5 ha 'good'; and
• 1.9 ha 'poor'.

Consequently, RPS recommended reconfiguration of proposed POS 'C' to an east-west alignment to allow for increased retention of black cockatoo foraging habitat; The amended LSP Map was accordingly that reviewed in the recent Environmental Protection and Biodiversity Conservation (EPBC) assessment.
POS ‘C’ Reconfiguration

The black cockatoo foraging habitat in public open space areas in the amended LSP Map is 1.16 ha (based on tree canopy cover) of which further reduces the clearing area, through avoidance, to 4.54 ha (based on tree canopy cover).

The amended LSP Map has increased the ‘very good’ condition black cockatoo foraging habitat retained in public open space to 1.14 ha, which represents 30% of the mapped ‘very good’ foraging vegetation. Importantly, POS ‘C’ focuses on conserving a consolidated area of ‘very good’ black cockatoo habitat (predominately Marri trees) which is consistent with best practice ecological design measures.

In response to the amended LSP design, SEWPaC in its Decision of Referral letter to Australand dated 10 April 2013, provided the following advice:

“As a delegate of the Minister for Sustainability, Environment, Water, population and Communities, I have decided that the proposed action is not a controlled action. This means that the proposed action does not require further assessment and approval under the EPBC Act before it can proceed.”

In light of the above we respectfully request that the City provides support to the redesign of POS ‘C’ and resultant minor reconfiguration to the proposed adjacent road network and residential cell design.
City's comment:
The City supports the revised configuration of the POS ‘C’ and revised location for the retention of vegetation consistent with the outcomes of the Tree Survey Report prepared for the Environmental Protection and Biodiversity Conservation Assessment conducted by the Proponent.

Submission:
(ii) Modification of Density to existing Dwelling
DPS proposes a minor reconfiguration and density revision to the retained house lot within Lot 541, to fulfill an agreement with the existing landowner.
The proposed modifications to the lot boundary will afford a more conventional and regular lot layout to be pursued at subdivision stage, and enable the original dwelling and swimming pool to be retained on this existing lot.
DPS also seeks Council's support for a decrease in density from R40 to R25 consistent with the ultimate lower density development desired in proximity to the retained house.

![Advertised Structure Plan](image1)
![Proposed Modification](image2)

City's comment:
The lower residential density proposed in this location is consistent with the intent of Liveable Neighbourhoods and is supported.

Recommendation 1:
Support a modification to the Structure Plan for the reduction of density over the existing dwelling on Lot 541 Baldivis Road from R40 to R25.

b. Consultation with Government Agencies
As mentioned above, relevant government agencies and servicing authorities were notified of the proposal in writing and invited to comment, pursuant to Clause 4.2.6.5(b)(ii) of TPS2. In this regard, the City invited comments from the following agencies:-
- Alinta Gas
- Department of Education
- Department of Environment and Conservation
- Department of Health
- Department of Indigenous Affairs
- Department of Water
- Department of Fire and Emergency Services
- Public Transport Authority
- Main Roads WA
- Telstra
The following matters were raised by servicing authorities:-

<table>
<thead>
<tr>
<th>1. Department of Health</th>
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<tr>
<td><strong>Submission:</strong></td>
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<tr>
<td>(i) The development is required to be connected to reticulated sewerage.</td>
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<tr>
<td><strong>Proponent's Response:</strong></td>
</tr>
<tr>
<td>Noted.</td>
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<tr>
<td><strong>City's comment:</strong></td>
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<tr>
<td>The submission is noted.</td>
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<td><strong>Submission:</strong></td>
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<tr>
<td>(ii) The subject land is in a region that regularly experienced significant problems with nuisance and disease carrying mosquitoes. The Department of Health recommend:</td>
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<tr>
<td>1. The City of Rockingham ensures they have sufficient resources to continue mosquito management for the future of the development following the handover of responsibilities from the developer; and</td>
</tr>
<tr>
<td>2. New residents be warned of the risk of mosquito-borne disease and the potential for nuisance mosquito’s via an appropriately worded notification on any newly created property titles.</td>
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<td><strong>Proponent's Response:</strong></td>
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<tr>
<td>Ongoing liaison with Council’s Health Services Coordinator, has confirmed that a Section 70A notification for mosquito risk is being considered. However, if a Mosquito Management Plan, (prepared at subdivision stage) is deemed adequate to control any nuisance breeding, then a Section 70A will not be required. Additionally, localised breeding will be managed through detailed design of drainage basins within future Urban Water Management Plans.</td>
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<tr>
<td>RPS notes that a Section 70A notification on the titles for this development would be inconsistent with other East Baldivis developments to date.</td>
</tr>
<tr>
<td><strong>City's comment:</strong></td>
</tr>
<tr>
<td>It is noted that there exists mosquito risks and known breeding areas at Tamworth Wetlands and Folly Pool. These known mosquito breeding areas are located outside the Structure Plan area, and there is no legislative means for the Proponent to reduce the impact of mosquitoes outside the Structure Plan area.</td>
</tr>
<tr>
<td>Health impacts from urbanisation of the land were considered as part of the MRS Amendment to lift Urban Deferment and were deemed to be appropriately addressed at that time.</td>
</tr>
<tr>
<td>The Structure Plan design has been assessed with respect to the potential breeding of mosquitoes, and the Proponent has demonstrated there is sufficient separation of the site to the groundwater table to prevent pooling of water and the potential breeding of mosquitoes in Public Open Space. As such the Structure Plan design is supported in this regard.</td>
</tr>
<tr>
<td>The construction requirements of the drainage basins will be assessed at subdivision stage to ensure they are in line with the requirements of the City of Rockingham Environmental Quality Criteria for vector control.</td>
</tr>
</tbody>
</table>
In this regard, it is recommended the Structure Plan Report and Local Water Management Strategy be modified to acknowledge the requirement for the preparation and implementation of a Mosquito Management Plan at subdivision stage.

It is also recommended that where the Mosquito Management Plan (prepared at subdivision stage) outlines a potential mosquito risk as a result of the development, a S70A notification will be required on title advising prospective landowners of the potential mosquito impacts.

**Recommendation 2:**

(i) The Structure Plan Report and Local Water Management Strategy are to be modified to acknowledge the requirement for the preparation and implementation of a Mosquito Management Plan at subdivision stage.

(ii) Where the Mosquito Management outlines a potential mosquito risk as a result of the development, a S70A notification will be required on title advising prospective landowners of the potential mosquito impacts.

**Submission:**

(iii) The City of Rockingham should use this opportunity to minimise potential negative impacts of increased density development such as noise, odour, light and other lifestyle activities. Public health impacts draw attention to those issues and they should be appropriately and adequately addressed at this stage.

You may also wish to consider incorporating Health Impact Assessment (HIA) and/or Public Health Assessment (PHA) principles in your decision-making process.

**Proponent’s Response:**

No response.

**City’s Comment:**

The Structure Plan achieves the design criteria requirements of *Liveable Neighbourhoods* with respect to the siting of land uses such as open space. In this regard, the plan is considered appropriate.

2. **Water Corporation**

**Submission:**

(i) *Wastewater Planning:*

The Corporation’s 2012 assessment of the capacity of the existing Baldivis Road North temporary system indicated that up to a maximum average of 200 lots/services per year could be accommodated through the system until the permanent outlet is available to the ERWWTP.

The 200 lots/year capacity of this temporary system will need to be shared between this and other undeveloped land that is already zoned “Urban” within the catchment of the Baldivis Road North WWPS. The Corporation has advised Australand and the WAPC of this capacity constraint in response to the proposed lifting of the MRS Urban Deferral zoning over this land.

**Proponent’s Response:**

Noted, this is in accord with the advice provided to the developer by Water Corporation in 2011.

**City’s Comment:**

The submission is noted.
<table>
<thead>
<tr>
<th>Submission:</th>
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<tbody>
<tr>
<td><strong>(ii)</strong> Wastewater Pump Station Buffer:</td>
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</tr>
<tr>
<td>a. The buffer standard used by the Water Corporation and the EPS indicates that a 30m radius buffer is required around a Type 90 pump station to limit the impact of possible fugitive odours, noise and light spill on nearby sensitive land uses.</td>
<td></td>
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<tr>
<td>b. Council is requested to make adequate provision for POS around the Wastewater Pump Station (WWPS) site in order to accommodate a 30m radius buffer around the likely future location of the ultimate WWPS.</td>
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<tr>
<th>Proponent's Response:</th>
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<tbody>
<tr>
<td>a. The developer is aware of the requirement for a 30m buffer and sufficient setback from the WWPS to facilitate the buffer requirements.</td>
<td></td>
</tr>
<tr>
<td>b. The area immediately north of the existing WWPS is subject to another structure plan and will also be subject to the buffer setback, hence the note in regard to the Council action.</td>
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<th>City's comment:</th>
<th>The submission is noted.</th>
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<tbody>
<tr>
<td><strong>(iii)</strong> Water Planning:</td>
<td></td>
</tr>
<tr>
<td>a. The existing DN250 reticulation water main constructed by Peet and Co. that presently serves ‘The Chase’ and ‘The Chimes’ via a main along Eighty Road and Fifty Road does not have the capacity to serve the land east of Baldivis Road.</td>
<td></td>
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<tr>
<td>b. The DN900 trunk main extends from the Tamworth Reservoir northward to the Media system. This trunk main is not available for direct services or mains extensions.</td>
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<tr>
<td>c. The Corporation has recently scheduled some major main projects to the east of the Tamworth Reservoir in order to provide for the anticipated development in north and east Baldivis.</td>
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</table>

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<thead>
<tr>
<th>Proponent's Response:</th>
<th>The developer is aware of the limited capacity of the existing DN250 and provisions in development budgets have been made for upgrading water infrastructure in discussion with Water Corporation officers.</th>
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<tr>
<th>City's comment:</th>
<th>The submission is noted.</th>
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<th>Submission:</th>
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<tr>
<td><strong>(iv)</strong> Drainage:</td>
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<tr>
<td>a. The developer’s engineering consultants advised that due to the fill levels required across the site for drainage purposes, the south-eastern parts of the land may also be able to gravitate to the existing Baldivis Road north pump station, rather than relaying on the timing of WWPS ‘E’. This proposed variation to the adopted sewer planning requires further discussion and agreement with the Corporation at the subdivision stage.</td>
<td></td>
</tr>
<tr>
<td>b. The Corporation requests the City to formally agree in writing on a process and timeframe to take over Sub-drain ‘H’ and ‘F’. The Corporation will then take steps to remove these sections of the Peel rural drainage network from its Drainage operating License area.</td>
<td></td>
</tr>
</tbody>
</table>
c. Run off from the East Baldivis urban land must be contained on site to pre-
development levels and the urban drainage system must accord with the East
Baldivis DWMP the finished development site levels must be determined by the
City’s engineers in consultation with the DoW.

Proponent’s Response:
  a. Noted.
  b. The City and the Water Corporation have agreed that the City will take over the
  sub drains on subdivision.
  c. The Water Corporation, in its correspondence dated 18th September 2007 outlined
  the allowable outflow from the site. These flows have been used in the LWMS.

City’s comment:
  a. The submission is noted.
  b. The City will assume responsibility of the sub drains within the Structure Plan area
  when the land is subdivided. The City will liaise further with the Water
  Corporation with regard to wider sub-drain area as part of the considering of the
  East Baldivis DSP.
  c. The submission is noted.

3. Department of Water (DoW)

Submission:
  (i) The DoW is currently reviewing the amended Local Water management Strategy
  (LWMS) Lots 104, 105, 541, 543 and 1000 Baldivis Road, Baldivis. It is
  recommended that the Proponent considers revising the document in accordance
  with the attached advice and any comments from the City of Rockingham. In
  accordance with Better Urban Water Management the Local Structure Plan should
  not be finalised in the absence of a LWMS approved by the DoW and the City of
  Rockingham.

Proponent’s Response:
  Noted and RPS is awaiting final advice from the DoW prior to revising the LWMS.

City’s comment:
  The City is awaiting a revised LWMS to review in light of the changes previously requested
  by the DoW. Once the revised document is received, the City will review and provide
  further advice to the DoW where it is required.

It is recommended a revised Local Water Management Strategy be submitted and finalised
prior to Adoption of the Structure Plan by the City. The City will liaise with the Department
of Water with respect to any changes prior to finalisation of the Local Water Management
Strategy.

Recommendation 3: A revised Local Water Management Strategy is to be submitted
and finalised prior to Adoption of the Structure Plan by the City.

Submission:
  (ii) The Department has previously communicated its position of non-support for the
  piping of the Sub H open drain through the site. It is considered that the drain
  should be retained and landscaped to a living stream to enhance its drainage
  function as well as fulfilling objectives of water quality treatment and public
  amenity.

  This is also consistent with the City of Rockingham’s Planning Procedure 1.8:
  Water Sensitive Urban Design (CoR, 2010), of which principle (ii) states:
"Retain and restore existing elements of the natural drainage system, including waterway, wetland and groundwater features, regimes & processes and integrate these elements into the urban landscape."

As detailed in the attached advice for the LWMS, the Department will not be in the position to endorse the LWMS until the City has confirmed satisfaction with the document, in accordance with the agencies parallel assessment process as specified in Planning Procedure 1.8: Water Sensitive Urban Design (CoR, 2010). Therefore, it would appear appropriate for the City to finalise their position with regard to drainage management issues first, and the outcome reflected in the finalised LSP and LWMS, to be endorsed by both agencies.

Proponent’s Response:
Written correspondence has been provided to the DoW from Aaron Baxter at the City confirming his support of the piped system.

City’s comment:
The City has explored the implementation of Water Sensitive Urban Design (WSUD) principles with the existing rural drain as part of the Structure Plan design process with the Proponent. In this regard, the City determined the complete implementation of WSUD principles would adversely impact the usability of Public Open Space reserves for prospective residents in the Structure Plan Area.

As Public Open Space serves for a range of functions and not exclusively for drainage purposes, the City and the Proponent have worked to achieve a balance of WSUD principles, conservation of existing vegetation and provision of land for prospective residents to recreate.

Notwithstanding the piped sub-surface drainage proposed for the existing rural drain, the Structure Plan achieves the Policy Criteria outlined in State Planning Policy 2.1 - Peel Harvey Coastal Plain and also incorporates WSUD principles in Open Space reserves.

Submission:
(iii) Peel Harvey Coastal Plain Catchment
The Proponent is advised that the proposal is located within the Peel-Harvey catchment and the provisions of the Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992 and the Statement of Planning Policy No 2.1 - the Peel-Harvey Coastal Plain Catchment (SPP 2.1) shall apply.

Proponent’s Response:
Noted - the Local Water Management strategy and subsequent UWMP’s for the site acknowledge and apply both policies mentioned.

City’s comment:
The submission is noted. The Proponent’s Environmental Report states that a change in land use from predominantly agricultural to urban development, with a reticulated sewer system, will likely reduce the potential for nutrient export to the receiving environment, which is in accordance with the general objectives of Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992.

Submission:
(iv) The subject area is located within the Stakehill Groundwater Area as proclaimed under the Rights in Water and Irrigation Act 1914. Any groundwater abstraction in this proclaimed area for purposes other than domestic and/or stock watering taken from the superficial aquifer is subject to licensing by the DoW. The issuing of a groundwater licence is not guaranteed but if issued will contain a number of conditions that are binding upon the licensee.
<table>
<thead>
<tr>
<th><strong>Proponent’s Response:</strong></th>
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<tbody>
<tr>
<td>Noted - an approved Groundwater Licence for the site (GWL 173991) has recently been issued by the Department of Water’s Allocation branch. The Proponent will implement this licence in accordance with the relevant conditions.</td>
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</tbody>
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<table>
<thead>
<tr>
<th><strong>City’s comment:</strong></th>
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<tbody>
<tr>
<td>The submission is noted.</td>
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### 4. Department of Environment and Conservation (DEC)

<table>
<thead>
<tr>
<th><strong>Submission:</strong></th>
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<tbody>
<tr>
<td>(i) It is the DEC’s expectation that the planning system will consider requirements for separation distances between sensitive receptors and adjoining land uses. It is noted that a poultry farm is located less than 300m from the Structure Plan area. The EPA prescribes a separation distance of 300m to 1,000m between poultry farms and sensitive land uses.</td>
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<tr>
<th><strong>Proponent’s Response:</strong></th>
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<tbody>
<tr>
<td>The Odour Unit (TOU) in 2010 investigated three dispersion modelling scenarios for the poultry farm based on an Australian Poultry industry literature review, and recommendations from the WA DEC. TOU undertook an odour sensitivity modelling exercise to derive what emission rate and odour criteria is relevant to the poultry farm. The model projection shows a distance of off-site odour impacts up to approximately 100 metres in any direction from the shed locations at the LSP Farm. This distance is supported by TOU’s field observations. The Tramway Reserve vegetation separates the future residential land use from Baldivis Road and a poultry farm. The poultry farm is located on Lot 3 Baldivis Road (opposite the north-western portion of the site). Baldivis Road reserve and the Tramway Reserve provides an approximate 130m to 200m separation buffer from the poultry farm.</td>
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<thead>
<tr>
<th><strong>City’s comment:</strong></th>
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<tbody>
<tr>
<td>The Department of Environment and Conservation Guidance for the Separation Distances between Industrial and Sensitive Land Uses states that poultry farming (intensive agriculture) outlines a buffer distance of between 300m and 1000m depending on the size of the operation.</td>
</tr>
</tbody>
</table>

In this regard, the Structure Plan proposes ‘Residential’ zoned land within the generic buffer area. In accordance with the Council Resolution in February, the Proponent submitted an Odour Report with respect to the Layertech Hatchery located on Baldivis Road to provide justification for the reduction of the odour buffer distance to adjacent developments.

The odour modelling contained within the report identified the operation on site was not intensive, and odours were unlikely to impact sensitive land uses beyond the Layertech boundary. In this regard, the City has assessed the report and supports the reduced buffer distance.

