

Rockingham

MINUTES

Planning and Engineering Services Committee Meeting

Held on Monday 19 April 2021 at 4:00pm City of Rockingham Chambers



where the coast comes to life

City of Rockingham Planning and Engineering Services Committee Minutes Monday 19 April 2021



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City of Rockingham Planning and Engineering Services Committee Minutes



Monday 19 April 2021 - Council Chambers

	Monday 19 April 2021 - Council Chambers			
1.	Declar	Declaration of Opening		
	The Chairperson declared the Planning and Engineering Services Committee meeting open at 4:00pm , welcomed all present, and referred to the Acknowledgement of Country.			
2.	Record	Record of Attendance/Apologies/Approved Leave of Absence		
	2.1	2.1 Councillors		
		Cr Mark Jones	Chairperson	
		Cr Hayley Edwards		
		Cr Barry Sammels		
		Cr Lorna Buchan		
		Cr Deb Hamblin (Deputy Mayor)		
	2.2	Executive		
		Mr Michael Parker	Chief Executive Officer	
		Mr Peter Ricci	A/Director Planning and Development Services	
		Mr Peter Doherty	Director Legal Services and General Counsel	
		Mr Sam Assaad	Director Engineering and Parks Services	
		Mr Brett Ashby	Manager Strategic Planning and Environment	
		Mr James Henson	Manager Land and Development Infrastructure	
		Mr Mike Ross	Manager Statutory Planning	
		Ms Erica King	Manager Health and Building Services	
		Mr David Caporn	Manager Compliance and Emergency Liaison	
		Mr Ian Daniels	Manager Infrastructure Project Delivery	
		Mr Manoj Barua	Manager Engineering Services	
		Mr Tony Bailey	A/Manager Asset Services	
		Mr Cyril Sharrock	A/Manager Parks Services	
		Mr Peter Varris	Manager Governance and Councillor Support	
		Ms Michelle Ebert	Business Analyst	
		Ms Melinda Wellburn	EA to Director Planning and Development Services	
		Ms Andrea Holman	EA to Director Engineering and Parks Services	
	2.3	Members of the Gallery:	6	
	2.4	Apologies:	Nil	
	2.5	Approved Leave of Absence:	Nil	
3.	Responses to Previous Public Questions Taken on Notice			
	Nil			

4. **Public Question Time** 4:01pm The Chairperson opened Public Question Time and invited members of the Public Gallery to ask questions. The Chairperson noted that this was the only opportunity in the meeting for the public to ask questions. 4.1 Mr James Mumme. Shoalwater - PD-013/21 - Conservation of Little Penguin Population (Eudyptula minor) at Penguin Island and Health Services **Bulletin Item 3.3 - Mosquito Control** The Chairperson invited Mr Mumme to present his questions to the Planning and Engineering Services Committee. Mr Mumme asked the following questions: (Preamble to Questions) I affirm the Report, particularly its frank recognition of the plight of the little penguins, and congratulate Council on pursuing this matter. Why is the purpose of this report limited to "further advocacy with the State Government? What about Commonwealth DoE? Community? implications for tourism at PI? The Chairperson advised that the State Government is the focus of advocacy as, through the DBCA, it is responsible for the management of the Marine Park and Penguin Island. What 'natural causes' of the decline in penguin numbers are referred to here? As I recall Dr Cannell's concerns about causes of the decline, the main ones were anthropogenic - climate change leading to loss of food, boat strikes, trampling. The Chairperson advised that La Nina weather patterns and penguin mating habits are natural factors that have contributed to the mortality of the Little Penguins. 3. Why did the CEO not advise the relevant Ministers. Hon Alanna MacTiernan and Hon Don Punch, the new Minister for Environment, the Hon Amber-Jade Sanderson as well as the DGs? The Chairperson advised that the Council resolution, arising from the Annual General Meeting of Electors in December 2020, directed the CEO to advise the relevant State Government departments in response to the matters raised at the meeting. Mr Michael Parker, Chief Executive Officer advised that the matter had also been raised with Premier Mark McGowan and Minister for Tourism, Hon Paul Papalia. Why is it not considered worthwhile to consult with the community especially given that the Community's vision is trotted out below in support of the Report? The Chairperson advised that community engagement is not considered necessary for the purposes of establishing Council's position on this matter, as the community's support for the conservation of the Little Penguin colony is well known. Further community engagement, with respect to management actions, is a matter for consideration by the DBCA as the responsible authority. In view of the high numbers of tourists accessing PI under normal 5. situations does Council consider there is a contradiction between need for penguins to be safe from impacts of tourists and the needs of local businesses for tourists, and if so how can this be resolved? How should numbers be reduced? The Chairperson advised that the Management Plan being sought to guide the conservation of the Little Penguin colony would presumably consider the impacts of tourist visitation in reaching its conclusions and recommendations. The City does not have a view on preferred visitor numbers but understands that a balance needs to be reached between conservation and tourism.

Mosquito Control Program (Appendix 1)

(Preamble to Question) Since 1996 the City has been part of a group that "applies a mosquito specific chemical to the Serpentine River saltmarsh" by helicopter and by hand.

6. What chemicals have been used in this program to date?

The Chairperson advised the chemicals applied are S-methoprene and BTI. They are both larvicides that specifically target mosquito larvae.