The odour buffer outlined in the Report is, however, not shown on the Structure Plan. It is recommended the odour buffer, as outlined in Appendix 8 of the Structure Plan Report, be provided on the Structure Plan.

<table>
<thead>
<tr>
<th><strong>Recommendation 4:</strong></th>
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<tbody>
<tr>
<td>The Structure Plan be modified to incorporate the odour buffer as outlined in Appendix 8 of the Structure Plan Report.</td>
</tr>
<tr>
<td><strong>Submission:</strong></td>
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<td>---</td>
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<tr>
<td>(ii) DEC recommends further consideration be given to the protection of remnant vegetation within the Structure Plan. In particular the potential tree retention area shown in the north east open space appears to protect only a portion of the better quality vegetation at this location and appears to include areas mapped as completed degraded.</td>
</tr>
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<table>
<thead>
<tr>
<th><strong>Proponent's Response:</strong></th>
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<tbody>
<tr>
<td>A significant tree survey was undertaken across the site as part of the EPBC Act referral and assessment by botanist Dr Paul van der Moezel. In reviewing the significant tree assessment the Department of Sustainability, Environment, Water, Population and Communities (DSEWPC) determined in negotiation with Australand the significant trees and associated Black Cockatoo habitat to be retained in Public Open Space. The Local Structure Plan was amended to reflect this outcome. This was the basis for the EPBC Act approval of a ‘not a controlled action’ outcome.</td>
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<table>
<thead>
<tr>
<th><strong>City's comment:</strong></th>
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<tbody>
<tr>
<td>The City supports the amount of remnant vegetation proposed to be retained on site.</td>
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<thead>
<tr>
<th><strong>Submission:</strong></th>
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<tr>
<td>(iii) The Environmental Report identifies that the SP supports 10ha of habitat suitable for threatened Black Cockatoos. Black Cockatoos and the Forest re-tailed Cockatoo are listed as endangered and vulnerable respectively. Planning for the area should firstly make provision to retain as much of the Cockatoo habitat as possible, identify and quantify habitat, which will be lost, and consider how suitable offsets could be provided to mitigate the loss of habitat.</td>
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<thead>
<tr>
<th><strong>Proponent's Response:</strong></th>
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<tbody>
<tr>
<td>DEC’s comments regard the retention of native vegetation and supporting Black Cockatoo habitat is noted and amendments to the structure plan have been undertaken. The vegetation communities and condition has been detailed in the RPS flora and vegetation report and the Terrestrial Ecosystem's black cockatoo assessment PGV Environmental (Dr. Paul van der Moezel) mapped and assessed the quality foraging habitat. PGV Environmental assessment of the project area identified that most of the site had been historically cleared with native trees remaining in a parkland cleared or isolated trees in a paddock setting. Terrestrial Ecosystem assessment did identify the north-east portion particularly the area to the west of the existing house as a very good Black Cockatoo foraging area. This was based on the key Marri trees present also the occasional Sheoak and Banksia. The assessment did not identify any native understorey vegetation which could be used by black cockatoos for foraging. The majority of the understorey consists pasture weeds e.g. African lovegrass. The Terrestrial Ecosystem broad mapping identified approximately 10 ha of Black Cockatoo habitat. However in reviewing and broad mapped areas and removing the cleared areas (i.e. open paddock areas without trees and therefore black cockatoo habitat) the total tree canopy covered area (for black cockatoo foraging) was reduced to 5.7 ha. This area is broken into the following vegetation condition categories:</td>
</tr>
<tr>
<td>- 2.3 ha very good</td>
</tr>
<tr>
<td>- 1.5 ha good</td>
</tr>
<tr>
<td>- 1.9 ha poor.</td>
</tr>
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</table>

The Local Structure Plan design has been deliberately amended to capture a greater area of the very good black cockatoo foraging vegetation in the north-east area. Attached is the updated Public Open Space areas based on the amended Local Structure Plan design.
The table (below) provides the breakdown of the mapped black cockatoo foraging areas which have been mapped both at the broader boundary scale and the tree canopy scale.

The black cockatoo foraging habitat in public open space areas within amended Local Structure Plan reserves is 1.16 ha (based on tree canopy cover) of which further reduces the clearing area, through avoidance, to 4.54 ha (based on tree canopy cover).

The amended Local Structure Plan has increased the very good condition black cockatoo foraging habitat retained in public open space to 1.14 ha. This represents 30% of the mapped very good foraging vegetation. Importantly the public open space in the north-east corner focuses on conserving a consolidated area of very good black cockatoo habitat (predominately Marri trees) which is consistent with best practice ecological design measures.

This outcome was endorsed by the DSEWPC in the EPBC Act referral of the site. The DSEWPC Delegate determined the Australand’s East Baldivis referral as ‘not a controlled action’.

<table>
<thead>
<tr>
<th>Vegetation Condition</th>
<th>Total Area</th>
<th>Provision LSP Foraging Condition Boundary (ha)</th>
<th>Provision LSP Foraging Canopy (ha)</th>
<th>Amended LSP Foraging Condition Boundary (ha)</th>
<th>Amended LSP Foraging Canopy (ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Good</td>
<td>2.3</td>
<td>0.97 ha (29%)</td>
<td>0.59 ha (29%)</td>
<td>1.34 ha (29%)</td>
<td>0.74 ha (29%)</td>
</tr>
<tr>
<td>Good</td>
<td>1.3</td>
<td>0.35 ha (29%)</td>
<td>0.19 ha (29%)</td>
<td>0.60 ha (29%)</td>
<td>0.26 ha (29%)</td>
</tr>
<tr>
<td>Poor</td>
<td>1.3</td>
<td>0.36 ha (29%)</td>
<td>0.19 ha (29%)</td>
<td>0.61 ha (29%)</td>
<td>0.26 ha (29%)</td>
</tr>
</tbody>
</table>

City’s comment:
The Proponent has addressed the protection of Black Cockatoo habitat to the satisfaction of the Department of Sustainability, Environment, Water, Population and Communities.

Submission:
(iv) It is the expectation that management of Acid Sulfate Soils will be consistent with the procedures outlined in the WAPC’s Acid Sulfate Soils Planning Guidelines.

Proponent’s Response:
An Acid Sulfate Soils and Dewatering Management Plan (ASSDMP) has been prepared for Stage 1 of the development (RPS 2013). The ASSDMP is in accordance with the WAPC’s ASS Planning Guidelines and will be implemented during the construction operations and installation of sewer at the site.

City’s comment:
The submission is noted and further Acid Sulfate Soil investigations will be required as a condition of Subdivision Approval prior to the commencement of works on the site.

5. Main Roads WA

Submission:
The Herring Storer noise assessment dated the 18/3/2013 does not meet the performance criteria required by Main Roads for a noise assessment alongside a Primary Regional Road (PRR). The noise assessment should be revised to include the following:

1. The noise assessment shall include in its report the impact generated by the proposed north-bound Freeway Service Centre (FSC) in terms of ambient noise generated by vehicles using this land use.
2. The noise assessment shall factor into its assessment noise mitigation for two or more storey dwellings. Currently the noise mitigation measures only apply to single storey dwellings.
3. The 2.2 meter high noise attenuation barrier does not appear to be supported by the noise level contours provided, further definition is required.
4. Figure E1 demarcates Lots within roughly 80 meters of Kwinana Freeway as requiring quiet House Design controls. However, the noise contours provided tend to show a 200 meter distance from the Kwinana Freeway that require the self-same controls, this shall be reflected in the assessment.

5. There is a likely design issue in regards to dwellings on the eastern boundary of the LSP with backyards abutting the Kwinana Freeway. A redesign may be necessary to conform with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning.

Proponent's Response:

1. Freeway Service Centre
   The vehicle movements within the Freeway Service Centres are at a considerably slower speed than for vehicles travelling along the Freeway. Therefore, the noise emissions from these vehicles will be insignificant with respect to noise received at the neighbouring residence from moving vehicles.
   It is also noted the noise emissions from other sources emanating from the Freeway Service Centres will be assessed by the Proponent of the Freeway Service Centres. Noise received at the neighbouring residence will need to comply with the requirements of the Environmental Protection (Noise) Regulations 1997. The acoustic criteria for the Regulations are also significantly less than those stated in SPP 5.4, hence noise from the Service Centre is not a concern in relation to ambient noise.

2. Quiet House Design to First Storey
   The “Quiet House” Design requirements for first floors was contained within Herring Storer Acoustics report and stated that:
   “Although, with the construction of a 2.2 metre high barrier, noise received at the ground floor of residences located adjacent to the Freeway would, comply with the “Noise Limits”, noise received at any first floors would exceed the “Noise Limits”. Thus, to comply with SPP5.4 at any first floors, “Quiet House” design by way of Package B measures would be required.”
   Thus Package B is required for first storeys.

3. Barrier to the Freeway
   Following discussion with the Australand, they have agreed to a 3.0 metre high barrier to Freeway. It is noted that to protect the residence located on the northern edge of the development (ie adjacent to the Freeway Service Centre) that the 3.0 metre high barrier will continue along the northern boundary for the first 3 lots from the Freeway, before reducing in height to 2.2 metres.

4. Quiet House Design
   We note that the requirement for “Notification on Titles” and “Quiet House” Design are based on the noise that would be received at the first floor of a residence, with the construction of a 3.0m high barrier and including the construction of residences.
   It is noted that the first few rows of residences provide a significant barrier to those residences behind. Thus, the actual number of residence requiring “Quiet House” design and “Notification on Titles” does not extend as far into the development as the noise contours contained within the report would indicate.
   In light of the above the Herring Storer to update report to include commitment to a 3m high wall, and this will also to be reflected in the Local Structure Plan Report.

City's comment:

The Proponent has agreed to modify the Structure Plan Report in accordance with advice from Main Roads WA and the City. In this regard, the following documentation is required to be provided to the City prior to Adoption of the Structure Plan:

(i) The Acoustic Report is required to be modified incorporate a 3m Acoustic Wall; and
At subdivision stage, a section 70A notification on title will be required for lots affected by noise and amenity impacts associated with the Kwinana Freeway as determined by the Acoustic Assessment conducted by Herring Storer Acoustics (Part 3 - Appendix 5 of the East Baldivis Local Structure Plan Report).

Recommendation 5:
(i) The Acoustic Report is required to be modified prior to Adoption of the Structure Plan to incorporate a 3m Acoustic Wall.
(ii) At subdivision stage, a section 70A notification on title will be required for lots affected by noise and amenity impacts associated with the Kwinana Freeway as determined by the Acoustic Assessment conducted by Herring Storer Acoustics (Part 3 - Appendix 5 of the East Baldivis Local Structure Plan Report).

Submission:
(ii) The site is located within the Peel-Harvey Catchment and the provisions of the Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992 and the Statement of Planning Policy No.2.1 - The Peel-Harvey Coastal Plain Catchment (SPP2.1) shall apply.

Proponent's Response:
Noted.

City's comment:
Noted. The Proponent’s Environmental Report states that a change in land use from predominantly agricultural to urban development, with a reticulated sewer system, will reduce the potential for nutrient export to the receiving environment, which is in accordance with the general objectives of Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992.

Submissions were also received from the Department of Indigenous Affairs, Department of Fire and Emergency Services and Western Power offering no objections to the proposed Structure Plan.

c. Strategic Community Plan

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

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

d. Policy State Planning Policies

Directions 2031

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

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

To achieve this target, the Policy sets a density target of 15 dwellings per gross urban zoned hectare of land in new development areas.
The Structure Plan report states that the density target of 15 dwellings per gross urban zoned hectare will be achieved.

**Liveable Neighbourhoods**

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

LN contains eight ‘elements’ under which Structure Plans and subdivisions are assessed, as follows:-

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

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

Assessment of the Structure Plan against *Liveable Neighbourhoods* is detailed in the ‘Comments’ section of this report with respect to matters that were required to be addressed during advertising and in response to submissions received.

**Planning for Bush Fire Protection Guidelines Edition 2**

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

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

The site abuts a bush fire hazard predominantly to its western and eastern boundaries. The Proponent has provided a Bush Fire Hazard Assessment (BFHA). The assessment has been prepared in accordance with the Bush Fire Protection Guidelines and addresses site specific concerns.

In this regard, dwellings located within the Hazard Separation Zone of the Parks and Recreation Reserve will be required to be constructed to Bushfire Attack Level standard (BAL) in accordance with Australian Standard AS3959 (as amended). The construction standard is mandated at subdivision stage through the requirement to prepare a Detailed Area Plan. A condition will also be required at subdivision stage for the preparation and implementation of a Bush Fire Management Plan to mitigate the risk of bushfire.
Part One of the Structure Plan Report lists the situations where Detailed Area Plans (DAP’s) are required to be prepared at subdivision stage, and refers to the requirement for a DAP for lots within the identified Bush Fire Hazard Separation Zone.

Further assessment regarding the impact of bushfire hazards to the Proposed Structure Plan area are provided within the 'Comments' section of this Report.

State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning

This Policy seeks to minimise the adverse impact of transport noise, without place unreasonable restrictions on noise-sensitive residential development, or adding unduly to the cost to transport infrastructure. The Policy applies for the consideration and management of the impacts of transport noise and freight operations when development is proposed in the following manner:

- New noise-sensitive development in the vicinity of existing or future major transport corridors or freight handling facilities;
- New major road or rail infrastructure projects, including major redevelopments, in the vicinity of existing or future noise-sensitive land uses; and
- The location of freight handling facilities.

The Proponent proposed a 2 metre high acoustic wall treatment to the Kwinana Freeway. This proposal is not supported by the City and it is recommended that a 3 metre high wall be provided. This requirement has been previously applied to all other residential estates abutting the Kwinana Freeway.

As outlined in the response to the Main Roads WA submission above, the Proponent has agreed to modify the Structure Plan Report in accordance with advice from Main Roads WA and the City. In this regard, the following documentation is required to be provided to the City prior to Adoption of the Structure Plan:

(i) The Acoustic Report is required to be modified incorporate a 3m Acoustic Wall; and
(ii) At subdivision stage, a section 70A notification on title will be required for lots affected by noise and amenity impacts associated with the Kwinana Freeway as determined by the Acoustic Assessment conducted by Herring Storer Acoustics (Part 3 - Appendix 5 of the East Baldivis Local Structure Plan Report).

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

A poultry (broiler) farm is operating from Lot 3 Baldivis Road, which is not part of the subject site but forms part of the overall concept Structure Plan site. The EPA’s Guidance Statement No.3 identifies a buffer distance of 300-1000m depending on the size, to protect future residents from the potential impacts of the poultry farm operation.

An Odour Report has been submitted as part of the Structure Plan report which satisfies the requirements of Environmental Protection Guidance Statement No.3: Separation Distances Between Industrial and Sensitive Land Uses.

The odour modelling contained within the report identified the operation on site was not intensive, and odours were unlikely to impact sensitive land uses beyond the Layertech boundary. In this regard, the City has assessed the report and supports the reduced the buffer distance required.

Local Planning Policies

Planning Policy 3.4.1 - Public Open Space

Planning Policy 3.4.1 - Public Open Space provides guidance regarding the location and design of public open space within the City. The objectives of the policy are:-

- To ensure that all residential development is complemented by well-located areas of public open space that provide for the recreational and social needs of the community.
- To ensure that Public Open Space is designed, developed and maintained to an acceptable standard to enhance local amenity.
The location and distribution of POS on the proposed Structure Plan generally satisfies the objectives of the Planning Policy.

e. Financial

Nil

f. Legal and Statutory

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

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

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

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

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

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

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

**Comments**

a. Matters Considered During Advertising

Assessment of Traffic Impact Report

The City reviewed the revised Traffic Report and was generally satisfied with the revised content. It is noted that the following detailed design matters will require further consideration at subdivision stage:

(i) Where the length of an Access Street is more than 200m, the City will require speed constraint measures to restrict the speed to 40km/hr;

(ii) Consideration will be required for treatment of the 'T' intersection for the two Neighbourhood Connector roads to enforce the correct priority as both roads are projected to carry substantial traffic; and

(iii) With respect to the proposed staggered intersection on north-west corner of the Structure Plan area, consideration is needed for the installation of a traffic island on the southern leg to improve the turning movement.

**Recommendation 6: Advise the Proponent of the detailed traffic design treatment required for consideration at subdivision stage.**

Bushfire Assessment

The City reviewed the Bushfire Hazard Assessment and the intended manner to treat the Building Protection Zone (as outlined in Appendix 'I' and 'J' of the Bushfire Hazard Assessment) and does not support the interface to the bushfire hazard provided in the R60 laneway precinct and to the south-western corner of the Structure Plan area.
5. Bush Fire Setback Treatment outlined in the Bush Fire Hazard Assessment

6. Lots Identified to be Potential Impacted by Bushfire

The advertised Structure Plan R60 laneway precinct (both north and south of the extension to Ingram Road) does not achieve the 20m Building Protection Zone to the Baldivis Tramway Reserve. It is recommended that additional road reserve be incorporated into the Structure Plan to achieve the 20m Building Protection Zone separation to the bushfire hazard.

With respect to the south-western corner of the Structure Plan area, the City considers a road interface to the Tramway Reserve (in lieu of a larger residential lot proposed on the Structure Plan) as an appropriate treatment to the Bushfire Protection Zone as it provides for:

(i) An improved accessibility and interface to the bushfire hazard;
(ii) Establishes an appropriate interface to the Tramway Reserve for the future development of Lot 545 to the south;

(iii) Limits the potential for future applications to subdivide land within the Building Protection Zone given the proposed R25/R60 density coding; and

(iv) Does not place the sole emphasis on the landowner to adhere to the requirements of a Bushfire Management Plan.

The City's assessment also noted that Table A (Part 6 - Notification on Titles) in Part 1 of the Structure Plan Report should be modified to include a Notification on Title for lots that are potentially impacted from the risk of Bushfires.

The Proponent has been advised of the recommended design changes and has incorporated the modifications within a revised design. Modifications to the Structure Plan following the advertising period are outlined in the section below.