S-methoprene is an insect growth regulator and is target specific to mosquito larvae. It interferes with the larvae development so they are unable to emerge to adult mosquitoes.

BTI is bacillus based which a naturally occurring soil bacterium formulated to kill mosquito larvae when ingested.

Both chemicals are used because they are environmentally sensitive with no adverse effects on humans, pets and other animals, aquatic life, insects or bees.

4.2 Mrs Leilani Easton, Port Kennedy - Proposed Footpath along St Raphael Crescent, Port Kennedy

The Chairperson invited Mrs Easton to present her questions to the Planning and Engineering Services Committee. Mrs Easton expressed her concerns regarding the location of the proposed footpath on the residential side of St Raphael Crescent, rather than on the Reserve side. Pedestrians and cyclists would be required to cross over 17 driveways and six road crossings.

Mrs Easton also explained that the delay in receiving correspondence from the City only provided residents a total of four days to make a submission. Mrs Easton then asked the following question:

1. What is the possibility of the footpath being constructed on the Reserve side of St Raphael Crescent?

Mr Sam Assaad, Director Engineering and Parks Services advised that the proposed footpath is in the concept stage only. The delay in Australian Post deliveries would be taken into account and encouraged Mrs Easton and other residents to make a submission, regardless of the deadline.

4.3 Mr Phil Reilly, Golden Bay - PD-014/21 - Joint Development Assessment Panel Application - Mixed Commercial Development

The Chairperson invited Mr Reilly to present his questions to the Planning and Engineering Services Committee. Mr Reilly expressed concerns regarding the construction phase of the proposal, with respect to graders and compactors on-site and the effect to his property.

The Chairperson advised that this is an item on today's Agenda and would be discussed later in the meeting, however, machinery and excessive noise etc would be dealt with at the building stage, should the proposal be approved.

4:13pm There being no further questions the Chairperson closed Public Question Time.

5. Confirmation of Minutes of the Previous Meeting

Moved Cr Sammels, seconded Cr Hamblin:

That Committee **CONFIRMS** the Minutes of the Planning and Engineering Services Committee meeting held on 15 March 2021, as a true and accurate record.

Committee Voting (Carried) - 5/0

6.	Matters Arising from the Previous Minutes				
	Nil				
7.	Annour	Announcement by the Presiding Person without Discussion			
	4:14pm	4:14pm The Chairperson announced to all present that decisions made at Committees of Council are recommendations only and may be adopted in full, amended or deferred when presented for consideration at the next Council meeting.			
8.	Declara	Declarations of Members and Officers Interests			
	4:14pm The following Declarations of Interest were made:				
	8.1	Item PD-014/21	PD-014/21 - Joint Development Assessment Panel Application - Mixed Commercial Development		
		Councillor/Officer:	Cr Edwards		
		Type of Interest:	Impartiality		
		Nature of Interest:	Cr Edwards' colleague owns Anytime Fitness, Secret Harbour. Anytime Fitness is mentioned in the submissions		
		Extent of Interest:	Not Applicable		
	8.2	Item EP-007/21	Council Policy - Memorials in Public Places		
		Councillor/Officer:	Cr Edwards		
		Type of Interest:	Impartiality		
		Nature of Interest:	Cr Edwards' employee has a memorial and has made a submission		
		Extent of Interest:	Not Applicable		
	8.3	Item EP-007/21	Council Policy - Memorials in Public Places		
		Councillor/Officer:	Cr Hamblin		
		Type of Interest:	Impartiality		
		Nature of Interest:	Cr Hamblin made a submission		
		Extent of Interest:	Not Applicable		
9.	Petition	ns/Deputations/Pre	esentations/Submissions		
	Nil				
10.	Matters	for which the Mee	eting may be Closed		
	Nil				
11.	Bulletin	Bulletin Items			
	Planning	Planning and Development Services Information Bulletin - April 2021			
	Health Services 1. Health Services Team Overview 2. Human Resource Update				

- 3. Project Status Reports
 - 3.1 FoodSafe
 - 3.2 Industrial and Commercial Waste Monitoring
 - 3.3 Mosquito Control Program
 - 3.4 Environmental Waters Sampling
 - 3.5 Food Sampling
- 4. Information Items
 - 4.1 Food Recalls
 - 4.2 Food Premises Inspections
 - 4.3 Public Building Inspections
 - 4.4 Outdoor Event Approvals
 - 4.5 Permit Approvals
 - 4.6 Complaint Information
 - 4.7 Noise Complaints Detailed Information
 - 4.8 Health Approvals
 - 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 Bookings for Halls and Reserves
 - 4.15 Food Safety Education

Building Services

- Building Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Monthly Building Permit Approvals (All Building Types)
 - 4.2 Other Permits
 - 4.3 Monthly Caravan Park Site Approvals
 - 4.4 Improvements in Application Lodgement

Compliance and Emergency Liaison

- 1. Compliance and Emergency Liaison Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Ranger Services Action Reports
 - 4.2 Building and Development Compliance
 - 4.3 Emergency Management Beach Emergency Numbers (BEN) Signs
 - 4.4 Fire Prevention CRMs March 2021
 - 4.5 SmartWatch Key Result Areas

Strategic Planning and Environment

- 1. Strategic Planning and Environment Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Local Planning Strategy
 - 3.1.1 Sustainable Transport Strategy
 - 3.1.2 Environmental Planning Strategy
 - 3.2 Baldivis Tramway Environmental Assessment
 - 3.3 Lake Richmond Management Plan Implementation Thrombolite Study

mark for

- 3.4 Coastal Hazard Risk Management and Adaptation Plan Implementation
- 3.5 Karnup District Structure Plan
- 4. Information Items
 - 4.1 Structure Plan Assessment Status
 - 4.2 Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 Summary of Report Findings

Land and Development Infrastructure

- 1. Land and Development Infrastructure Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Managed Aquifer Recharge (MAR) Feasibility Study
- 4. Information Items
 - 4.1 Nairn Drive Duplication Project
 - 4.2 Referrals
 - 4.3 Delegated Land and Development Infrastructure Assets Approvals
 - 4.4 Handover of Subdivisional Roads
 - 4.5 Delegated Subdivision Engineering and Public Open Space Practical Completions
 - 4.6 Delegated Authority to Approve the Release of Bonds for Private Subdivisional Works

Statutory Planning

- 1. Statutory Planning Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Pedestrian Access Way Strategy Review
 - 3.2 Conservation Plan fmr Roads Board Museum
 - 3.3 Review of Planning Policy 3.3.1 Control of Advertisements
 - 3.4 Review of Planning Policy 3.3.21 Heritage Conservation and Development and Website Heritage Information Sheet
- 4. Information Items
 - 4.1 Subdivision/Development Approval and Refusals by the WAPC
 - 4.2 Notifications and Gazettals
 - 4.3 Subdivision Clearances
 - 4.4 Subdivision Survey Approvals
 - 4.5 Subdivision Lot Production
 - 4.6 Delegated Development Approvals
 - 4.7 Delegated Development Refusals
 - 4.8 Delegated Building Envelope Variations
 - 4.9 Subdivision/Amalgamation Approved
 - 4.10 Strata Plans
 - 4.11 Subdivision/Amalgamation Refused
 - 4.12 Update Development Approval Lucy Saw Dwelling Lot 16 (No.65) Parkin Street, Rockingham
 - 4.13 Proposed Modifications to Existing Golf Course and Construction of New Maintenance Facilities Lot 3007 Port Kennedy Drive, Port Kennedy

Planning and Development Directorate

- 1. Planning and Development Directorate Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Rockingham Strategic Metropolitan Centre Local Planning Framework Review (LUP/2134)

mark for

- 3.2 Design Review Panel (LUP/2094)
- 4. Information Items

Advisory Committee Minutes

Committee Recommendation

Moved Cr Buchan, seconded Cr Sammels:

That Councillors acknowledge having read the Planning Services Information Bulletin - April 2021 and the content be accepted.

Committee Voting (Carried) - 5/0

Engineering and Parks Services Information Bulletin - April 2021

Engineering and Parks Services Directorate

- 1. Engineering and Parks Services Directorate Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Bushfire Risk

Asset Services

- Asset Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Drainage Condition Audit
 - 3.2 Drainage Catchment Survey Audit
 - 3.3 Road Reserve Condition Audit
 - 3.4 Reserve Electrical Asset Mapping
- 4. Information Items
 - 4.1 Asset Maintenance Team
 - 4.2 Asset Maintenance Buildings
 - 4.3 Asset Maintenance Reserves
 - 4.4 Strategic Asset Management

Infrastructure Project Delivery

- 1. Infrastructure Project Delivery Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Animal Pound Refurbishment Ventilation Improvement
 - 4.2 Bus Shelter Replacement 8 Replacements, 1 Refurbishment
 - 4.3 Eighty Road (Safety Bay Road to Oak Way (North)), Baldivis Install Kerbing, Drainage and Footpath
 - 4.4 Ennis Avenue (Patterson Road to Dixon Road), Rockingham Construct Red Asphalt Shared Path
 - 4.5 Emerald Park and Phoebe Hymus Reserves, Rockingham Replace aged barbecues
 - 4.6 Georgetown Reserve-Floodlighting upgrade
 - 4.7 Gnangara Drive (Read Street to Santa Monica Drive), Waikiki Install Traffic Treatments
 - 4.8 Griggs Way, Rockingham Drainage Upgrade
 - 4.9 Griggs Way (Safety Bay Road to Bell Street), Rockingham Footpath Construction