Recommendation 7: Table A (Part 6 - Notification on Titles) in Part 1 of the Structure Plan Report is to be modified to include a Notification on Title for lots that are potentially impacted from the risk of Bushfires.

b. Revised Structure Plan

Following the advertising period, the Proponent has proposed a number of minor modifications to the Structure Plan as a result of the City's feedback and the release of the 2013 Residential Design Codes. The changes include the following:

(i) The recommended bushfire design changes have been implemented into the Structure Plan;

(ii) Three areas of Residential R40 have been reduced in density to R25 (including proposed reduction of density over the existing dwelling on Lot 541 BaldiVIS Road). The change has not resulted in a low residential lot yield;

(iii) The reconfiguration of POS 'C' and its surrounding road network; and

(iv) The revised the area within POS 'D' for vegetation retention.

The revised plan is shown below in Figure 5:
The City has assessed the minor modifications shown in Figure 5 and supports the revised design.

c. **Matters to be Addressed prior to the Proposed Structure Plan being Adopted by the Council**

In light of the response to submissions and Structure Plan assessment provided above, it is recommended that the Council adopt the proposed Structure Plan, subject to the following matters being addressed to the satisfaction of the City:-

(i) A revised Local Water Management Strategy is to be submitted and finalised;

(ii) The Structure Plan Report and Local Water Management Strategy are to be modified to acknowledge the requirement for the preparation and implementation of a Mosquito Management Plan at subdivision stage; and

(iii) Modifications to the Structure Plan, as contained within this Report, being incorporated into the Structure Plan and Structure Plan Report.

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

Following the assessment of the Structure Plan, it is noted the following general matters need to be addressed at subdivision stage. Further conditions of Subdivision Approval may be required upon review of any application received by the City:-

(i) That the subdivider prepares and implements the following Reports: -

   - A Bush Fire Management Plan to mitigate the risk of bush fire;
   - An Urban Water Management Strategy;
   - A Detailed Acoustic Assessment;
   - Geotechnical Assessment Report; and
   - A Mosquito Management Plan.

(ii) The City recommend a section 70A notification on Certificate of Title as follows:-

   - For Lots potentially affected by noise and amenity impacts associated with the Kwinana Freeway as determined by the Acoustic Assessment conducted by Herring Storer Acoustics (Part 3 - Appendix 5 of the East Baldivis Local Structure Plan Report).
   - For Lots potentially impacted by a bushfire hazard as determined by a Bush Fire Management Plan prepared for land as a condition of Subdivision Approval.
   - For Lots potentially affected by mosquito or midge nuisances as determined by a Mosquito Management Plan (prepared as a condition of Subdivision Approval).

(iii) That the subdivider to appropriately manage acid sulphate soils.

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

(v) Uniform Fencing being provided abutting the Kwinana Freeway and Lot 191 Paparone Road, Baldivis (Freeway Service Centre site) in accordance with the requirements and specification of the Acoustic Assessment (prepared as a condition of Subdivision Approval).

(vi) Detailed Area Plan(s) being prepared and approved for the development that addresses the following matters: -

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

(vii) That the subdividers prepare a Soil and Groundwater Investigation and Remediation Plan.

(viii) Ensure measures are taken for the identification and protection of any vegetation on the site worthy of retention prior to commencement of site works.

(ix) The subdivider notes traffic management matters outlined within this Report will be investigated as part of detailed engineering design.

**Voting Requirements**

Simple Majority.

**Officer Recommendation**

That Council *ADOPT* the Proposed Structure Plan for Lots 104, 105, 541, 543, 544 and 1000 Baldivis Road, Baldivis ('East Baldivis') subject to the following matters being addressed:-

1. A revised Local Water Management Strategy is to be submitted and finalised;
2. The Structure Plan Report and Local Water Management Strategy are to be modified to acknowledge the requirement for the preparation and implementation of a Mosquito Management Plan at subdivision stage; and
3. Modifications to the Structure Plan, as contained within this Report, being incorporated into the Structure Plan and Structure Plan Report.

**Committee Recommendation**

That Council *ADOPT* the Proposed Structure Plan for Lots 104, 105, 541, 543, 544 and 1000 Baldivis Road, Baldivis ('East Baldivis') subject to the following matters being addressed:-

1. A revised Local Water Management Strategy is to be submitted and finalised;
2. The Structure Plan Report and Local Water Management Strategy are to be modified to acknowledge the requirement for the preparation and implementation of a Mosquito Management Plan at subdivision stage; and
3. Modifications to the Structure Plan, as contained within this Report, being incorporated into the Structure Plan and Structure Plan Report.

Committee Voting – 4/0

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

Not Applicable

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

Not Applicable
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-034/13 Proposed Respite Centre</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>DD020.2013.00000119</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Care Options Incorporated</td>
</tr>
<tr>
<td>Author:</td>
<td>Miss Donna Shaw, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>15 July 2013</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
</tr>
</tbody>
</table>

**Site:**
Lot 398 (No.63) Malibu Road, Safety Bay

**Lot Area:**
809m²

**LA Zoning:**
Residential (R20)

**MRS Zoning:**
Urban

**Attachments:**
Schedule of Submissions

**Maps/Diagrams:**
1. Location Plan
2. Elevations
3. Floor Plan
4. Consultation Plan
1. Location Plan

**Purpose of Report**

To consider an application seeking planning approval for a Respite Centre at Lot 398 (No.63) Malibu Road, Safety Bay.

**Background**

Nil

**Details**

Care Options Incorporated (Proponent) is a Rockingham based not for profit, charitable organisation providing services throughout the South-West Metropolitan Region to people with disabilities, frail aged people and their carers. The Proponent seeks approval to build a house to be used as a Respite Centre which includes overnight weekend respite care for the elderly and people with disabilities. Details of the proposal are as follows:-

- Day respite programs would operate between 8:30am and 5:00pm, Mondays, Tuesdays, Thursdays and Fridays;
- Between 7 and 15 clients and up to 3 staff members would be at the Centre during the day on these days;
- On Wednesdays, afternoon and evening respite would be provided, commencing at 2:30pm and finishing by 9:00pm, involving 13 clients and two staff members;
- Once a month on a Thursday, a social evening is held, commencing at 2:30pm and finishing by 10:00pm, with all clients vacating the premises by 8:45pm. A maximum of 24 clients and four staff will be premises at these events;
- On Fridays and Saturdays, overnight respite is proposed for two clients with one supporting staff member. All staff and clients would vacate the premises by 1:00pm on Sunday;
- A maximum of four staff members are proposed, although typically only two staff are at premises at any one time;
- The type of activities proposed at the Centre include cooking, arts and craft, exercise and computer skills;
- Parking for staff will be contained on the subject site; and
- Two 12 seater buses would be used to transport clients from their homes to and from the premises and will be parked in the garage whilst on the premises.

The proposed development has been designed with the appearance of a dwelling from Malibu Road. It includes a therapy room, 3 bedrooms, theatre room and space for staff vehicles to park at the front of the premises.
2. Elevations
CONFIRMED AT A PLANNING SERVICES MEETING
HELD ON MONDAY 19 AUGUST 2013

PRESIDING MEMBER
Implications to Consider

a. **Consultation with the Community**

In accordance with clause 6.3.2 of Town Planning Scheme No.2 (TPS2), the application was referred to nearby owners and occupiers for comment, as shown on the Consultation Plan below, for a period of 16 days.

At the close of the advertising period, two submissions had been received. One objected the development and one supported the development. The objector raised the following concerns:

- Increase in traffic;
- Impacts on traffic and pedestrian safety;
- Loss of privacy;
- Noise;
- Property devaluation; and
- Inconsistent with Residential zone.

b. **Consultation with Government Agencies**

Not Applicable

c. **Strategic**

**Community Plan**

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

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

State Planning Policy 3.1 – Residential Design Codes (R-Codes)

As the subject site is within a Residential Zone, the proposed development was assessed against the requirements of the R-Codes as a guide. The proposal complies with the R-Codes with the exception of the double crossover, which exceeded 50% of the frontage. It is recommended that a condition of Planning Approval be included limiting the combined width of the crossovers to 10m (half the width of the frontage).

e. Financial

Nil

f. Legal and Statutory

Town Planning Scheme No.2 (TPS2)

The proposed development is interpreted as a ‘Community Use’ under TPS2.

“Community Use - means the use of a premises designed or adapted primarily for the provision of educational, social or recreational facilities and services by organisations involved in activities for community benefit.”

Under TPS2, a Community Use is a (‘D’) use that is not permitted in the Residential Zone, unless the Council has exercised its discretion by granting planning approval. The Council has discretion to either approve the proposal, with or without conditions, or refuse the application.

Parking

There are no specific carparking requirements that apply to a Community Use in TPS2. It is expected, however, that the carparking requirements of the proposal will be satisfied on-site.

Given adequate carparking is proposed on-site for the maximum of four staff, and two 12 seater buses will be used to transfer clients to and from the premises as opposed to clients parking on site, the carparking arrangement is considered acceptable. There will still be sufficient carparking by limiting the development to one crossover with tandem carparking in front of the garage.

Comments

Response to Submissions

1. Increase in traffic

A concern was raised that there would be an increase in traffic associated with the facility on an already busy road.

Comment

All clients attend the premises via two buses, which will pick up and drop off clients from their own residences and remain parked at the premises whilst respite programs are being undertaken. This will ensure that traffic to the premises is minimised, as no clients will be attending the premises via their own personal vehicles. A maximum of four staff are proposed, although typically only two staff will be at the premises. The traffic associated with the vehicle movements of a maximum of four staff vehicles and the two buses, is considered to be within the design capacity of Malibu Road to accommodate.

2. Impacts on traffic and pedestrian safety

The objector raised concerns that traffic and pedestrian safety would be compromised due to traffic associated with the proposed development.

Comment

The proposed vehicle access is aligned at right angle to Malibu Road where clear lines of sight can be achieved. Traffic and pedestrian safety is therefore unlikely to be affected by the proposal.
3. **Loss of privacy**

The objector was concerned that the enjoyment and privacy of their property would be lost due to the activities associated with the proposed development.

**Comment**

The objector’s property is located two properties away from the subject land along Malibu Road. All respite programs will occur either within the premises or in the backyard of the premises. The proposed building is single storey and thus no overlooking will occur. For these reasons it is not considered that the privacy and amenity of nearby and adjacent residents is unlikely to be affected.

4. **Noise**

The objector was concerned that noise from the premises would result in the loss of enjoyment and privacy of their property.

**Comment**

Typical activities associated with the respite programs include arts and crafts, computer skills and cooking, which are not considered to result in undue noise impacts on adjacent and nearby properties. The social evening proposed for a maximum of 24 clients only occurs once per month and all clients will vacate the premises by 8:45pm. The timeframes and attendance numbers of this event is not considered to be excessive or such that it would adversely impact the amenity of nearby and adjacent properties. It should also be noted that no submissions were received from neighbours directly adjacent to the subject site.

5. **Property devaluation**

The objector raised concerns that their property would reduce in value due to the proposed development.

**Comment**

Property values are not considered to be a relevant planning consideration.

6. **Inconsistent with Residential Zone**

A concern was also raised that due to the number of clients and staff, the proposed development was inconsistent with the Residential Zone and should be built in a Commercial Zone.

**Comment**

The proposed development is classed as a 'Community Use' under TPS2, which is a ‘D’ use that is not permitted in the Residential Zone, unless the Council has exercised its discretion by granting planning approval. Council therefore has the ability to consider the proposed development for approval within the Residential Zone. The proposed building has also been designed to have the outward appearance of a dwelling, which will ensure it blends in with the Malibu Road streetscape.

**Conclusion**

The proposed development of a Community Use for the purpose of providing Respite Care is considered to comply with TPS2. On balance of the matters raised by the objecting submissioner, the proposed development is considered suitable for the site. It is recommended that Council approve the application for a Respite Centre, subject to conditions that are intended to maintain the amenity of the area.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council **APPROVE** the application for a Respite Centre (Community Use) at Lot 398 (No.63) Malibu Road, Safety Bay, subject to the following conditions and footnotes:-

1. All clients of the Respite Centre must only be transported to and from the premises by the Centre’s Bus Service and not by other means, at all times.
2. The two buses used to transport clients to and from the premises must be parked within the garage at all times whilst parked on the premises.
3. During Day Respite Programs, clients must only arrive and depart between 8:30am and 5:00pm on Monday, Tuesdays, Thursdays and Fridays.
4. Overnight Respite programs are only permitted on Fridays and Saturdays and all clients must vacate the premises by 1:00pm on Sundays.
5. On Wednesdays Evening Respite Programs, all clients must depart by 9:00pm.
6. All staff must park on the premises.
7. Site works must be stabilised to prevent sand blowing and dust nuisance, for the duration of development.
8. The street setback area and all verge areas must be landscaped and reticulated, prior to the occupation of the development and must be maintained to the satisfaction of the City at all times.
9. Materials, goods or bins must not be stored within the driveway/carparking area at any time.
10. The combined width of the proposed crossovers must not exceed 10m (50% of the lot frontage).
11. Any signage associated with the proposed development is restricted to an area not exceeding 0.2m².

Footnotes to Approval:
(i) A separate approval from the City’s Health Services is required under the Health (Public Building) Regulations 1992. This is required prior to the lodgement of an application for a Building Permit - Certified. The applicant should liaise with the City’s Health Services in this regard.
(ii) A separate approval from the City’s Health Services is required under the Food Act 2008 and Food Safety Standards. This is required prior to the lodgement of an application for a Building Permit - Certified. The applicant should liaise with the City’s Health Services in this regard.
(iii) A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the applicant should liaise with the City’s Building Services in this regard. In this regard, the size of the sign will be restricted to a maximum area of 0.2m².

Committee Recommendation

That Council approve the application for a Respite Centre (Community Use) at Lot 398 (No.63) Malibu Road, Safety Bay, subject to the following conditions and footnotes:-

1. All clients of the Respite Centre must only be transported to and from the premises by the Centre’s Bus Service and not by other means, at all times.
2. The two buses used to transport clients to and from the premises must be parked within the garage at all times whilst parked on the premises.
3. During Day Respite Programs, clients must only arrive and depart between 8:30am and 5:00pm on Monday, Tuesdays, Thursdays and Fridays.
4. Overnight Respite programs are only permitted on Fridays and Saturdays and all clients must vacate the premises by 1:00pm on Sundays.
5. On Wednesdays Evening Respite Programs, all clients must depart by 9:00pm.
6. All staff must park on the premises.
7. Site works must be stabilised to prevent sand blowing and dust nuisance, for the duration of development.
8. The street setback area and all verge areas must be landscaped and reticulated, prior to the occupation of the development and must be maintained to the satisfaction of the City at all times.
9. Materials, goods or bins must not be stored within the driveway/carparking area at any time.
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(iii) A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the applicant should liaise with the City's Building Services in this regard. In this regard, the size of the sign will be restricted to a maximum area of 0.2m².

Committee Voting – 4/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable
Planning Services
Statutory Planning Services

Reference No & Subject: SP-035/13  Section 40 Liquor Licence Application – Totally and Partially Disabled Veterans of WA (Inc) Respite Centre

File No: 28/1265-06
Proponent/s: Totally and Partially Disabled Veterans WA (Inc)
Author: Miss Donna Shaw, Planning Officer
Other Contributors: Mr Dave Waller, Coordinator Statutory Planning
Mr Mike Ross, Manager Statutory Planning

Date of Committee Meeting: 15 July 2013

Previously before Council: October 2008 (PD202/10/18), December 2008 (PD236,12,18)

Disclosure of Interest: Cr A Hill declared an interest affecting impartiality as per Section 5.60B of the Local Government Act 1995, as he is a member of the RSL and attends functions at the property.

Nature of Council’s Role in this Matter: Executive

Site: Lot 111 (No.1677) Mandurah Road, Baldivis (Reserve 46970)
Lot Area: 3.61ha
LA Zoning: Rural
MRS Zoning: Rural
Attachments: Schedule of Submissions
Maps/Diagrams: Consultation Plan

Purpose of Report
To consider an application to extend and modify the operating hours of the licenced area for the Totally and Partially Disabled Veterans of WA (Inc) (TPDVWA) at Lot 111 (No.1677) Mandurah Road, Baldivis.

Background
In March 2002, Council granted conditional Planning Approval for a Respite Centre on the land.
In June 2004, the Council endorsed the conditional Planning Approval for additions to the existing Respite Centre, which included:-
- Six residential units;
- A time-out house;
- A hall;
- Barbeque area; and
- Carparking and vehicle manoeuvring areas.

In May 2005, the Council granted Approval for a Section 40 Certificate of Local Government (Section 40 Certificate) for a Club Restricted Licence to operate from an entertainment/lounge area and an area designated as a workshop.

In October 2008, Council approved a Section 40 Certificate for the verandah area that adjoins the previously licenced area. This Section 40 Certificate was granted on the basis that the operating hours would remain the same as the existing licenced area.

In December 2008, the Council refused an application to extend the operating hours of the licenced area, verandah and building from 5:00pm to 11:00pm on Fridays and 11:00am to 6:00pm on Saturdays.

In July 2011, Council granted Approval for a Section 40 Certificate to extend the Liquor Licence hours as shown in Table 1 below, subject to a Noise Management Plan being prepared and implemented, to the satisfaction of the Manager, Health Services.

<table>
<thead>
<tr>
<th>Previously Approved Hours</th>
<th>Revised Approved Hours</th>
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<tbody>
<tr>
<td>Tuesday 10:00am – 5:00pm</td>
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</tr>
<tr>
<td>Thursday 11:30am – 5:00pm</td>
<td>No change</td>
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<tr>
<td>Thursday 11:30am – 5:00pm</td>
<td>No change</td>
</tr>
<tr>
<td>Friday 6:00pm – 11:00pm</td>
<td>No change</td>
</tr>
<tr>
<td>Saturday 6:00pm - Midnight</td>
<td>Saturday 12 noon – 8:00pm</td>
</tr>
<tr>
<td>Sunday - Nil</td>
<td>Sunday 12 noon – 4:00pm</td>
</tr>
</tbody>
</table>

Table 1 - Existing Approved Liquor Licence Hours

In December 2011, the City issued a Section 40 Certificate in accordance with the resolution of Council, subject to the following conditions:-

1. All music must comply with the assigned noise levels of the Environmental Protection (Noise) Regulations 1997.
2. The playing of music must cease by 10:00pm.
3. The playing of music must be non-amplified and low-key.
4. The playing of music and performances must be confined within the clubrooms (i.e. not outside) as shown on the attached plan.
5. Patrons arriving and departing the premises must do so in a responsible manner to ensure the amenity of on-site residents and neighbours is maintained at all times.
6. In the event that the City receives substantiated resident complaints regarding crowd noise or anti-social behaviour of patrons, the operating times may be changed at the discretion of the Department of Racing, Gaming and Liquor."

The subject land is a Crown Reserve vested in the City for the purposes of ‘Veterans Respite Centre’ with power to lease. The City currently holds a lease agreement over the subject property with the TPDVWA. Access Housing holds lease agreements with the occupants of the six residential units. Units 1 and 2 are located closest to the licenced area. The courtyard of Unit 1 is located approximately 32 metres to closest point of the outdoor licenced area and Unit 2 approximately 37 metres.
Details

The TPDVWA seeks to extend and modify the Liquor Licence hours as follows:

<table>
<thead>
<tr>
<th>Current Hours</th>
<th>Proposed Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday 10:00am – 5:00pm</td>
<td>No change</td>
</tr>
<tr>
<td>Thursday 11:30am – 5:00pm</td>
<td>No change</td>
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</tr>
<tr>
<td>Saturday 12 noon – 8:00pm</td>
<td>Saturday 12 noon – 8:00pm</td>
</tr>
<tr>
<td>Sunday 12 noon – 4:00pm</td>
<td>Sunday 12 noon – 6:00pm</td>
</tr>
</tbody>
</table>

Table 2 – Proposed Liquor Licence Hours

The TPDVWA has provided the following justification in support of the proposal:

“The TPDVWA has applied for a permanent extension of licence for an extra two hours on Sundays from 4pm – 6pm as this will allow members, family and friends to have a meal and socialise after bingo has finished. Our present licence on a Sunday allows us to use the bar facilities from 12 noon to 4pm.”

Implications to Consider

a. Consultation with the Community

The proposal was advertised to the occupiers of the six residential units located on-site and to three adjoining landowners, for a comment period of 17 days, ending on the 27 May 2013.

At the close of the submission period, one objection was received from the adjacent owner directly north of the subject site. The concerns raised in the submission are summarised as follows:

- Traffic noise associated with motorcycles entering and exiting the property;
- Disruption of amenity; and
- The continuous extension of the Liquor Licence.

The consultation plan below shows which residents were consulted and the location of the submissioners:
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 contained in the Community Plan 2011:-

**Aspiration 1:** An involved and engaged community enjoying a lifestyle that caters for all residents, including those with specific or special needs.

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

d. **Policy**

Planning Policy 3.3.19 – Licenced Premises (the Policy)

The objectives of the Policy are as follows:-

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

(ii) Assist the Council in its consideration of applications for Planning Approval which involve a Liquor Licence;

(iii) Identify appropriate locations for different types of licenced premises;

(iv) Protect the safety and amenity of existing and future residents and business proprietors against anti-social behaviour;

(v) Minimise personal harm or ill health caused to people, or any group, due to excessive consumption of liquor.”

The Policy provides a number of assessment criteria when considering applications for Planning Approval for Liquor Licences. These criteria, along with Officer comments in respect to the application, have been provided below.
(a) Location

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

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

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

Comment

The subject site and surrounding lots are zoned 'Rural' and 'Parks and Recreation' (Stakehill Swamp) under the City’s Town Planning Scheme No.2 (TPS2). The surrounding area is characterised by large rural landholdings, typically with one dwelling per lot. By extending the hours of the licensed area, noise associated with the sale and consumption of liquor may cause disturbances and/or inconvenience to residents living in the vicinity or upon land the subject of the licensed premises.

(b) Number of Patrons

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

Comment

TPDVWA must continue to comply with the maximum accommodation numbers under the Health (Public Building) Regulations 1992.

(c) Previous History

The City is required to review any history of complaints regarding an existing licensed premises when considering an Application for Planning Approval for a “Change of Use” or an Extended Trading Permit. In this regard, the City is interested in past complaints regarding noise, vandalism, anti-social behaviour or traffic/parking issues.

The City may request the Proponent to supply full and complete details of any complaints regarding an existing licensed premises including details of any complaints or prosecutions commenced by the Police, the Liquor Licensing Division, the Health Department or DFES.

Comment

The City received seven complaints in 2008 regarding noise generated from the activities conducted in association with the licenced area of the TPDVWA. In May 2009, the City also advised the TPDVWA that a wedding reception and Club events being undertaken were inconsistent with the lease with the City and could not be carried out.

(d) Noise

To address noise impacts from a licensed premises, the City may require the Proponent to submit an acoustic report, prepared by a suitably qualified acoustic consultant (as determined by the City), in order to ensure that the noise emanating from the licensed premises is not excessive and indicating the likely noise nuisance and what sound attenuation measures are needed.

Comment

The City has responded to noise complaints and advised the TPDVWA of its obligations to ensure that excessive noise doesn’t emanate from the premises. Previous noise sampling undertaken at the premises in 2011 has shown that music from events can exceed the Assigned Noise Levels by up to 29dB. In this respect, a Regulation 18 Noise Exemption can be granted under the following conditions:-

1) The event has to be open to the public;
2) The CEO can only approve up to 2 events per year at any venue; and
3) The CEO needs to be satisfied that the majority of neighbouring residents will have no objection to holding the events.

Despite a condition on the 2011 Section 40 Certificate that the playing of noise must not be amplified and be ‘low-key’, the TPDVWA cannot meet the Assigned Noise Levels and does not meet the requirements for a Regulation 18 Noise Exemption.

Although noise measurements were taken in 2011, it is considered that a precautionary approach should be taken to extending the hours of the licenced area. Noise emanating from the licenced area is likely to impact upon nearby and adjacent residents.

(e) Harm Minimisation

The Proponent is required to demonstrate that the principles of harm minimisation have been addressed by the lodgement of a House Management Policy, Code of Conduct and Management Plan in accordance with the Director of Liquor Licensing Guidelines.

Comment

A House Management Policy, Code of Conduct and Management Plan has not been received by the City, although this has not been required as part of previous applications. The City has no evidence to suggest the Proponent has acted in a way that would put patrons at risk.

(f) Consultation

Where the Licensed Premises is likely to have an impact upon the amenity of an area or affected neighbouring properties, the application will be the subject of a process of community consultation in accordance with clause 6.3.3 of TPS2 and Planning Procedure No. 1.3 - Community Consultation.

Comment

The application was referred to nearby and adjacent property owners for comment and one submission objecting the proposal was received. Officer comments with respect to this submission are addressed in the ‘Consultation with the Community’ section of this report.

(g) Consistency with Planning Approval

The City must ensure compliance with conditions that have been placed on a Planning Approval (if appropriate). Particular note should be made of the approved size of the license premises under the Planning Approval and the proposed licensed area requested under the Section 40 Certificate.

Comment

In March 2002, Council granted conditional Planning Approval for a Respite Centre on the land. Existing improvements on the site approved for the Respite Centre included a large brick and tile five bedroom residence, a shed/workshop, water tanks and animal enclosure.

The City also raised no objection to an Occasional Liquor Licence being obtained from the Department of Racing, Gaming and Liquor in 2004. The terms of the application of the Occasional Liquor Licence was based on the sale of alcohol from the premises on the 18th and 24th April and the 15th August (being the date the premises opened, Anzac Day and Vietnam Veterans Day) only. The incremental expansion of the trading hours to the current hours of operation is considered to be inconsistent with the use of the land as a Respite Centre as the use of the land would be more akin to a Club Premises.

(h) Hours of Operation

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

Comment

It is considered that noise associated with extending the hours of the licenced area could cause undue disturbance to nearby and adjacent residents, based on substantiated complaints previously received by the City in relation to noise.
e. **Financial**
   
   Nil

f. **Legal and Statutory**

   **Lease Agreement**

   Clause 3.11 of the Council’s lease agreement with the TPDVWA sets out a number of obligations for the lessee. Clause 3.11 sets out requirements relating to the use of the land as follows:-
   
   “3.11 Use
   
   Not to:-
   
   (a) Use of permit to be used the Leased Premises for any purpose whatsoever other than for the purpose and objects for which the Reserve was vested in and is held by the Lessor and without limiting the generality of the foregoing not to use of permit to be used the Leased Premises or any part thereof for any purpose other than those of and related to a respite for Veterans;
   
   (b) Carry on or suffer to be carried on upon the Leased Premises or any part thereof any noxious noisome or offensive trade act business occupation or calling;
   
   (c) Make, do or suffer upon the Leased Premises any act, matter or thing that may be or become a nuisance or annoyance to the lesser or to the owners or occupiers of property in the neighbourhood of the Leased Premises."

   Clause 3.11 (2) further expands on interpretation of respite care by providing the following:-
   
   “For the avoidance and doubt, use of the Premises for the purpose of and related to a respite centre for Veterans
   
   (a) includes:
      
      (i) use of the Premises by Veterans for rest recuperation, rehabilitation, respite and timeout temporary accommodation, counselling and other health services;
      
      (ii) charitable fundraising events organised by and for the purpose of Lessee:
      
      (iii) veteran commemoration events and activities; and
      
      (iv) leisure and social activities for veteran members of the Lessee
   
   (b) but does not include:
      
      (i) activities of any kind undertaken by, on behalf of, or for the primary benefit of, another club, incorporated associate or any person that is not a member of the Lessee or;
      
      (ii) any activity that results in the emission of an unreasonable noise as refined in the Environmental Protection (Noise) Regulations 1997.”

   **Liquor Control Act 1998**

   Clause 40 (2) of the Liquor Control Act 1988 (the Act) requires the Council to state whether or not the application for a Liquor Permit would comply with Planning Laws, upon using a Section 40 Certificate, as follows:-

   “(a) will comply with the requirements of the written law relating to planning specified;
   
   (b) would comply with the requirements specified if consent were to be given by a specified authority, if it is known whether that authority will give the consent, and what specified conditions or specifications should be, or are likely to be, imposed; or
   
   (c) will not comply with the requirements specified for the reasons specified.”

   The key criterion that the Council must consider upon issuing a Section 40 Certificate, is therefore if the development complies, would comply, or will not comply with TPS2 and the Planning Approval for a Respite Centre. The incremental expansion of the trading hours to the current hours of operation is considered to be inconsistent with the 2002 Planning Approval for a Respite Centre.
Comments

Response to Submission

(i) Traffic noise associated with motorcycles entering and exiting the property

Comment

Noise from vehicles entering and exiting the property are directly associated with the hours of the licenced area. Extending the licenced hours and thus associated later leaving time for patrons to the premises, is likely to adversely impact the amenity of neighbouring properties. It is considered unreasonable to extend the hours of the Liquor Licence into Sunday evenings.

(ii) Disruption of amenity

Comment

Noise generated from motor cycles and vehicles entering and exiting the property, amplified music and events occurring at night are matters that are considered relevant to the proposed extension of trading hours. It is considered that noise associated with extending the hours of the licenced area, including from the use of the premises and vehicles entering and exiting the site, would cause undue disturbance to nearby and adjacent residents.

(iii) The continuous extension of the Liquor Licence

Comment

Whilst there has been an extensive history of Section 40 Certificate applications, each application must be assessed for conformity with the Policy.

Conclusion

Prior to the Section 40 Certificate issued in December 2011, the TPDVWA was not operating a licenced premises on Sundays. The incremental expansion in Liquor Licence trading hours is considered to be inconsistent with the 2002 Planning Approval and Lease granted by the Council for a Respite Centre and is more aligned with the use of the premises as a Club Premises. The proposed increase in licensed hours on Sunday into the evening is also likely to adversely affect the amenity of existing residents residing on the property and adjacent residents. Therefore it is recommended that Council refuse the application for a Section 40 Certificate for extended trading to 6pm on Sundays.

Voting Requirements

Simple Majority

Officer Recommendation

That Council REFUSE the application seeking approval for a Section 40 Certificate of Local Government at Lot 111 (No.1677) Mandurah Road, Baldivis (Reserve 46970) for the Totally and Partially Disabled Veterans of WA (Inc) for the following reasons:-

1. The proposed increase in licensed hours on Sundays into the evening is likely to adversely affect the amenity of existing residents residing on the property and adjacent residents.

2. The sale and consumption of liquor is inconsistent with the Planning Approval (26 March 2002) for a Respite Centre.

Committee Recommendation

That Council REFUSE the application seeking approval for a Section 40 Certificate of Local Government at Lot 111 (No.1677) Mandurah Road, Baldivis (Reserve 46970) for the Totally and Partially Disabled Veterans of WA (Inc) for the following reasons:-

1. The proposed increase in licensed hours on Sundays into the evening is likely to adversely affect the amenity of existing residents residing on the property and adjacent residents.
2. The sale and consumption of liquor is inconsistent with the Planning Approval (26 March 2002) for a Respite Centre.

Committee Voting – 4/0

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Purpose of Report

To consider an application seeking approval to vary the location of the approved Building Envelope for Lot 16 (No.7) Almeria Place, Waikiki.

Background

In September 2009, Council resolved to refuse an application to vary the Building Envelope at Lot 16 (No.7) Almeria Place, Waikiki for the following reasons:-

1. The proposed building envelope modifications does not satisfy the key criteria of Planning Policy No.3.1.7 – Applications to Vary the Location of Building Envelopes and Town Planning Scheme No.2, which require building envelope variations to result in an environmental benefit.

2. The proposal fails to comply with objectives of the ‘Special Residential’ zone to ensure the rural landscape and amenity is conserved and the natural environment is enhanced. The proposal represents an intrusion into the coastal landform and vegetation complex of the Warnbro Dunes.

3. The proposal has the potential, upon building construction, to impact on the amenity of neighbouring properties which is evidenced in submissions received.

4. The proposed building envelope location would be difficult to achieve a balanced ratio of cut and fill upon building a house because of the high position involved.”

The location of the proposed Building Envelope refused by Council is similar to the application which is the subject of this report.

The Proponent subsequently lodged an application to build a house within the current approved Building Envelope location. Planning Approval for the residence was granted in August 2012.
Details

The Proponent seeks to change the location of the Building Envelope from the south east corner of the lot to the north east corner, to facilitate the construction of a house. The size of the Building Envelope will remain unchanged at 1,080m². The Proponent has also provided an Environmental Assessment in support of the application.

The following justification has been provided to the City in support of the proposed Building Envelope variation:

“(i) Smaller Building Footprint;
(ii) Easier access for construction reduces impact of construction activities;
(iii) Greater separation to groundwater improves drainage for stormwater and safety for onsite effluent disposal;
(iv) Building on top of dunes requires stabilization of the landform and will prevent potential blowouts and erosion from wind;
(v) Maintains better connectivity of vegetation on the lot with vegetation in surrounding area; and
(vi) Commitment to re-vegetate degraded central area of the site.”

2. Existing and Proposed Building Envelope Plan

The Proponent has also submitted an application for Planning Approval to construct a Single Dwelling in the proposed Building Envelope location. Whilst not the focus of this report, the details provided as part of this application will be used in the assessment of the proposed Building Envelope.

Implications to Consider

a. Consultation with the Community

In accordance with Schedule No.5 of Town Planning Scheme No.2 (TPS2) and Planning Policy 3.3.17 – Variations to Building Envelopes, in the Singleton Special Rural and Special Residential Zones, Building Envelopes may be varied at the discretion of Council, following consultation with adjoining owners.
The proposal was advertised to eight nearby and adjacent property owners and occupiers for a period of 18 days (Refer to the Consultation Plan below).

3. Consultation Plan

At the close of the advertising period, six submissions were received. Two submissioners supported the proposal, one submissioner provided conditional support of the proposal and three submissioners objected the proposal. The submissions in favour of the proposal provided the following reasons for support:

- Proposed Building Envelope location requires less clearing;
- Proposed Building Envelope demonstrates an environmental benefit;
- Proposed Building Envelope location enhances ocean views (from the submissioner’s property);
- Proposed Building Envelope location results in the submissioner’s property not directly overlooking a residence; and
- Proposed residence is attractive.

The submissioners objecting the proposal raised the following concerns:

- No environmental benefit demonstrated/negative environmental impacts;
- Loss of visual amenity;
- Inconsistent decision making (should Council approve application);
- Negative impact on dunes;
- Potential for wind erosion and sand drift to adjacent properties;
- Establish precedence against the principles of the ‘Special Residential’ zone;
- Undermine community and residents' expectations to uphold Building Envelope locations;
- Negative impact on views from adjacent properties

A Schedule of Submissions is attached to this report.

b. Consultation with Government Agencies
Not Applicable

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

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

d. Policy
State Planning Policy 3.1 – Residential Design Codes (R-Codes)
The purpose of the R-Codes is to provide a comprehensive basis for the control of residential development. The objectives of the R-Codes include, but are not limited to:-

(a) Ensuring appropriate standards of amenity for all dwellings;
(b) Protecting the amenity of adjoining residential properties; and
(c) Encouraging environmentally sensitive design.

Whilst the focus of this report is on the application to vary the Building Envelope, the location of the Building Envelope can impact the site works required to construct a dwelling.

The R-Codes seek the following in respect to site work requirements:-

“To preserve the sense of the natural topography of the site and locality with a view to the protection of streetscape and the amenity of adjoining properties”.

The earthworks associated with the construction of the proposed dwelling in the proposed Building Envelope location will not preserve the natural topography of the land and could impact adversely upon the landscape and amenity of the adjoining property.