- 4.10 Hourglass Reserve clubrooms-Internal/External refurbishment
- 4.11 Installation of LED video wall at Mike Barnett Sports Complex
- 4.12 Lark Hill Sporting Complex Hockey Field Light Pole and Luminaire Replacement, Port Kennedy
- 4.13 Lark Hill Sporting Complex Hockey Turf Replacement, Port Kennedy
- 4.14 Palomino Reserve, Baldivis Replace light poles and luminaires
- 4.15 Paul Garnett Reserve, Cooloongup Replace toilet partitions
- 4.16 Playground Replacements 2020-2021
- 4.17 Point Peron Boat Launching Facility Construct Carpark Extension
- 4.18 Replacement of public toilets various locations
- 4.19 Refurbishment of public toilets various locations
- 4.20 Rockingham Council Administration (Square Entry) Building Disability Compliance Upgrades and Refurbishments to Stair Wells
- 4.21 Rockingham Council Administration Building Disability Compliance Upgrades and Refurbishments to Toilets
- 4.22 Rockingham Council Depot, Rockingham Minor Refurbishment Works & Shed Replacements
- 4.23 Rockingham Gem Club, Rockingham Refurbishment Works
- 4.24 Safety Bay Bowling Club, Safety Bay Structural repairs
- 4.25 Safety Bay Bowling Club, Safety Bay Shed replacement
- 4.26 Secret Harbour Street lighting upgrade
- 4.27 Singleton Volunteer Fire Brigade, Golden Bay meeting room extension
- 4.28 Safety Bay Tennis Club Replace picnic settings/shelters including concrete hardstands
- 4.29 Veterans Memorial skate park lighting installation

Parks Services

- 1. Parks Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Delegated Public Open Space Handovers
 - 4.2 Footpath, Kerb Line and Hardstand Herbicide Programme
 - 4.3 Limestone Vehicle Track, Sawley Close Nature Reserve
 - 4.4 2020 Native Plant Giveaway and Greening Plan Update
 - 4.5 2021 Winter planting, Highbury Boulevard and Baldivis Road Roundabout
 - 4.6 SDOOL pipeline project Site remediation
 - 4.7 Baldivis Dog Park, Maintenance
 - 4.8 Vandalism at Larkhill
 - 4.9 Emergency Access Limestone Track, Telephone Lane, Baldivis

Engineering Services

- 1. Engineering Services Team Overview
- Human Resource Update
- Project Status Reports
 - 3.1 Coastal Facilities Strategy
- 4. Information Items
 - 4.1 Delegated Authority for Temporary Thoroughfare Closure
 - 4.2 Delegated Authority for approval of Directional Signage
 - 4.3 Delegated Authority for approval of Heavy Haulage
 - 4.4 Authorised Traffic Management Plans for Works on City Controlled Roads
 - 4.5 Civil Works Program 2020/2021
 - 4.6 Civil Maintenance Program 2020/2021

mark for

- 4.7 Road Rehabilitation & Renewal Programs 2020/2021
- 4.8 Local Roads and Community Infrastructure Program (LRCI)
- 4.9 Drainage Renewal Program Municipal Works 2020/2021
- 4.10 Footpath Renewal Program Municipal Works 2020/2021
- 4.11 Carpark Renewal Program Municipal Works 2020/2021
- 4.12 Litter and Street Sweeping Program 2020/2021
- 4.13 Graffiti Program 2020/2021
- 4.14 Delegated Authority for the payment of crossover subsidies
- 4.15 Third Party Works within the City
- 4.16 Asset Inspections
- 4.17 Verge Treatment Applications
- 4.18 Verge Issues
- 4.19 Coastal Capital Projects
- 4.20 Coastal Infrastructure Management

Advisory Committee Minutes

Committee Recommendation

Moved Cr Buchan, seconded Cr Sammels:

That Councillors acknowledge having read the Engineering and Parks Services Information Bulletin - April 2021 and the content be accepted.

Committee Voting (Carried) - 5/0

12. Agenda Items

Planning and Development Services

Planning and Development Services Strategic Planning and Environment



Reference No & Subject: PD-013/21 **Conservation of Little Penguin Population** (Eudyptula minor) at Penguin Island

File No: **PKR/51**

Applicant:

Owner:

Author: Mr Rory Garven, Coordinator Sustainability and Environment

Other Contributors: Mr Brett Ashby, Manager Strategic Planning and Environment

Date of Committee Meeting: 19 April 2021

Previously before Council: 27 January 2021 (PD-004/21)

Disclosure of Interest:

Nature of Council's Role in this Matter:

Site:

Lot Area:

LA Zoning:

MRS Zoning:

Attachments:

Maps/Diagrams:

Advocacy

Purpose of Report

To consider further advocacy with the State Government with respect to conservation of the Little Penguin colony at Penguin Island.

Background

The City of Rockingham has been contributing funding towards annual studies, undertaken by Murdoch University, which aim to estimate the population of the Little Penguin (Eudyptula minor) colony at Penguin Island. In addition to providing ongoing estimates of population size, the research also allows for a better understanding of the health, ecology and resilience of the colony. The seabirds are key bioindicators of coastal marine environmental health as they are relatively easily studied and hence changes to specific variables can be easily determined (Cannell 2020).

As a result, the status of the population can be used to gauge the health of the Shoalwater Islands Marine Park, which is managed by the Department of Biodiversity, Conservation and Attractions (DBCA).

The findings of the latest Population Estimate study (2020) have shown an estimated decline of 80% of the overall population size since the initial baseline study was first undertaken in 2007. The rate of population decline also appears to be increasing as the estimated population in 2017 was half the size of the population in 2007 and the population in 2019 was half the size of the population in 2017. Research suggests that the decline can be attributed to a range of anthropogenic and natural influences.

In order to progress the matter, representatives from the City attended a meeting with the DBCA Marine Parks division and two experts from Murdoch University, including Dr Belinda Cannell who oversees the annual monitoring and reporting. The meeting was productive, with many potential conservation actions discussed, however, a formal approach to implementing these actions was not agreed upon.

The declining population is seen as an area of concern for the community with the issue being raised at the City of Rockingham Annual Meeting of Electors in December 2020, when the following Motion was passed for consideration by Council:

"That the Rockingham City Council form a committee to plan, organise and fund the development of whitebait farming to be released as food to the starving little penguins."

The following reason was given by the proponent of the Motion:

"To help the diminishing number of the little penguins (the iconic creature of Rockingham) colony on Penguin Island"

In January 2021, the Council resolved to not support the Motion (PD-004/21) on the basis that the responsibility for management of the penguin population and fish stocks rests with State Government Agencies (DBCA and the Department of Primary Industries and Regional Development). Council did, however, direct the CEO to advise the Directors General of the above agencies of the suggestion put forward by members of the community.

The City considered that the most effective means of addressing the declining population would be for DBCA to prepare a Management Plan to guide conservation actions moving forward. It was also felt that a dedicated Working Group, containing appropriate stakeholders, should be established to progress the matter. On 12 February 2021, the City wrote to the DBCA recommending that the above outcomes be facilitated.

Details

In March 2021, the City received a response from the Director General of the DBCA advising that a Management Plan was already in operation (*Shoalwater Islands Marine Park Management Plan 2007*), an existing Working Group was in place to consider these matters and that consideration would be given to extending this group to include the City and other stakeholders.

The City understands that the next meeting of this group is scheduled for May or June 2021, depending on attendee availability.

Implications to Consider

a. Consultation with the Community

Nil

b. Consultation with Government Agencies

As detailed in the 'Background' section of this Report.

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:

Aspiration 1: Actively Pursue Tourism and Economic Development

Strategic Objective: Coastal Destination - Promote the City as a premier metropolitan

coastal tourism destination.

Aspiration 3: Plan for Future Generations

Strategic Objective: Climate Change Adaptation - Acknowledge and understand the

impacts of climate change, and identify actions to mitigate and

adapt to those impacts.

d. Policy

Nil

e. Financial

Ni

f. Legal and Statutory

Nil

g. Risk

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

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

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

Nil

Comments

Aside from Penguin Island being a major regional tourist attraction, the Little Penguin is important to the community's sense of identity and is also a widely recognised symbol of the City of Rockingham, as it features on the Council Crest and the City logo. The Penguin Island colony is also genetically distinct to all other colonies in southern western Australia, meaning that these birds are globally distinct.

The 2020 Little Penguin Monitoring Report highlighted a number of stressors that are currently being experienced by the colony and causing the overall population to decline. Since the release of this document, the State has not made any commitment to alleviate these stressors by preparing a specific Management Plan or forming a dedicated Working Group to address the issues. The existing Shoalwater Islands Marine Park Management Plan (2007) covers the all management arrangements for the entirety of the Shoalwater Islands Marine Park, not just the Little Penguin colony. During the time that this Management Plan has been in operation, the monitoring program has identified a number of stressors that are impacting upon the resilience of the penguin population. Given that the existing Management Plan was prepared in advance of any knowledge about the decline in numbers, the City considers that it would be prudent for DBCA to prepare a new Management Plan which specifically addresses the threats that have been observed to be contributing to penguin fatalities.

It is also noted that the 2007 Management Plan was scheduled to be replaced in 2017, however, this has not occurred.

Regular reviews of Environmental Management Plans are important in ensuring that recommended actions are targeted towards addressing up-to-date information. The City's Natural Area Conservation Strategy acknowledges that that effective management actions should be based on up-to-date information in a way that enhances capacity to learn from previous actions and continually improve in light of complexity and uncertainty.

In this regard, the current management regime has not effectively addressed the declining population or met the long term objectives of the *Shoalwater Islands Marine Park Management Plan (2007)*, as follows:

1. No reduction in little penguin breeding success on Penguin Island as a result of human activity in the marine park; and

2. No loss of little penguin abundance as a result of human activity in the marine park.

In the circumstances, it is considered that a new Management Plan should be developed and implemented to specifically consider and address the matters contributing to the Little Penguins declining population.

It is therefore recommended that Council endorses the position that additional resources are required from the State Government towards increasing the scope of existing conservation actions. The ultimate objective would be for DBCA to establish a coordinated Management Plan based on best available research and that it be governed by a dedicated Working Group.

Voting Requirements

Simple Majority

Officer Recommendation

That Council:

- 1. **ENDORSES** the position that the conservation of the Little Penguin colony at Penguin Island requires additional resource allocation from the State Government including the preparation of a specific Management Plan and the formation of a dedicated Working Group to govern the matter.
- DIRECTS the Chief Executive Officer to write to the Minister for Environment to progress the above.

Committee Recommendation

Moved Cr Sammels, seconded Cr Edwards:

That Council:

- 1. **ENDORSES** the position that the conservation of the Little Penguin colony at Penguin Island requires additional resource allocation from the State Government including the preparation of a specific Management Plan and the formation of a dedicated Working Group to govern the matter.
- DIRECTS the Chief Executive Officer to write to the Minister for Environment to progress the above.