Planning Policy 3.3.17 – Variations to Building Envelopes (The Policy)
The purpose of the Policy is to set out the objectives and policy provisions which the Council shall have due regard to in the assessment and determination of applications to vary the location and size of Building Envelopes. In the Warnbro Dunes Special Residential Zone, Building Envelopes may be varied at the discretion of Council if:

“(a) The Council receives advice from a qualified environmental consultant that the variation will result in an environmental benefit; and
(b) Only after consultation with the owners of affected or adjoining properties.”

The following is an assessment of the application based on the assessment criteria of the Policy:-

Size and Shape of Building Envelope
The Policy provides the following with respect to the size and shape of the Building Envelope:-

“Unless otherwise approved by the Council, only minor increases to the size of Building Envelopes will be considered (to a maximum of 10% of the area of the original Building Envelope) and all Building Envelopes are required to be of a regular shape and comprise a single contiguous area.”

No increase in the size of the Building Envelope is proposed. The proposed Building Envelope is regular in shape and comprises a single contiguous area.
Environmental Considerations

The Policy notes that:

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

For the purposes of providing a full assessment in regard to environmental impacts, the following is an assessment against environmental components relevant to the subject site:-

Vegetation

The City’s Environmental Services has advised that the vegetation on-site ranges from ‘degraded’ to ‘very good’ in condition. The proposed Building Envelope location requires the clearing of less vegetation compared to the current location, although it is noted that the vegetation to be cleared is in ‘good condition’ (see Figures 4 & 5 below). By moving the location of the Building Envelope to the proposed location, the Building Envelope will be more accessible from Almeria Place and thus there will be less impact on vegetation on the site from future construction activities and weed invasion associated with vehicle movements further into the site. In regard to vegetation, the proposed Building Envelope location involves less clearing of remnant vegetation.

4. Vegetation in Existing Building Envelope Location
5. Vegetation in Proposed Building Envelope Location

Topography/Landform
The dune has a height of 23 AHD at its highest point, where the proposed Building Envelope would be located, and this slopes steeply down to 15 AHD at Almeria Place. The location of the proposed dwelling is at the highest point of the dune (see Figure 6 below). The finished floor level of the proposed dwelling is 18 AHD and thus the top of the dune is proposed to be cut to this level, with approximately 5m of retaining required to the eastern boundary. The amount of cutting proposed into the dune to allow for the construction of the dwelling will completely remove the top of the dune and level the dune, which will not retain the natural topography/landform of the dune system.
6. Contour Plan

(iii) Erosion

The City’s Environmental Services has advised that construction of a dwelling in the location of the proposed Building Envelope will require stabilisation of the dune. This will in turn help prevent wind erosion and potential blowouts through maintenance of the structure of the dune. Whilst the construction of the proposed dwelling can aid in preventing erosion, as previously mentioned, the top of the dune is required to be removed to construct the dwelling. The City considers that there are potential impacts of erosion during construction on what is an exposed natural high point of the dune system.

(v) Vegetation Connection

The site does not currently act as a significant vegetation connection. The location of the existing and proposed Building Envelopes do not disconnect vegetation from adjacent lots or the foreshore reserve and thus the impact on a possible vegetation connection for either Building Envelope location is not evident.

Planning Policy 3.3.6 - Development Guidelines for Special Residential Zones

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

The SR Policy requires the following with respect to development on lots:-

“If the block slopes basically left to right or right to left, select a narrow frontage housing design with split-levels to suit”.

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

“Measures should be taken to avoid the potential for sand drift, as a result of wind erosion, throughout the development of each lot.”

The proposed dwelling has an approximately 30m frontage to the northern boundary facing Almeria Place. Whilst the dwelling is designed to have a split level to accommodate the upper alfresco area on the western edge of the dune (see Figure 7 below), the construction of the dwelling itself will require significant cutting into the dune, as previously discussed in the topography/landform section of this report. It is not considered that the dwelling has been designed to accommodate the existing topography of the land via providing split levels of the dwelling in the appropriate locations, nor has a narrow frontage house design being provided to minimise the visual impact of the dwelling from Almeria Place.

7. Elevation of Proposed Dwelling from Almeria Place

The above criterion has been discussed above.

e. **Financial**

Nil

f. **Legal and Statutory**

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

Clause 4.13 of TPS2 provides objectives in regard to the ‘Special Residential’ zone as follows:-

“(a) To set aside areas where the retention of vegetation and landform or other features which distinguish the land, warrant a larger residential lot size than that expected in a standard residential zone.

(b) To ensure that all development within Special Residential zones is in accordance with the Provisions Relating to Specified Areas as set out in Schedule No.5 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 and the Commission may adopt from time to time as a guide to future development within the Zone."

The significant earthworks required to construct the proposed dwelling in the proposed Building Envelope location could adversely impact upon the landform, which is a topographic feature of the land that is characteristic of the Warnbro Dunes landscape. In this respect, the proposal fails to comply with the objectives of the Special Residential Zone under TPS2.
Clause 6.6 of TPS2 provides matters to be considered by Council when considering an application for Planning Approval, which include, but are not limited to:-

“(i) The likely effect of the proposal on the natural environment and any means that are proposed to protect or mitigate impacts on the natural environment;

(ii) The preservation of the amenity of the locality;

(iii) The relationship of the proposal to the development of 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 proposal; and

(v) Any relevant submissions received on the application.”

Whilst it is acknowledged that the Proponent has committed to revegetating degraded areas of vegetation on the site, vegetation is only one component of environmental impacts that need to be considered when assessing an application for Planning Approval.

The proposal will have a detrimental impact upon the property directly adjacent to the east of the subject site, given the proposed Building Envelope is located 1.5m from the property boundary. The existing approved Building Envelope is located between 4m – 7m from all directly adjacent property owners.

**Comments**

**Response to Submissions**

1. **No environmental benefit demonstrated/negative environmental impacts**

   Concerns were raised that no environmental benefit had been demonstrated by the Proponent and thus the proposal does not comply with the requirements of the Policy. A concern was also raised that there would be a negative impact on the environment should the proposal be approved.

   **Comment**

   An assessment of the environmental impacts of the proposal has been included in the Policy section of this report. While the proposed location will have less impact upon remnant vegetation together with revegetation works, the proposal will adversely impact upon the natural topography of the Warnbro Dunes.

2. **Loss of visual amenity**

   Concerns were raised by objectors that by moving the location of the Building Envelope to the highest point of the dune, the visual amenity of the locality would be compromised.

   **Comment**

   Constructing a dwelling in the proposed Building Envelope location will have a greater visual impact than if it was constructed within the existing approved Building Envelope when viewed from Almeria Place and from No.5 Almeria Place. This is due to the proposed Building Envelope location being on the highest point on the site.

3. **Inconsistent decision making (should Council approve application)**

   The objectors noted that the Council had previously refused an application to vary the location of the Building Envelope in the same location and advised that by approving the application, Council would be inconsistent in its decision making.

   **Comment**

   Noted and agreed.

4. **Negative impact on dunes**

   Concerns were raised that the location of the proposed Building Envelope would detrimentally impact the dune system.

   **Comment**

   The earthworks required associated with the construction of the proposed dwelling would require approximately 5m of cutting into the dune and as a result of this, the landform of the dune in this location will be significantly altered.
5. Potential for wind erosion and sand drift to adjacent properties
Submissioners noted that the location of the proposed Building Envelope could destabilise the dune and cause wind erosion and sand drift, which could adversely impact upon nearby and adjacent properties.
Comment
An assessment of the potential for erosion has been included in the Policy section of this report.

6. Establish precedence against the principles of the ‘Special Residential’ zone
A submissioner was concerned that the relocation of the Building Envelope area to what is effectively the highest and steepest part of the subject land would create an opportunity for future residential development that has significant potential to compromise the objectives of the ‘Special Residential’ zoning.
Comment
The City considers that the proposal is inconsistent with the objectives of the Special Residential zone in respect to retaining the landform.

7. Undermine community and residents expectations to uphold Building Envelope locations
A submissioner was concerned that relocating the Building Envelope would undermine the local community’s confidence and faith in the planning system as extensive consultation was undertaken when establishing the original location of Building Envelopes within the Warnbro Dunes.
Comment
Noted.

8. Negative impact on views from adjacent properties
A submissioner was concerned that views of significance from adjoining and nearby properties would be compromised due to the construction of a dwelling in the proposed Building Envelope location.
Comment
Views are not considered to be a relevant Planning consideration but the Council can consider the relationship of the proposal and future development on adjoining land or on other land including the likely effect of the height, bulk and scale, orientation and appearance of a future house in the proposed Building Envelope location.

Conclusion
In light of the submissions received and the above comments, it is recommended that the application to vary the location of the Building Envelope be refused due to the potential impact on the landform, significant earthworks required for the construction of the proposed dwelling in the proposed Building Envelope location and the impact on the amenity of the neighbouring property at No.5 Almeria Place.

Voting Requirements
Simple Majority

Officer Recommendation
That Council REFUSE the application to vary the location of the Building Envelope at Lot 16 (No.7) Almeria Close, Waikiki for the following reasons:-

1. The proposal fails to comply with objectives of the ‘Special Residential’ zone to ensure the landform and amenity is conserved and the natural environmental is enhanced.
2. The proposal has the potential, upon building construction, to impact adversely upon the amenity of neighbouring properties in Almeria Place.
3. The proposal fails to comply with the objectives of Planning Policy 3.3.17 – Variations to Building Envelopes, as the amount of earthwork required to construct the proposed dwelling will have a detrimental impact on the coastal landform of the Warnbro Dunes.
4. The extent of earthworks that would be required to construct a dwelling within the proposed building envelope is significant, where soil erosion and land degradation risks are increased in what is the highest point of the Warnbro Dunes that occurs on the subject land.

### Committee Recommendation

That Council **REFUSE** the application to vary the location of the Building Envelope at Lot 16 (No.7) Almeria Close, Waikiki for the following reasons:

1. The proposal fails to comply with objectives of the ‘Special Residential’ zone to ensure the landform and amenity is conserved and the natural environmental is enhanced.
2. The proposal has the potential, upon building construction, to impact adversely upon the amenity of neighbouring properties in Almeria Place.
3. The proposal fails to comply with the objectives of Planning Policy 3.3.17 – Variations to Building Envelopes, as the amount of earthwork required to construct the proposed dwelling will have a detrimental impact on the coastal landform of the Warnbro Dunes.
4. The extent of earthworks that would be required to construct a dwelling within the proposed building envelope is significant, where soil erosion and land degradation risks are increased in what is the highest point of the Warnbro Dunes that occurs on the subject land.

Committee Voting – 4/0

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

Not Applicable

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

Not Applicable
Planning Services
Statutory Planning Services

Reference No & Subject: SP-037/13
Scheme Amendment No.121 - Final Approval

File No: LUP/1611

Proponent/s: TPG, Planning Consultant

Author: Miss Donna Shaw, Planning Officer

Other Contributors:
Mr Dave Waller, Coordinator Statutory Planning
Mr Mike Ross, Manager Statutory Planning

Date of Committee Meeting: 15 July 2013

Previously before Council:
September 2010 (PD89/9/10), February 2012 (SP-008/12), February 2013 (SP-007/13)

Disclosure of Interest:
Nature of Council’s Role in this Matter: Legislative

Site:
Lot 9000 Crystaluna Drive, Golden Bay

Lot Area: 7,524m²

LA Zoning: Rural

MRS Zoning: Urban

Attachments:

Maps/Diagrams:
1. Location Plan
2. Proposed Subdivision Guide Plan
3. Consultation Plan
1. Location Plan

**Purpose of Report**

To consider adopting for Final Approval Amendment No.121 to Town Planning Scheme No.2 (TPS2) to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Residential R12.5’.

**Background**

In September 2010, Council considered Metropolitan Region Scheme (MRS) Omnibus Amendment No.1193/57, which in part sought to rezone Lot 9000 Crystaluna Drive, Golden Bay and Lot 501 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Urban’. Council resolved not to support the Amendment because:

- "Rezoning the land to facilitate urban development was inconsistent with Planning Policy No.5.2 – Rural Land Strategy (RLS), which requires the Proponent to demonstrate that the landscape values of the region will not be compromised; and"

- "The land was also identified as a transition area between the existing and future urban land to the west and Mandurah Road to the east."

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

The City subsequently received a request to initiate a Scheme Amendment to TPS2 to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Residential (R5/20)’, which was deferred by Council in February 2012, to enable the Proponent to submit further information and discuss the matter with City Officers.

The City received the required revised Fire Management Plan and Subdivision Guide Plan (SGP) in late 2012 and in February 2013, the Proponent provided support to the City’s recommendation to instead rezone the land to ‘Residential R12.5’ to provide for an appropriate transition of lot sizes.
2. Proposed Subdivision Guide Plan

In February 2013, Council resolved to adopt (initiate) Amendment No.121 to TPS2 to rezone Lot 9000 Crystaluna Drive, Golden Bay from ‘Rural’ to ‘Residential R12.5’.

**Details**

Nil

**Implications to Consider**

**a. Consultation with the Community**

The Scheme Amendment was advertised for public comment in accordance with the requirements of Town Planning Regulations 1967 for a period of 53 days, ending on the 10th June 2012, with advertising being undertaken in the following manner:-

(i) A sign was erected on the property and remained on-site for the duration of the advertising period;

(ii) A notice was published in the Public Notices section of the Weekend Courier newspaper on the 26th April 2013.

(iii) An advertisement was placed on the City’s website for the duration of the advertising period and copies of documents explaining the Scheme Amendment were also made available for inspection at the Council Administration Offices; and

(iv) 13 nearby and adjacent landowners and occupiers were notified in writing of the proposal, as shown on the Consultation Plan below.
3. Consultation Plan

At the conclusion of the advertising period, the City received one submission from an adjacent landowner. The submissioner raised the following concerns with the proposed Amendment:

- Loss of vegetation connection;
- Loss of bushland/rural aspect of property;
- Extensive earthworks required and unsightly retaining;
- Lack of infrastructure to service the development;
- Increased traffic on Crystaluna Drive;
- Decrease in property value; and
- The minimum lot size of 2ha not being adhered

The submission is detailed in the Schedule attached to this report.

b. Consultation with Government Agencies

The Amendment was referred to the Environmental Protection Authority (EPA) for consideration of the need for assessment under the Environmental Protection Act 1986 (the Act). The EPA advised that the Amendment should not be assessed under the Act.

The following government agencies were also notified of the proposal:

- Western Power;
- Water Corporation;
- Main Roads WA;
At the conclusion of the advertising period, the City had received six submissions from Government agencies, raising no objection to the proposal. The Water Corporation did, however, provide the following comments with regards to servicing the land:

**Water Planning:**

"The water distribution system in the locality cannot presently supply adequate water pressures to any land above about 20m AHD. Approximately three-quarters of Lot 9000 are located above 20 AHD and will therefore not be able to be provided with water services off the current system"

**Wastewater Disposal:**

The Water Corporation also noted that due to the location and topography of the site, the majority of the site is situated within the gravity catchment of a future wastewater pump station (WWPS), which is planned to be located north of the future Karnup Station site. This WWPS is planned to be required beyond 2020. The servicing of the eastern portion of the lot is also dependant on the installation of a collector sewer as part of future development of land to the west of Mandurah Road. The Water Corporation has advised, however, that a small portion of land on the western edge of the lot is located within the gravity catchment of the existing Navigator Drive WWPS and subject to acceptable finished levels being achieved, this portion of land could be serviced by this facility.

Comments relating to the submissions are provided in the ‘Comments’ section of this Report.

c. **Strategic**

**Community Plan**

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

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

d. **Policy**

Nil

e. **Financial**

Nil

f. **Legal and Statutory**

**Town Planning Regulations 1967**

In accordance with the *Town Planning Regulations 1967*, the Council is required to consider all submissions made within 42 days of the publication of the advertisement and submit to the WAPC, for recommendation to the Minister for Planning, its decision to proceed or not proceed with the Amendment.

**Planning and Development Act 2005**

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

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

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

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

**Comments**

**Response to Submissions**

**Water Planning**

When the subject land was being rezoned to Urban in the MRS, the Water Corporation raised similar objections to the proposal, as it cannot currently provide a standard water service to the land. The Western Australian Planning Commission (WAPC) at the time considered that the future of the land is clearly urban and it is simply a question of timing in terms of adequate water supply being available, and the servicing issues are not considered fatal flaws to the rezoning of the land as they are temporal in nature and can be resolved through subsequent details planning processes. The Proponent is aware of the servicing constraints regarding connection to a reticulated water supply and has advised that the ultimate servicing of the site will be achieved once the Water Corporation has upgraded its existing infrastructure. The connection of lots to a reticulated water supply is expected to be applied by the WAPC to any future subdivision approval (upon advice from the Water Corporation).

**Wastewater Disposal**

The Water Corporation will not provide wastewater services to service the lots given that the Point Peron Waste Water Treatment Plant, which the subject site would need to connect to, is nearing capacity. As with the provision of a reticulated water supply, the WAPC advised on the MRS Amendment that it is a question of timing in terms of adequate sewage capacity being available and the development of the land can be adequately controlled through the subdivision application process. Whilst a small portion of land on the western edge of the lot is located within the gravity catchment of the existing Navigator Drive WWPS and could potentially be serviced, the Proponent is aware that the provision of wastewater services to service all proposed lots will depend on the timing of the planned East Rockingham Waste Water Treatment Plant. The connection of lots to reticulated sewerage is expected to be applied by the WAPC to any future subdivision approval (upon advice from the Water Corporation).

**Loss of vegetation connection**

Whilst the site does contain some inter-dispersed patches of Cottesloe complex vegetation, the site also includes off-road vehicle tracks. The Department of Environment and Conservation raised no objection to the proposal. It is not considered that the site acts as a substantial vegetation connection given the urban development to the west of the site.

**Rural aspect of property**

The subject land is currently zoned Rural in TPS2. Rezoning of land to Residential R12.5 will result in changes to the rural aspect of the land, however, the Council is required to bring TPS2 into line with the MRS.