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

mark for

Planning and Development Services Statutory Planning Services



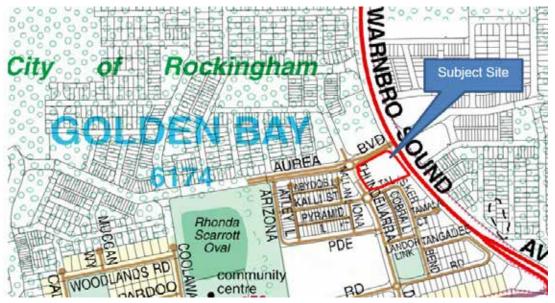
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Reference No & Subject:	PD-014/21 Joint Development Assessment Panel Application - Mixed Commercial Development
File No:	DD020.2021.00000031.001
Applicant:	Planning Solutions
Owner:	Housing Authority Peet Golden Bay Pty Ltd
Author:	Mr David Banovic, Senior Projects Officer
Other Contributors:	Mr Mike Ross, Manager Statutory Planning Mr Peter Ricci, A/Director Planning and Development Services
Date of Committee Meeting:	19 April 2021
Previously before Council:	
Disclosure of Interest:	
Nature of Council's Role in this Matter:	Tribunal
Citor	Let OCE (No. 40) Telialisa Band. Calder Ban
Site:	Lot 265 (No.40) Talisker Bend, Golden Bay
Lot Area:	7,501m ²
LA Zoning:	Commercial, Residential R60
MRS Zoning:	Urban
Attachments:	 Responsible Authority Report Schedule of Submissions
	Technical Note
Maps/Diagrams:	1. Location Plan
	2. Aerial Photograph
	3. Golden Bay Local Strucutre Plan Scheme Map Extract4. Approved Subdivision Plan
	5. Photograph - view of development site from the Aurea
	Boulevard and Warnbro Sound Avenue intersection 6. Photograph - view of development site from Aurea
	Boulevard
	7. Photograph - Thundelarra Drive as viewed from Aurea Boulevard
	8. Town Planning Scheme No.2 Zoning Map
	9. Site Plan10. Proposed Thundelarra Drive Perspective Looking North
	11. Proposed Aurea Boulevard and Thundelarra Drive

Perspective Looking South

- 12. Proposed Aurea Boulevard and Warnbro Sound Avenue Perspective Looking South West
- 13. Proposed Warnbro Sound Ave Perspective Looking West
- 14. Consultation Plan
- 15. Generic 200m separation buffer
- 16. Trees identified for retention

Purpose of Report

To provide recommendations to the Metro-Outer Joint Development Assessment Panel (MOJDAP) on a Development Application for a Mixed Commercial Development at Lot 265 (No.40) Talisker Bend, Golden Bay.



1. Location Plan



2. Aerial Photograph

Background

On 1 September 2015, Council adopted the Golden Bay Structure Plan (GBSP) which designated the subject site as a Commercial site within the Development zone under the City's Town Planning Scheme No. 2 (TSP2). GBSP commenced operation on 15 September 2015.



3. Golden Bay Local Strucutre Plan Scheme Map Extract

On 11 February 2020, Amendment 174 was gazetted, where several TPS2 maps (inclusive of the subject site) were bought into conformity with the zones and reserves on approved Structure Plans.

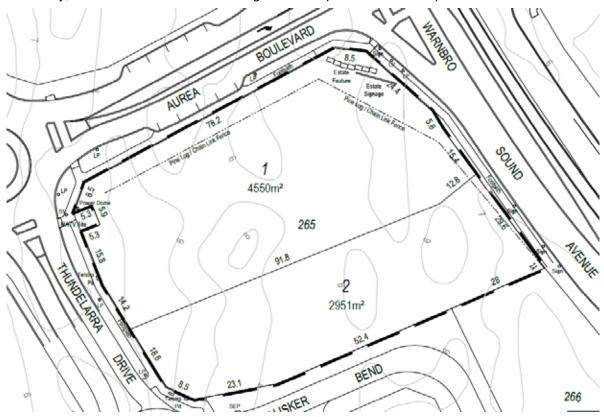


As a result of Amendment 174, the northern portion of the subject site is zoned Commercial under TPS2 with the southern portion zoned Residential R60.

On 25 November 2020, a Subdivision Application was lodged over the subject site with the Western Australian Planning Commission (WAPC). The subdivision reconfiguration provides for the creation of two new lots seeking to develop future Lot 1 for the purpose of a mixed commercial development (subject development application) and future Lot 2 for the purposes of residential development.

On 10 February 2021, the WAPC resolved to conditionally approve the Subdivision Application.

For clarity, future Lot 1 is referred to throughout this report as the 'development site'.



4. Approved Subdivision Plan



5. Photograph - view of development site from the Aurea Boulvard and Warnbro Sound Avenue intersection





6. Photograph - view of development site from Aurea Boulvard



7. Photograph - Thundelarra Drive as viewed from Aurea Boulevard

Details

Context

Located within the Golden Bay Neighbourhood Activity Centre, the development site is situated in the northern portion of Golden Bay and adjoins Aurea Boulevard to the north, Thundelarra Drive to the west, Warnbro Sound Avenue to the east, and Talisker Bend to the south.