**Extensive earthworks required and unsightly retaining**

The Proponent has previously advised that all earthworks, including cut and fill and retaining walls, will be minimised where possible so they will not be a visual intrusion on the landscape. The City will consider the impact of retaining and filling following subdivision approval to ensure appropriate retaining and filling of the land.

**Lack of infrastructure to service the development**

It is acknowledged that the existing infrastructure needs to be upgraded/extended to service the proposed lots. The provision of infrastructure to service the proposed lots are matters that can be considered upon lodgement of an application for subdivision approval. Subdivision and development of the site cannot be progressed until such time the required services are provided.
Increased traffic on Crystaluna Drive

The additional vehicle movements associated with the creation of 7 lots as per the SGP is within the design capacity of Crystaluna Drive to accommodate. The SGP provides a 7.5m wide service road arrangement to control vehicle access onto Crystaluna Drive to ensure that adequate sight lines are provided for vehicles leaving the subdivision.

Decrease in property value

Property values are not considered a relevant planning consideration.

The minimum lot size of 2ha not being adhered

As the site was rezoned Urban under the MRS, Special Rural development is not possible and thus the provisions of the City's Rural Land Strategy with regard to minimum lot sizes of 2ha in this precinct will no longer apply. The R12.5 density is considered appropriate to provide a transition to the Special Rural zoned land to the east and south of the site.

Conclusion

The TPS2 is required to be amended to be consistent with the MRS. The Proponent is aware of the servicing constraints and that the future development of the land will not be possible until such time services can be provided. Servicing of the land will also be a matter for the WAPC to consider upon a future application being submitted for Subdivision Approval.

Voting Requirements

Simply Majority

Officer Recommendation

That Council:

1. **ADOPT** for Final Approval Amendment No.121 to Town Planning Scheme No.2, without modification.

2. **ADOPT** the recommendations contained within the Schedule of Submissions.

Committee Recommendation

That Council:

1. **ADOPT** for Final Approval Amendment No.121 to Town Planning Scheme No.2, without modification.

2. **ADOPT** the recommendations contained within the Schedule of Submissions as follows:

<table>
<thead>
<tr>
<th>CITY OF ROCKINGHAM</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SCHEDULE OF SUBMISSIONS</strong></td>
</tr>
<tr>
<td><strong>PROPOSED SCHEME AMENDMENT - LOT 9000 CRYSTALUNA DRIVE, GOLDEN BAY</strong></td>
</tr>
<tr>
<td>Submission</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td>1. Department of Water PO Box 332 MANDURAH WA 6210</td>
</tr>
<tr>
<td>Submission</td>
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<tr>
<td>------------</td>
</tr>
</tbody>
</table>
| 1. Cont... | **Urban Water Management**  
Generally, an amendment to a TPS, or Local Structure Plan, is required to be supported by a Local Water Management Strategy (LWMS) in accordance with Better Urban Water Management (WAPC, 2008).  
However, given the sites small size and relatively unconstrained nature with regard to water resources, a LWMS is not considered necessary. Drainage onsite should be managed consistent with the Stormwater Manual of WA (DoW, 2004-2007) and any City of Rockingham requirements.  
**Groundwater**  
The subject area is located within the Rockingham Groundwater Area as proclaimed under the Rights in Water and Irrigation Act 1914. Any groundwater abstraction in this proclaimed area for purposes other than domestic and/or stock watering taken from the superficial aquifer is subject to licensing by the Department of Water (DoW).  
The issuing of a groundwater licence is not guaranteed but if issued will contain a number of conditions that are binding upon the licensee. | That the submission be noted. |
| 2. Western Power  
GPO Box L921  
PERTH WA 6842 | Thank you for taking the time to provide us with this information.  
The planning advice you have provided has been noted in our planning database in advance for our next review of network capacity requirements. During this time, one of our planning officers may contact you to clarify development details. | That the submission be noted. |
<table>
<thead>
<tr>
<th>Submission</th>
<th>Comment</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>2. Cont…</td>
<td>A key planning consideration is to determine whether forecast demand for network capacity, which is comprised mainly of firm network connection applications, is in line with long-term trends or represents a significant change to trend. Relatively large changes in forecast Western Power strives to continually improve the accuracy and timeliness of it planning information. Toward this objective, Western Power presents its plans via the Annual Planning Report (APR) and the Network Capacity Mapping Tool (NCMT) In addition Western Power supplies its NCMT data to the Department of Planning for integration into cross-agency publications and planning tools. I invite you to review the information provided via the APR and the NCMT for your area. Once again, thank you for assisting us in delivering quality information to our customers and the broader community.</td>
<td></td>
</tr>
<tr>
<td>3. Telstra Operations Locked Bag 2525 PERTH WA 6001</td>
<td>Thank you for the above advice. At present, Telstra Corporation Limited has no objection. I have recorded it and look forward to further documentation as the development progresses. Any network extension that may be required for any development within the area concerned, the owner/developer will have to submit an application before construction is due to start to NBN Co. or the Telstra Smart Community website: <a href="http://www.telstra.com.au/smart-community/developers/">http://www.telstra.com.au/smart-community/developers/</a> That the submission be noted.</td>
<td></td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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<tr>
<td>------------</td>
<td>---------</td>
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<tr>
<td>3. Cont…</td>
<td>More information regarding NBN Co. can be found on their website <a href="http://www.nbnco.com.au/">http://www.nbnco.com.au/</a> I add this information about NBN Co. as it is not known when services will be available from NBN Co. Telstra may provide services if NBN Co. cannot.</td>
<td></td>
</tr>
<tr>
<td>4. Department of Environment and Conservation Land Use Planning <a href="mailto:Hilary.smith@dec.wa.gov.au">Hilary.smith@dec.wa.gov.au</a></td>
<td>The Department of Environment and Conservation Swan Region has no comments on this proposal.</td>
<td>That the submission be noted.</td>
</tr>
<tr>
<td>5. Water Corporation PO Box 100 LEEDERVILLE WA 6902</td>
<td>Thank you for your correspondence of 18 April 2013 inviting comments from the Water Corporation on the amendment. The following comments are provided in relation to the existing servicing constraints. Similar advice has previously been provided to the landowner’s engineering consultants and to the WAPC in relation to the “Urban” rezoning of Lot 9000 in the Metropolitan Region Scheme. <strong>Water Planning</strong> The water distribution system in the locality cannot presently supply adequate water pressures to any land above about 20m AHD and will therefore not be able to be provided with water services off the current system. <strong>Wastewater Planning</strong> The subject land is situated in the Corporation’s Peelhurst Sewer District. Because of the location and topography of Lot 9000, the majority of the site is situated within the gravity catchment of a future wastewater pump station (WWPS “P” on the attached plan) which is planned to be located in the area to the northeast of the future Karnup train station site.</td>
<td>Despite the City and the Water Corporation objecting to Amendment 1193/57 to the Metropolitan Region Scheme (MRS), the land has been rezoned Urban under the MRS and thus the City’s Town Planning Scheme No.2 must be bought into line with the MRS. The connection of lots to a reticulated wastewater system and water supply are expected to be applied by the Western Australian Planning Commission to a future subdivision approval upon advise from the Water Corporation and thus these matters can be dealt with at the time of a Subdivision application. The Proponent is aware of the constraints in respect to servicing and is aware that upgrades to Water Corporation infrastructure are required prior to servicing of the lots being available. That the submission be noted.</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<tr>
<td>5. Cont...</td>
<td>WWPS “P” is indicated on the Corporation’s long term planning as being required some time beyond 2020 and will be driven by the timing of the train station and substantial development of the land around the station. Wastewater servicing of the eastern portion of Lot 9000 is also dependent on the installation of a collector sewer as part of the future subdivision and development of land straddling Peelfold Glen to the west of Mandurah Road. A small portion of land along the western edge of Lot 9000 is located in the gravity catchment of the existing Navigator Drive WWPS to the west. Subject to acceptable finished levels being achieved, this portion of the land may be able to gravitate its wastewater towards the existing 150PVC sewer on Crystaluna Drive. This will need to be examined in more detail by the proponent’s engineering consultant.</td>
<td>That the submission be noted. The following comments are made with respect to the points raised in the submission:-</td>
</tr>
<tr>
<td>6. Mr &amp; Mrs Balch 156 Crystaluna Drive GOLDEN BAY WA 6174</td>
<td>In response to your letter and documents advising of the proposed rezoning of the above property from “rural” to “residential” my husband and I considered whether responding would play any bearing on the result of rezoning the above lot as it seems by the contents of your letter, signage and local news reports a foregone conclusion. We are a private property owner adjoining the above mentioned lot at our western boundary. One of the reasons we purchased our property was because of its special rural listing which also applied to surrounding properties. It offered our family a more relaxed lifestyle than the busy residential lifestyle we had come from.</td>
<td>That the submission be noted. The following comments are made with respect to the points raised in the submission:-</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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</tbody>
</table>
| 6. Cont... | There was also the added attraction of the beauty of the native flora and the abundance of native fauna which will be affected if this proposal proceeds. Our reasons why this piece of land should remain ‘special rural’ are as follows: | Loss of vegetation connection  
It is not considered that the site acts as a substantial vegetation connection given the urban development to the west of the site. |
| | - To retain the flow through bush land rural effect displayed by our property and the adjoining property to the south of the above mentioned lot.  
- The property size is quite small, being 7524m², is very undulating and drops off sharply joining our western boundary.  
- The earthworks required will be extensive along with retaining walls which will be unsightly from our perspective.  
- The bushland we are required to protect and nurture will be lost on this lot and will affect the rural aspect of our property.  
- The current infrastructure is inadequate to sustain this development with major upgrades being required in not only water, but other services.  
- Crystaluna Drive is also struggling with the increased flow and speed of traffic which we have previously complained about. | Rural aspect of property  
Rezoning of land to Residential R12.5 will result in changes to the rural aspect of the land; however, the Council is required to bring TPS2 into line with the MRS.  
Extensive earthworks required and unsightly retaining  
The City will consider the impact of retaining and filling following subdivision approval to ensure appropriate retaining and filling of the land. Extension of infrastructure to service the development  
The provision of infrastructure to service the proposed lots are matters that can be considered upon lodgement of an application for Subdivision Approval by the WAPC upon advice from the Water Corporation. Subdivision and development of the site cannot be progressed until such time the required services are provided. |
<table>
<thead>
<tr>
<th>Submission</th>
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<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Cont…</td>
<td>Apart from the above reasons, we are also concerned about the effects this proposed re zoning and development will have on the future value of our property. It is likely to have a negative effect, rather than positive, as at present we can boast about having a rural aspect featuring not only bush views, but ocean views, which are likely to be lost. The 'special rural' laws which we are governed by, one of which is not being allowed to subdivide unless your land is two hectares or more, should apply to this lot. These laws were put in place to protect this dune area from over development and this should remain so. We are greatly opposed to this re zoning and hope you take our concerns and objections into consideration.</td>
<td>Increased traffic on Crystaluna Drive The additional vehicle movements associated with the creation of 7 lots as per the SGP is within the design capacity of Crystaluna Drive to accommodate. Decrease in property value Property values are not considered a relevant planning consideration. The minimum lot size of 2ha not being adhered As the site was rezoned Urban under the MRS, Special Rural development is not possible and thus the provisions of the City’s Rural Land Strategy with regards to minimum lot sizes of 2ha in this precinct will no longer apply. The R12.5 density is considered appropriate to provide a transition to the Special Rural zoned land to the east and south of the site.</td>
</tr>
</tbody>
</table>

Committee Voting – 4/0

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

Not Applicable

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

Not Applicable
<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>SP-038/13 Bulk Earthworks (Lot 806) Mandurah Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>20.2012.150 / D13/48959</td>
</tr>
<tr>
<td>Proponent/s:</td>
<td>Development Planning Strategies</td>
</tr>
<tr>
<td>Author:</td>
<td>Ms Erika Barton, Senior Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>15 July 2013</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td></td>
</tr>
<tr>
<td>Site:</td>
<td>Lot 806 Mandurah Road, Karnup</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>83.49ha</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Development</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Urban</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Cross Sections</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Location Plan</td>
</tr>
<tr>
<td></td>
<td>2. Aerial Photo</td>
</tr>
<tr>
<td></td>
<td>3. Adopted LSP</td>
</tr>
<tr>
<td></td>
<td>4. Stage 1 Earthworks Plan</td>
</tr>
</tbody>
</table>
1. Location Plan

2. Aerial Photo
**Purpose of Report**

To consider an application seeking Planning Approval for Bulk Earthworks on Lot 806 Mandurah Road, Karnup.

**Background**

On 1 May 2013, the WAPC granted conditional Subdivision Approval for Stage 1 of the West Karnup development, within Lot 806 as illustrated in Figure 4.

In May 2013, the Council adopted the ‘West Karnup’ Local Structure Plan (LSP) under delegated authority, following the Western Australian Planning Commission’s (WAPC) decision to approval the LSP on 29 April 2031. It is illustrated in Figure 3.

The WAPC is also currently considering an application to excise the commercial centre and adjacent POS H from Lot 806.
The progression of planning over Stage 2 (comprising Lot 805 Mandurah Road, Karrup) is deferred until such time as there is an agreed Peganoni Road alignment, agreed intersection treatment of Mandurah Road and Crystaluna Drive, and planning for the Karrup TOD is sufficiently advanced.

PLANNING SERVICES COMMITTEE MINUTES
MONDAY 15 JULY 2013

CONFIRMED AT A PLANNING SERVICES MEETING HELD ON MONDAY 19 AUGUST 2013

PRESIDING MEMBER

3. Adopted LSP
Details

The Proponent seeks Planning Approval for Stage 1 Bulk Earthworks for the West Karnup Development at Lot 806 Mandurah Road, Karnup. Figure 4 illustrates the extent of the proposed Bulk Earthworks.

The extent of the approved Stage 1 Subdivision is shown on Figure 4. The proposed Bulk Earthworks covers the Stage 1 Subdivision area and extends east of the eastern boundary of the Stage 1 Subdivision. The area outside of the Stage 1 Subdivision area is required to be earth worked to provide fill for the Stage 1 subdivision area. Figures 5 and 6 illustrate the proposed cut and fill. The area the subject of this application seeking Planning Approval for Bulk Earthworks is approximately 6.0 hectares in area.

This application also includes the commercial subdivision area currently before the Western Australian Planning Commission.

The Proponent has advised that all material would remain on site, and as such there would be neither off-site disposal of material nor any importation of fill material.

The proposed works are to be undertaken in a single stage. A Dust Management Plan has not been provided as part of the application for Planning Approval.
4. Stage 1 Earthworks Plan

The application for Planning Approval for Bulk Earthworks is shown as the Stage 1 Works Boundary (denoted in purple above).
Implications to Consider

a. **Consultation with the Community**
   Nil

b. **Consultation with Government Agencies**
   The proposal was referred to the Department of Water (DoW) and to the Department of Environment & Conservation (DEC) for comment. The DoW and DEC provided the following advice.

   **DoW**
   The DoW advised the site is located within the Stakehill Groundwater Area and that it has reached its allocation limit. There is no guarantee that any request for allocation will be approved.

   **Officer Comment**
   This is the same advice provided to the Proponent through the LSP process and should be added as a footnote of any Planning Approval.

   **DEC**
   DEC recommends:
   - the location of any *E. foecunda* is identified and temporary fencing erected to protect this species, for consideration of inclusion into future public open space.
   - The two POS areas within the Stage 1 Works Boundary do not include the priority flora or vegetation that has been identified as being in good or very good condition. DEC considers that the proposed Public Open Space (POS) does not protect areas of high conservation value. Clearing within the Stage 1 works boundary will impact a priority ecological community, priority flora, and vegetation in good and very good condition.
   - The clearing of native vegetation within the Stage 1 Works Boundary requires a clearing permit from DEC unless it is exempt in accordance with Schedule 6 of *Environmental Protection Act 1986* or Regulation 5 of *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
   - The site contains habitat for the federally listed Carnaby's Cockatoo and Graceful Sun Moth. The proponent is advised that it needs to refer the proposal to Federal Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) to determine whether a formal application is required under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act).
   - Adequate fencing (being to the specifications of DEC) between the development site and areas retained for future conservation (i.e. the 18.5ha 'Agreement to Reserve' area).
   - No vegetation, earth spoil of any other debris is to be stored or disposal of within the boundary of the 'Agreement to Reserve' area of Lot 807.

   **Officer Comment**
   Any clearing would be consistent with the adopted LSP. A condition is recommended to be imposed to restrict vehicle access along the southern boundary in accordance with LSP.

   Conditions and Advice Notes are to be included on any Planning Approval to the effect of the above.

c. **Strategic**

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

d. **Policy**

Nil

e. **Financial**

Nil

f. **Legal and Statutory**

Town Planning Scheme No.2 (TPS2)

The clearing of vegetation and filling of land constitutes ‘development’ and requires Planning Approval pursuant to clause 6.1.1 of TPS2.

The land is zoned Development under TPS2. The proposal is considered to be consistent with TPS2 because it facilitates the subdivision and development of the land in accordance with the adopted Structure Plan.

**Comments**

**Dust Management**

Earthworks throughout the City, as a result of subdivision works and associated development during summer months, has generated a substantial concern from adjoining property owners and occupiers due to significant offsite adverse impacts associated with these earthworks. For the City to proactively control the timing and extent of bulk earthworks, appropriate controls are required in order to prevent and or minimise the movement of sand, silt, clay or rocks from land that could adversely affect other land.

In this regard, a Dust Management Plan is required to be submitted to and approved by the City prior to any works commencing on site.

**Traffic Management**

All material would be contained on site, with no vehicle movements off site during the course of the earthworks. A Traffic Management Plan is required to be submitted to and approved by the City prior any works commencing on site.

**Subdivision Approval**

The WAPC has approved the Stage 1 Subdivision and is currently considering the Commercial Centre subdivision.