The surrounding land to the west and north is zoned Commercial and comprises generally vacant land with the exception of Lot 622 Thundelarra Drive, which is the site of a future supermarket based "main street" shopping centre. Construction of the shopping centre has stopped following the erection of some structural steelwork.

Within this area, Development Approval has also been granted for:

- A proposed Mixed Use (Independent Living) development on Lot 636 Thundelarra Drive approved on 19 February 2020;
- A proposed Child Care Premises on Lot 716 Thundelarra Drive, where construction has substantially commenced and is anticipated to be operational by September 2021 approved on 27 June 2019; and

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 A proposed Child Care Premises on Lot 263 Aurea Boulevard - approved on 16 February 2021

The surrounding land generally south and south-west of the site is zoned for medium density (R40-R60) residential development, and predominantly comprises of single storey dwellings which have been developed.

The Golden Bay Primary School is situated approximately 110m south-west of the site.



8. Town Planning Scheme No.2 Zoning Map

Development Application

A Joint Development Assessment Panel (JDAP) application was lodged with the City on 2 February 2021, to construct a Mixed Commercial Development on the site.

Details of the proposal are as follows:

- A fuel retailing building of 243m² gross floor area (GFA) in the north-eastern aspect of the development site, including a service yard and bin enclosure area, two underground fuel storage tanks and an associated filling point to accommodate fuel tankers and a fuel canopy located to the west of the fuel retailing building with a clearance of 4.8m and total height of 5.8m;
- A gymnasium building of 400m² GFA in the north-western aspect of the development site, which includes an outdoor training area east of the gymnasium building and retention of the existing Western Power transformer;
- A commercial tenancy building of 247m² in the south-eastern aspect of the development site, including an outdoor/alfresco dining area;
- Minor relocation of the existing Golden Bay entry statement to accommodate the footprint of the fuel retailing building;
- One 9.2m wide vehicle crossover from Aurea Boulevard;
- One 7.8m wide vehicle crossover from Thundelarra Drive;

- Internal driveway and 49 car parking spaces, inclusive of three accessible bays and one air and water bay;
- Various signage including two prominent Pylon Signs, including one 10m high Pylon Sign adjacent to Warnbro Sound Avenue and a 6m high Pylon Sign adjacent to Thundelarra Drive:
- Associated landscape treatments throughout the site including the removal of 16 trees along the northern and eastern edges of the development site;

The proposed development also includes the following works within the road reserve:

- Relocation of two street lights to allow for vehicular ingress/egress via Aurea Boulevard and Thundelarra Drive;
- Removal of the four on-street car parking spaces to make way for a 30m long left-in slip lane via Aurea Boulevard; and
- Removal/relocation of two verge trees.

The proposed Service Station will operate 24 hours per day, seven days per week and accommodate up to two staff on-site at any one time. The proposed gymnasium tenant is yet to be confirmed, however, it is proposed to operate 24 hours per day, seven days per week.

It is anticipated that the commercial tenancy will accommodate a Café, Restaurant or Shop.

Fuel tankers are proposed to access the development site in the following manner:

- Left-in ingress via the Thundelarra Drive crossover;
- · Access the refuelling point located west of the underground fuel tanks; and
- Left-out egress via the Area Boulevard crossover.

Other service vehicles are proposed to access the development site in the following manner:

- Left-in ingress via the Aurea Boulevard crossover;
- · Reverse into the service bay located at the southern aspect of the retail building; and
- Left-out egress via the Aurea Boulevard crossover.

The following reports accompanied the DAP application:

- Planning Report;
- Environmental Noise Assessment; and
- · Transport Impact Assessment.



9. Site Plan



10. Proposed Thundelarra Drive Perspective Looking North



11. Proposed Aurea Boulevard and Thundelarra Drive Perspective Looking South



12. Proposed Aurea Boulevard and Warnbro Sound Avenue Perpective Looking South West



13. Proposed Warnbro Sound Avenue Perspective Looking West

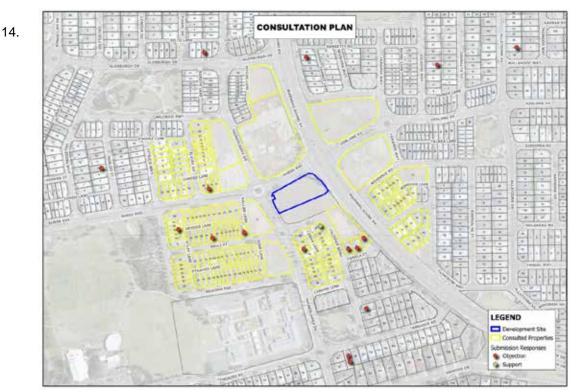
Implications to Consider

a. Consultation with the Community

The application was advertised for public comment over a period of 18 days, commencing on 18 February 2021 and concluding on 8 March 2021 in accordance with Clause 64 of the deemed provisions of the City's Town Planning Scheme No.2 (TPS2).

Advertising was carried out in the following manner:

- The landowners and occupiers identified on the Consultation Plan in Figure 14 below were notified in writing of the proposed development;
- Two signs were erected on the development site fronting Aurea Boulevard and Thundelarra Drive outlining the proposal; and
- The application documents and plans of the proposal were made available for public inspection at the City's Administration Offices and placed on the City's website.