To ensure the subdivision applications and this bulk earthworks application are consistent, it is proposed to only approve the earthworks outside of the subdivision applications areas. All earthworks within the subdivision approval areas will be controlled by the approved subdivisions and associated engineering works approvals.

**Conclusion**

The proposed Bulk Earthworks are generally consistent with the layout of the approved West Karnup Local Structure Plan.

The Bulk Earthworks are required in addition to the Subdivision Approval as cut is required from outside of the Stage 1 Subdivision area.

Given the above, it is recommended that the Bulk Earthworks application be approved outside of the subdivision approval application areas, subject to conditions that address site management.

**Voting Requirements**

Simple Majority
Officer Recommendation

That Council APPROVE the application seeking Planning Approval for Bulk Earthworks on Lot 806 Mandurah Road, subject to the following conditions and advice notes:-

1. This Bulk Earthworks approval only includes the land marked in red on the approved plans. This approval must be read and carried out in accordance with the Western Australian Planning Commission’s (WAPC) Subdivision Approval Reference No.146429 and WAPC Subdivision Application No.147620.

2. The land being filled, stabilised, drained and/or graded as required to ensure that:-
   (i) Finished ground levels at the boundaries of the site the subject of this approval match or otherwise coordinate with the existing finished ground levels of the land abutting; and
   (ii) Stormwater is contained on-site, or appropriately treated and connected to the local drainage system.

3. Prior to the commencement of any work, the proponent must submit to the City for its approval an Environmental Management Plan which shall be complied with and addresses the following matters:-
   (i) Noise management for on-site activities;
   (ii) Dust management including dust control on site;
   (iii) A Traffic Management Plan for all vehicles entering and exiting the site; and
   (iv) The annual review of the environmental management plan after each year following the grant of approval.

4. Each of the provisions contained in the Environmental Management Plan as approved by the City must be implemented in accordance with the tenor of those provisions.

5. Any grasstree on the site:-
   (i) must not be damaged or destroyed; and
   (ii) must be removed intact and transplanted in a location within a road reserve or a public open space in the City’s municipal district, which location is shown on a landscape plan approved by the City.

6. Prior to the commencement of any work:-
   (i) A 24 hour telephone enquiry service must be established for use by members of the public to lodge any complaint associated with respect to the works.
   (ii) The telephone number of the telephone enquiry service must be displayed on a sign and in a location approved by the City.
   (iii) Any complaint lodged with the telephone enquiry service must be responded to within 24 hours of receipt of the complaint.

7. Prior to the commencement of any work:-
   (i) a letter advising of:-
      (a) the commencement date of works;
      (b) the proposed duration of the works; and
      (c) the telephone number of the telephone enquiry service referred to in Condition 7 above, must be given to all owners and occupiers of land within 500m of any boundary of the site; and
   (ii) a copy of the letter and a list of the owners and occupiers notified must be given to the City.

8. A written record of:-
(i) every complaint received by the applicant during the works, whether lodged with the telephone enquiry service or otherwise received; and 
(ii) the response given, and action taken, to address the complaint,
must be kept and a copy of the record must be given to the City upon request and in any event no later than 2 days after the end of each calendar month throughout the works.

9. No works are to be conducted:-
   (i) between 7pm and 7am Monday to Saturday inclusive; or
   (ii) Sundays or public holidays.

10. No haulage vehicle is to:-
    (i) arrive at the site any earlier than 6.45am Monday to Saturday inclusive; or
    (ii) park or stand along surrounding roads at any time.

11. Every haulage vehicle:-
    (i) must be clearly numbered; and
    (ii) must have the operators/applicants name clearly displayed.

12. One of the following wetting agents:-
    (i) Dustex; or
    (ii) Gluon;
    must be applied to any disturbed area including any sand or vegetation stockpile (five times per day per hectare) using water carts.

13. (i) The following activities involving the:-
      (a) disturbance of any soil; or
      (b) movement of any vehicle except on any portion of the site which is stabilised in accordance with Condition 13 above,
    must cease and not recommence while any of the monitoring devices described in (2) below displays:-
      (a) PM10 of 50ug/m3 (24 hrs);
      (b) PM2.5 of 25ug/m3 (24 hrs);
      (c) TSP of 90ug/m3 (24hrs); and/or
      (d) TSP of 1000ug/m3 (15 minutes).
    (ii) For the purpose (1) above, a monitoring device is a device which is capable accurately of measuring air temperature, wind direction, wind speed, dust concentration, dust particle size and characteristics.
    (iii) A monitoring device must be located and operational at all times at the site entrance as so as to be readily inspected by the City.

14. (i) The boundary of any part of the site, which is disturbed and not stabilised, must be fenced with a fence:-
      (a) not less than 1.8 metres high
      (b) supported by post and chain link fence; and
      (c) covered with a material to prevent dust and sand drift and having with a minimum porosity of 50%.
    (ii) The fence must be maintained in good condition. The fence must be constructed to a minimum of 1.8 metres high, supported by post and chain link fence and covered with a material to prevent dust/sand drift with a minimum porosity of 50%. The fence must be maintained in good condition for the duration of the works.

15. No later than the earlier of:-
    (i) the completion of the works; and
(ii) four months after the date this approval,
the site is to be stabilised with hydromulch containing a colouring agent and cereal rye seed.

16. If any part of the site which has been stabilised becomes not stabilised that area must be restabilised within 48 hours after becoming not stabilised.

17. Prior to earthworks commencing a pre-works geotechnical report shall be prepared and submitted to the City. Following completion of works, the Proponent must provide a post-works geotechnical report certifying that all work have been carried out in accordance with the pre-works geotechnical report.

18. No material is to be exported from site (Lot 806) or imported from off-site for the purpose of the Bulk Earthworks.

19. Prior to the commencement of any work:-
(i) a Fauna Survey and Relocation Management Plan must be prepared which:-
   (a) identifies all fauna on site; and
   (b) sets out how, when and where the fauna is to be relocated;
(ii) the plan must be implemented, including the relocation of all fauna; and
(iii) a copy of the plan and a report as to its implementation must be given to the City.

20. A fence restricting vehicle and pedestrian access to the remnant bushland is to be constructed along the southern boundary of the approved bulk earthworks area; to protect native vegetation.

21. All chemical and fuel storage drums shall be kept within a bunded compound, designed to contain leaks or spills, and to prevent contamination of soil or groundwater.

22. All truck access into and from the site must only occur from the existing access way at the northern extent of Lot 806 on Mandurah Road.

FOOTNOTES TO APPROVAL
This approval is issued by the City of Rockingham subject to the following Footnotes:-

(i) If the development the subject of this approval has not substantially commenced within a period of two years from the date of this letter, the approval shall lapse and be of no further effect. Where an approval has so lapsed, no development shall be carried out without the further approval of the Council having first been sought and obtained.

(ii) The earthworks levels approved as part of this application should not be construed as being the final design levels of the site which will be determined by a future subdivision application.

(iii) The development must comply with the Environmental Protection (Clearing of Native Vegetation) Regulations 2004; the proponent should liaise with the Department of Environment and Conservation in this regard.

(iv) The proponent is advised that any Federal referral requirements relating to the Bulk Earthworks are the responsibility of the proponent following determination of the Planning Application.

(v) The development must comply with the Environmental Protection (Noise) Regulations 1997; observance with this requires that work shall only be carried out between 7am and 7pm Monday to Saturday (excluding public holidays) and in accordance with control of noise practices set out in section 6 of AS2436-1981, Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(vi) The proponent is advised that any groundwater abstraction in this area for purposes other than domestic and/or stock watering taken from the superficial aquifer is subject to licensing by the Department of Water. The issuing of a groundwater licence is not guaranteed but if issued will contain a number of conditions that are binding upon the licensee. Please note that this area has reached its allocation limit and there is no guarantee that any request for allocation will be approved. The proponent is advised to contact the Department of Water’s Licensing Section in the Mandurah Region on 9550 4222 to discuss water management options.
Committee Recommendation

That Council APPROVE the application seeking Planning Approval for Bulk Earthworks on Lot 806 Mandurah Road, subject to the following conditions and advice notes:-

1. This Bulk Earthworks approval only includes the land marked in red on the approved plans. This approval must be read and carried out in accordance with the Western Australian Planning Commission's (WAPC) Subdivision Approval Reference No.146429 and WAPC Subdivision Application No.147620.

2. The land being filled, stabilised, drained and/or graded as required to ensure that:-
   (i) Finished ground levels at the boundaries of the site the subject of this approval match or otherwise coordinate with the existing finished ground levels of the land abutting; and
   (ii) Stormwater is contained on-site, or appropriately treated and connected to the local drainage system.

3. Prior to the commencement of any work, the proponent must submit to the City for its approval an Environmental Management Plan which shall be complied with and addresses the following matters:-
   (i) Noise management for on-site activities;
   (ii) Dust management including dust control on site;
   (iii) A Traffic Management Plan for all vehicles entering and exiting the site; and
   (iv) The annual review of the environmental management plan after each year following the grant of approval.

4. Each of the provisions contained in the Environmental Management Plan as approved by the City must be implemented in accordance with the tenor of those provisions.

5. Any grasstree on the site:-
   (i) must not be damaged or destroyed; and
   (ii) must be removed intact and transplanted in a location within a road reserve or a public open space in the City's municipal district, which location is shown on a landscape plan approved by the City.

6. Prior to the commencement of any work:-
   (i) A 24 hour telephone enquiry service must be established for use by members of the public to lodge any complaint associated with respect to the works.
   (ii) The telephone number of the telephone enquiry service must be displayed on a sign and in a location approved by the City.
   (iii) Any complaint lodged with the telephone enquiry service must be responded to within 24 hours of receipt of the complaint.

7. Prior to the commencement of any work:-
   (i) a letter advising of:-
      (a) the commencement date of works;
      (b) the proposed duration of the works; and
      (c) the telephone number of the telephone enquiry service referred to in Condition 7 above, must be given to all owners and occupiers of land within 500m of any boundary of the site; and
   (ii) a copy of the letter and a list of the owners and occupiers notified must be given to the City.

8. A written record of:-
(i) every complaint received by the applicant during the works, whether lodged with the telephone enquiry service or otherwise received; and

(ii) the response given, and action taken, to address the complaint, must be kept and a copy of the record must be given to the City upon request and in any event no later than 2 days after the end of each calendar month throughout the works.

9. No works are to be conducted:-

(i) between 7pm and 7am Monday to Saturday inclusive; or

(ii) Sundays or public holidays.

10. No haulage vehicle is to:-

(i) arrive at the site any earlier than 6.45am Monday to Saturday inclusive; or

(ii) park or stand along surrounding roads at any time.

11. Every haulage vehicle:-

(i) must be clearly numbered; and

(ii) must have the operators/applicants name clearly displayed.

12. One of the following wetting agents:-

(i) Dustex; or

(ii) Gluon;

must be applied to any disturbed area including any sand or vegetation stockpile (five times per day per hectare) using water carts.

13. (i) The following activities involving the:-

(a) disturbance of any soil; or

(b) movement of any vehicle except on any portion of the site which is stabilised in accordance with Condition 13 above,

must cease and not recommence while any of the monitoring devices described in (2) below displays:-

(a) PM10 of 50ug/m3 (24 hrs);

(b) PM2.5 of 25ug/m3 (24 hrs);

(c) TSP of 90ug/m3 (24hrs); and/or

(d) TSP of 1000ug/m3 (15 minutes).

(ii) For the purpose (1) above, a monitoring device is a device which is capable accurately of measuring air temperature, wind direction, wind speed, dust concentration, dust particle size and characteristics.

(iii) A monitoring device must be located and operational at all times at the site entrance as so as to be readily inspected by the City.

14. (i) The boundary of any part of the site, which is disturbed and not stabilised, must be fenced with a fence:-

(a) not less than 1.8 metres high

(b) supported by post and chain link fence; and

(c) covered with a material to prevent dust and sand drift and having with a minimum porosity of 50%.

(ii) The fence must be maintained in good condition. The fence must be constructed to a minimum of 1.8 metres high, supported by post and chain link fence and covered with a material to prevent dust/sand drift with a minimum porosity of 50%. The fence must be maintained in good condition for the duration of the works.

15. No later than the earlier of:-

(i) the completion of the works; and
(ii) four months after the date this approval,
the site is to be stabilised with hydromulch containing a colouring agent and cereal rye seed.

16. If any part of the site which has been stabilised becomes not stabilised that area must be
restabilised within 48 hours after becoming not stabilised.

17. Prior to earthworks commencing a pre-works geotechnical report shall be prepared and
submitted to the City. Following completion of works, the Proponent must provide a post
geotechnical report certifying that all work have been carried out in accordance with the pre-
works geotechnical report.

18. No material is to be exported from site (Lot 806) or imported from off-site for the purpose of
the Bulk Earthworks.

19. Prior to the commencement of any work:-
   (i) a Fauna Survey and Relocation Management Plan must be prepared which:-
      (a) identifies all fauna on site; and
      (b) sets out how, when and where the fauna is to be relocated;
   (ii) the plan must be implemented, including the relocation of all fauna; and
   (iii) a copy of the plan and a report as to its implementation must be given to the City.

20. A fence restricting vehicle and pedestrian access to the remnant bushland is to be
constructed along the southern boundary of the approved bulk earthworks area; to protect
native vegetation.

21. All chemical and fuel storage drums shall be kept within a bunded compound, designed to
contain leaks or spills, and to prevent contamination of soil or groundwater.

22. All truck access into and from the site must only occur from the existing access way at the
northern extent of Lot 806 on Mandurah Road.

FOOTNOTES TO APPROVAL
This approval is issued by the City of Rockingham subject to the following Footnotes:-

(i) If the development the subject of this approval has not substantially commenced within a
period of two years from the date of this letter, the approval shall lapse and be of no further
effect. Where an approval has so lapsed, no development shall be carried out without the
further approval of the Council having first been sought and obtained.

(ii) The earthworks levels approved as part of this application should not be construed as being
the final design levels of the site which will be determined by a future subdivision application.

(iii) The development must comply with the Environmental Protection (Clearing of Native
Vegetation) Regulations 2004; the proponent should liaise with the Department of
Environment and Conservation in this regard.

(iv) The proponent is advised that any Federal referral requirements relating to the Bulk
Earthworks are the responsibility of the proponent following determination of the Planning
Application.

(v) The development must comply with the Environmental Protection (Noise) Regulations 1997;
observance with this requires that work shall only be carried out between 7am and 7pm
Monday to Saturday (excluding public holidays) and in accordance with control of noise
practices set out in section 6 of AS2436-1981, Guide to Noise Control on Construction,
Maintenance and Demolition Sites.

(vi) The proponent is advised that any groundwater abstraction in this area for purposes other
than domestic and/or stock watering taken from the superficial aquifer is subject to licensing
by the Department of Water. The issuing of a groundwater licence is not guaranteed but if
issued will contain a number of conditions that are binding upon the licensee. Please note
that this area has reached its allocation limit and there is no guarantee that any request for
allocation will be approved. The proponent is advised to contact the Department of Water’s
Licensing Section in the Mandurah Region on 9550 4222 to discuss water management
options.

Committee Voting – 4/0
<table>
<thead>
<tr>
<th><strong>The Committee’s Reason for Varying the Officer’s Recommendation</strong></th>
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<tr>
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<tr>
<td>Reference No &amp; Subject:</td>
<td>SP-039/13 Proposed Home Business (Kite Boarding Office, Storage and Commercial Vehicle Parking)</td>
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<td>--------------------------------</td>
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<tr>
<td>File No:</td>
<td>DD020.2013.00000085.1</td>
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<tr>
<td>Proponent/s:</td>
<td>Ms S Cockram &amp; Mr J Lewis</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Riaan Stassen, Senior Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr Dave Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
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<tr>
<td>Date of Committee Meeting:</td>
<td>15 July 2013</td>
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<td>Previously before Council:</td>
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<td>Disclosure of Interest:</td>
<td>Tribunal</td>
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<td>Nature of Council’s Role in this Matter:</td>
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<tr>
<td>Site:</td>
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</tr>
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<td>MRS Zoning:</td>
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<td>Maps/Diagrams:</td>
<td>1. Location Plan - Subject Property</td>
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<td>2. Location Plan - Traders’ Licence</td>
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<td>3. Photos taken January 2013</td>
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<td>4. Aerial Photo</td>
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<td>5. Photo of Commercial Vehicle</td>
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<td>6. Photo of property form Safety Bay Road</td>
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<td></td>
<td>7. Site Plan (from applicants)</td>
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<td>8. Consultation Plan</td>
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</tbody>
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Note: With the agreement of all Committee members present, Mr Sydney & Mrs Karen Fee of 258 Safety Bay Road, Safety Bay addressed the Committee and advised that they objected to the proposal and requested the Committee to not support the application.
Purpose of Report

To consider an application seeking Planning Approval for a Home Business (West Oz Kite Boarding) at Lot 15 (No.260) Safety Bay Road, Safety Bay.

Background

Traders’ Licence

The owners of the subject property have a Leisure and Tourism Traders’ Licence (Licence), under West Oz Kite Boarding, to operate a ‘Kite Surfing and Paddle Boarding’ business from Mersey Point, Shoalwater. The owners also have a Department of Environment (DEC) licence to operate at in the Shoalwater Marine Park, which extends from north of Mersey Point to the Pond. West OZ Kite Boarding currently operates from Mersey Point and utilises the ‘Pond’ when weather conditions are not appropriate at Mersey Point.

The conditions of the current Licence are as follows:-

1. Location to which the Licence applies: Mersey Point, Shoalwater;
2. Description of stand, table, structure or vehicle to be used by the licensee: Van, trailer and signs;
3. Goods or Services to be sold or hired: Kite surfing and stand-up paddle boarding lessons;
4. Name address of assistants: Jason Lewis and Sonya Cockram;
5. Approved days of operation: 7 days per week;
6. Approved hours of operation: 10.00am – 7.00pm (when windy); and
7. Other conditions: October – March.
Home Business
The proponents have been operating a kite boarding business the City for the past 13 years.
The City has in recent years received various complaints regarding ‘unauthorised activities and business operations’ conducted from the subject property.
The City received 4 complaints between December 2010 and January 2011 alleging that various activities were being undertaken (i.e. Shop, Short Stay Accommodation/Hostel, unauthorised signage and Kite Surfing Business) from the premises. At that time the owner of West Oz Kite Boarding did not reside at No.260 Safety Bay Road, Safety Bay and advised that a business was not operating from the property. The operators also advised that they were unaware that approval was required for signage associated with the mobile business that they operated on the foreshore opposite the subject property. At that time the City had insufficient evidence to prove that any business/use was operating from the property in contravention of Town Planning Scheme No.2 (TPS2). The owner did remove the signage on-site and subsequently applied for Planning Approval to have two signs to be located on the foreshore.
In November 2011, the Western Australian Planning Commission (WAPC) granted Planning Approval for an ‘A’ frame sign and Banner Sign on the foreshore reserve opposite No.260 Safety Bay Road, Safety Bay.
In January and February 2013, the City received two further complaints alleging that an authorised Kite Surfing Business, Shop and Short Stay Accommodation were still being undertaken from the premises.
In January 2013, the City advised the proponents that Planning Approval was necessary for a Home Business and that they may be in breach of TPS2.
In January 2013, the business/property owners responded and advised that instructors had been staying at the property, with up to 6 people at any one time. The owners advised that the Short Stay Accommodation had now ceased and that they had removed accommodation advertising from their website. It was also advised that the Kite Surfing business was primarily a mobile business and their administration duties were primarily undertaken from the premises with the occasional customer coming to purchase/hire equipment. It was also advised that a vehicle was parked at the property when not used in association with the mobile business.
In March 2013, following the City’s investigation it was considered that the owners were conducting a business and providing Short Stay Accommodation which failed to comply with TPS2 and was in breach of the Planning and Development Act 2005. The operators of West Oz Kite Boarding were instructed to cease using the property for ‘Short Stay Accommodation purposes, which is a prohibited use within a Residential Zone.

The owners were also instructed that the retail sale and hire of goods is not permitted within a Residential Zone and that depending on the operation of the business it may be possible to seek Planning Approval for the Home Business.

3. Photos taken January 2013

In April 2013, the City received the application for Planning Approval from West Oz Kite Boarding.

Details

The proposed Home Business includes the office component of the Kite Boarding business and the storage of related equipment only. The parking of a Commercial Vehicle is also proposed.

Details of the proposal are as follows:
- The hours of operation are between 9:00am to 5:00pm, 7 days per week between November and March annually;
- The Home Business is to consist of an 8m² area within the house for administrative purposes and a 24m² area within a rear shed for storage purposes;
- Only internet sales are to be conducted from the property (Planning Approval not required);
- Two of the occupants (i.e. the Proponents) whom reside at the house are to be employed in the business; Four instructors work on a seasonal basis (October to March) in association with the Kite Boarding and Paddle Boarding business off-site (Mersey Point or the Pond);
- A 0.2m² sign is to be erected to re-direct clientele to Mersey Point (location of the Leisure and Tourism Traders Licence);
- A van (6.5m/1.7 tonne) and two trailers (4.3m/1.2 tonne combined) are to be parked on the premises containing the kite surfing and paddle boarding equipment. The vehicle will be kept overnight at the premises and when the business and classes are not in operation at Mersey Point.
- The Commercial Vehicle leaves the premises in summer months at approximately 9:00am on weekends and 12:00 noon during the week (weather permitting). The vehicle returns to the property no later than 8:00pm;
- On Saturday mornings the commercial vehicle collects the second trailer which is returned to the property in the afternoon;
- Some Kite boarding and paddle boarding equipment needs to be stored at the premises, especially in the off-season (April - September);
- Couriers will collect and deliver equipment from/to the premises 1 to 2 times per week;
- Parking is proposed to be accommodated in the driveway of the premises; and

The proponent has advised that clients and customers will be discouraged to visit the premises and all classes and related business will be undertaken at the beach at Mersey Point.

4. Aerial Plan
5. Commercial Vehicle

6. Photo of property from Safety Bay Road
7. Site Plan (as submitted)
Implications to Consider

a. Consultation with the Community

In accordance with clause 6.3.3 of TPS2 and Planning Policy 3.3.10 - Home Occupations and Home Businesses (PP3.3.10), the application was referred to adjacent and nearby land owners for comment for a period of 14 days.

At the close of the advertising period, twenty two submissions in objection were received. 17 of the submissions received were completed using pro-forma forms. It should be noted that three of the submissions received are from adjoining owners. The remaining nineteen are from residents outside the immediately affected area. The consultation plan below shows which residents were consulted:

The following concerns were raised:

(i) ‘Business’ and ‘Short Stay Accommodation’ are not allowed in Residential zones;
(ii) Non-compliance with Planning Policy 3.3.10;
(iii) Impacts on residential amenity (illegal signage / illegal business and backpackers’ accommodation);
(iv) Increasing traffic & parking safety issues;
(v) Decreased property values;
(vi) Excessive noise and disturbance (faulty air compressor / anti-social behaviour);
(vii) Illegal parking of a ‘Commercial Vehicle’ on a residential property; and
(viii) Privacy and security issues.

Upon review of the submissions received it is clear that the business activities of West OZ Kite Boarding have had an adverse impact on the amenity of neighbours in terms of the activities associated with the backpacker accommodation and clients visiting the premises. It is important to note that the current application is a significantly modified proposal to what was previously operating. The offending activities associated do not form part of the modified application.

b. Consultation with Government Agencies

Not Applicable
c. **Strategic**

**Community Plan**

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

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

d. **Policy**

**Planning Policy 3.3.10 – Home Occupations and Home Businesses**

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

The objectives of the PP3.3.10 are as follows:

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

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

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

The application was assessed against the assessment criteria of PP3.3.10 which include the following:

**Method of Operation**

“(i) Method of Operation – The operation of the Home Business must not cause injury to or adversely affect the amenity of the neighbourhood. A Home Business that involves the retail sale, display or hire of goods of any nature will not be permitted. 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.”

**Comment**

The proponent has stated that the residence will be used to conduct the administrative tasks of the business and receive deliveries. All other business related activity (retail sale and hire of goods) will be restricted to Mersey Point, being the location of their current Leisure and Tourism Traders Licence. As they also need to store their equipment in the existing shed and keep their Commercial Vehicle and trailers on the property, the proposal cannot be dealt with as a Home Office. PP3.3.10 makes provision for a mobile business of this nature, without adversely affecting the amenity of the neighbourhood.

**Scale of Operation**

“(ii) Scale of Operation - 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 50m²; and

- does not involve the use of an essential service of greater capacity than normally required in the zone.

**Comment**

The proponents employ up to four instructors during the peak season to operate off-site and do not attend the property. The Proponents are to be the only employees involved in the Home Business.
The total area to be used for the purposes of the Home Business is 32m², which complies with the 50m² area under PP3.3.10.

The retail sale and hire of goods, other than internet sales, will be restricted to the location of the Leisure and Tourism Traders Licence at Mersey Point.

Traffic

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

Comment

The Home Business proposal includes the storage of equipment and administrative activities associated with the off-site Kite Boarding business. On the basis that clients will be directed to Mersey Point, it is considered that this arrangement will not impact neighbours.

The Proponent advises that Couriers will continue to collect and deliver equipment from/to the premises 1 to 2 times per week. A submissioner has contended that actual deliveries are up to 5-6 per week. Should couriers attend the property up to 5-6 times per week, which equates to less than 1 visit per day, it is still considered that this arrangement will maintain the amenity of the neighbourhood.

Parking

“(iv) Parking - 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 result in traffic difficulties as a result of the inadequacy of parking.

Comment

The modification of the business component (retail sale and hire of goods) to be restricted to Mersey Point will ensure that visitor parking is primarily limited to courier vehicles. The provision of one parking bay is sufficient for accommodating courier deliveries.

Signage

“(v) Advertising signs - In accordance with the Town Planning Scheme No.2, a Home Business is permitted to display a sign not exceeding 0.2m² in area.

Comment

The Proponents have indicated that they would like to make use of the signage option as a re-direction tool advising clients to proceed to Mersey Point.

Planning Policy 3.3.13 – Parking of Commercial Vehicles in Residential Zones

Planning Policy 3.3.13 – Parking of Commercial Vehicles in Residential Zones (PP3.3.13) sets out policy objectives and provisions which the Council must have regard to in the assessment and determination of applications for planning approval for Commercial Vehicles within a Residential Zone.

As stated in the statutory section, only the van falls into the interpretation of a Commercial Vehicle, which is explained in the Legal and Statutory section of this report.

The application was assessed against the assessment criteria of PP3.3.10, as follows:

Amenity

Clause 4.1 of PP3.3.13 specifies that Commercial Vehicle should not adversely impact upon the amenity of the locality. TPS2 defines 'amenity' as all those factors that combine to form the character of an area and include the present and likely future amenity.
Comment
The vehicle is a large van and is used for carrying equipment to Mersey Point, or an alternate location. The impact on neighbours is considered to be negligible given the commercial vehicle leaves the site once in the morning between 9:00am and 12:00 noon and arrives back at the property no later than 8:00pm. On Saturday mornings the commercial vehicle collects the second trailer which is returned to the property in the afternoon.

On-site Parking
Clause 4.2 of PP3.3.13 states that the Commercial Vehicle must be parked entirely within the subject property, and should be contained behind the building setback line. Where possible, the vehicle should also be parked to the rear of the residence and screened from view of the street and from neighbouring properties. Only one Commercial Vehicle is generally permitted to be parked on a residential property.

Comment
The Commercial Vehicle is to be parked the rear of the property within a driveway which runs along the eastern side of the dwelling and behind existing gates. The parking location is considered to be well screened from the street and neighbouring properties.

Access
Clause 4.2 of PP3.3.13 states that access to the property on which the Commercial Vehicle is to be parked is to be via a crossover that has been constructed to the Council’s specifications. The parking of the Commercial Vehicle should not preclude domestic vehicles from parking at the property.

Comment
The crossover will need to be upgraded to comply with the PP3.3.13 in this regard. A condition is recommended accordingly.

e. Financial
Nil

f. Legal and Statutory

Home Business
A ‘Home Business’ is a discretionary (‘D’) use that is not permitted in the Residential Zone, unless the Council has exercised its discretion by granting Planning Approval. TPS2 defines a Home Business as follows:

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

Clause 4.16.1 of TPS2 states that 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 complies with the abovementioned parameters.
The proposed business is to occupy an area of 32m² and involves a Commercial Vehicle with a tare weight less than 3.5 tonnes parked at the property. Whilst the business includes instructors off-site, the staff involved in the business on-site will be limited to the two current owners of the property. The four kite boarding and paddle boarding instructors will work off-site.

Traffic generated by the business is to be limited to parking of the commercial vehicle and delivery vehicles only. The proposed business will not result in any traffic difficulties or inadequate parking on-site and is unlikely to adversely impact neighbouring properties.

The proposal is considered to be compliant with the interpretation of a Home Business in accordance with TPS2.

Commercial Vehicle Parking

TPS.2 defines a 'Commercial Vehicle' “as a vehicle, whether licensed or not, which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing, includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or any earthmoving machine, whether self-propelled or not. The term shall not include a vehicle designed for use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes.”

Clause 4.17.1 of Town Planning Scheme No.2 states that a person shall not park or permit to be parked a licensed or unlicensed Commercial Vehicle in the Residential, Special Residential or Development (residential use class) zones, unless planning approval has been granted.

Clause 4.17.2 of TPS2 requires, in assessing applications for planning approval, the Council to take into account the objectives of the particular zone, any Policy pertaining to that zone which Council may from time to time adopt as well as specific issues. These include on-site parking location, potential impacts on neighbouring residents in terms of noise, emissions, visual appearance or any other nuisance, frequency and times of arrival/departure, parking duration, the use of the vehicle and whether such vehicle is to be used for business purposes operating out of the premises on a call-out basis.

Compliance

If the proposal is approved, the proponent is legally required to comply with all of the conditions of Planning Approval. Failure to comply with any conditions of Planning Approval means that the business is in breach of TPS2, which may result in enforcement action being undertaken by the City

Comments

Response to Submissions:

With respect to the objector’s concerns, the following comments are provided:-

(i) ‘Business’ and ‘Short Stay Accommodation’ is not allowed in Residential Zones

Concerns were raised that the residential amenity of the locality is compromised by the unauthorised business and short stay activities.

Comment

The proponent has confirmed that the unauthorised ‘Short Stay Accommodation’ use has ceased and will not occur. The proponent has also advised that the retail and hire component of the business will be limited to occurring at Mersey Point at the location of their Leisure Tourism Licence. The Home Business will still involve couriers coming to the property to deliver goods, however, the point of sale and collection of goods by customers and clients will no longer occur at the premises.

(ii) Non-compliance with PP3.3.10.

The objectors are concerned that based upon the previously unauthorised activities the proposal will not conform to PP3.3.10.
Comment
As detailed in the Policy section, the proponent has provided written confirmation that the activities have been scaled down to within the parameters of PP3.3.10 to conform and legalise their business operations. The application is considered to be compliant with PP3.3.10.

(iii) Impact on residential amenity
The objectors are concerned about existing illegal activities having an impact on the residential amenity.

Comment:
“*To secure the amenity, health and convenience of the neighbourhood through appropriate development requirements*, is the primary objective of this Planning Policy.

The submitted application is unlikely to affect the amenity, health and convenience of neighbours based upon the City’s assessment of the proposal for compliance with PP3.3.10 and TPS2.

(iv) Traffic & Parking Safety
Concerns were raised about obstructive parking on road verges creating unsafe vehicular and pedestrian movement.

Comment:
A condition requiring signage which re-directs clients to the location of the Leisure and Tourism Traders Licence at Mersey Point (as proposed by the Proponent) will limit visitors to the property attending by chance. Further conditions which restricts staff, clients and customers from attending the premises at any time will ensure the impacts on the amenity of adjoining resident’s is protected.

(v) Decreased Property Values
The objectors are of the opinion that their property values are affected by the unauthorised activities.

Comment:
The impact of the proposal on the property values is not a relevant planning consideration.

(vi) Excessive Noise and disturbance
Concerns were raised about excessive noise caused by the "backpackers".

Comment:
The increased activity created by the previously unauthorised retail component of business and Short Stay Accommodation, had the potential to result in excessive noise and overall disturbance to neighbours. The anti-social behaviour associated with the ‘backpacker’ component has now been removed and proposal modified to limit retail sales to occurring only off-site, which the City understands as being the main sources of noise disturbance.

The proponent advises that the air compressor has now been fixed so no leakage will occur during the night.

(vii) Illegal Parking of a ‘Commercial Vehicle’ on a residential property
The objectors raised the fact that a ‘Commercial Vehicle’ is kept on the property without the required approval.

Comment:
In accordance with TPS2 a Commercial Vehicle is not permitted to be parked / kept on a residential property, unless Planning Approval is granted under PP3.3.10. The commercial vehicle currently kept on the premises is considered to be compliant with PP 3.3.10. and TPS2.

(viii) Privacy and Security issues
Concerns were raised about prospective clients and ‘backpackers’ entering neighbouring properties in search of West Oz Kite Boarding and dismantling the equipment on the front lawns.
Comment:
The concerns regarding privacy and security breaches are directly linked to the previous ‘backpackers’ accommodation. The Proponents have ceased this activity, as it is not permitted in a Residential zone. The controlled operation of business, which does not include clients visiting the site will minimise the impact on neighbours.

Conclusion
The City considers that objections raised in submissions understandably expressed concerns with the operation of West OZ Kite Boarding associated with backpacker accommodation and clients visiting the premises. The proponent has ceased backpacker accommodation and clients are not proposing to visit the premises. The application for a Home Business for an office, storage of equipment and parking of a van and trailer is considered to be consistent with TPS2 and PP 3.3.10 and 3.3.13.

On the basis that the business is mobile, instructors and clients activities mainly occur on the beach near the pond or at Mersey Point, it is recommended that the Council grant Planning Approval to the application for a Home Business (Kite Boarding Office, Storage and Commercial Vehicle Parking) subject to conditions that are intended to maintain the amenity of the area.

Voting Requirements
Simple Majority

Officer Recommendation

That Council **APPROVE** the application for a Home Business (Kite Boarding office and Storage) and Commercial Vehicle Parking at Lot 15 (No. 260) Safety Bay Road, Safety Bay, subject to the following conditions:

1. This Planning Approval is valid for a period of 12 months only. Prior to the expiry of this approval a renewal of Planning Approval is required.
2. All clients, customers, and instructors must not attend the premises at any time.
3. Provision of a sign measuring no more than 0.2m² is to be displayed at the property re-directing clients to the location of the Leisure and Tourism Traders Licence at Mersey Point. The sign is to be retained on-site at all times and located in a visible location to the satisfaction of the City.
4. The display or retail sale of goods must not be carried out from the premises.
5. The Commercial Vehicle must be parked entirely within the property at the rear of the residence whenever it is present on the property.
6. Major repairs to the Commercial Vehicle must not be carried out on-site, the verge or the street, at any time. Minor servicing, including small mechanical repairs and adjustments and cleaning (except degreasing) that generates easily-contained liquid waste may be carried out on-site.
7. Courier and delivery vehicles must be parked on-site when making deliveries to the property.
8. The crossover, driveway and visitor bay is to be constructed (using bitumen, concrete or brick paving) to the satisfaction of the City, prior to 1 October 2013.
9. Short Stay Accommodation is not permitted to operate at the property at any time.

Committee Recommendation

That Council **APPROVE** the application for a Home Business (Kite Boarding office and Storage) and Commercial Vehicle Parking at Lot 15 (No. 260) Safety Bay Road, Safety Bay, subject to the following conditions:

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Committee Voting – 4/0

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