Consultation Plan

At the close of the public consultation period, a total of 42 submissions were received, comprised of:

- Four (9.7%) submissions supporting the proposal; and
- · 38 (90.3%) submissions objecting the proposal.

Note: out of the 38 submissions received objecting the proposal, 32 (84%) specifically related to the Service Station component of the proposal.

The locations from where the nearby submissions originated are shown on the Consultation Plan above.

The objections have been summarised in the schedule of submissions table below, including the applicant's and the City's responses to the submissioner objections. The applicant's response to concerns raised have also been summarised.

All submissions are contained in the Schedule of Submissions (Attachment 2).

Land Use and Amenity

Submission:

(i) Several concerns that there are enough Service Stations within 2km from the development site including the Caltex in Secret Harbour and BP in Golden Bay.

Proponent's Response:

This is a commercial consideration and not a planning consideration. The nearest service station (Caltex) is located 2.1km north of the subject site.

City's Comment:

The application must be considered on its planning merit, under the relevant criteria of TSP2.

The supply of Service Stations within the area is a commercial decision, where it is not a relevant consideration for this application.

Submission:

(ii) General comment that Service Stations are an eyesore.

Proponent's Response:

This is a subjective design opinion without any meaningful explanation.

City's Comment:

The design of the proposal has been discussed in the Policy and Legal and Statutory sections of the report when it was concluded that the design of the Service Station is compliant with the design requirements of the City's planning framework and its neighbourhood centre location.

Submission:

(iii) The community's expectation for this site were that it would be a grouped housing development.

Proponent's Response:

The subject site is zoned Commercial under the City's Town Planning Scheme No.2. (TPS2), which provides for a variety of land uses.

City's Comment:

The development site is in a Commercial zone under TPS2 resultant from Amendment 174, where a commercial development may be approved pursuant to TPS2.

The approved Local Development Plan (LDP) established a framework to guide built form outcomes in the Golden Bay neighbourhood centre, which conceptually identifies the development site for residential development and provides an Indicative Development Plan (IDP) which illustrates one means by which the development site could be developed (i.e. grouped housing). Another development option for the land includes a commercial development.

It is noted that under Clause 56 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations), a decision-maker for an application for Development Approval in an area that is covered by a LDP must have due regard to, but is not bound by the LDP, when deciding the application.

As detailed in the Legal and Statutory section of this report, the Mixed Commercial Development in its current form has not adequately addressed the fundamental LDP requirements pertaining to amenity, preferred vehicle access point and parallel parking.

Submission:

(iv) There is an outdoor gym area adjacent to the Service Station fill box.

Land Use and Amenity (cont...)

Proponent's Response:

The outdoor exercise area has been removed from the proposal.

City's Comment:

The applicant's decision to remove the outdoor exercise area addresses this concern.

Location

Submission:

(i) Concerns that siting of the Service Station does not suit the area as it is too close to residential development and the public school.

Proponent's Response:

A service station is a discretionary 'D' use within the Commercial zone under the City's Town Planning Scheme. Further, service stations are an important facility to be located appropriately in proximity to residential development. Not only do they offer accessible refuelling, but a range of convenience goods.

City's Comment:

The development site is located at a main entry road into the Golden Bay estate and is zoned Commercial under the City's TPS2. Land use considerations are discussed throughout this report, where it is recommended a precautionary approach be applied and that the Service Station land use should not be considered in the absence of a site-specific investigation pursuant to the requirements of Environmental Protection Authority (EPA) – Separation Distance between Industrial and Sensitive Land uses No.3. The EPA Guidance Statement provides advice to proponents, responsible authorities, stakeholders and the public, on the minimum separation or setback requirements for environmental management which the EPA would expect to be met when the Authority considers a development proposal.

There are also unresolved traffic and safety matters which are discussed further below.

Traffic and Safety Impacts

Submission:

(i) Concerns including safety, congestion, access points and existing traffic issues in the area.

Proponent's Response:

A Transport Impact Assessment (TIA) has been prepared by Transcore which considers traffic and safety. The proposal is deemed suitable from a traffic perspective.

City's Comment:

The City's Land and Development Infrastructure Services has undertaken a detailed analysis of the TIA provided by the applicant. In light of the City's findings on the report, it is considered that the potential traffic generated from this development will have a substantial impact on the development site and surrounding road network due to the proposed location of the Aurea Boulevard vehicular access point and associated queueing. Access is discussed in detail in the Consultation with Government Agencies section of this report.

Submission:

(ii) Concern relating to Service Station anti-social behaviour, crime and safety of children.

Traffic and Safety Impacts (cont...)

Proponent's Response:

Contrary to submitter's concerns, the service station will provide a level of passive surveillance at all hours of the day, due to its all day operation. This is more likely to deter anti-social behaviour than a vacant site.

City's Comment:

There is no evidence the proposed Service Station will have negative impacts on crime and safety. It is considered, however, that the development on this site could improve community safety through increased activity and surveillance.

Noise

Submission:

 Concern that noise levels generated by the development will not comply with noise standards for a residential area.

Proponent's Response:

The times at which vehicles are permitted to make deliveries is guided by the Environmental Noise Regulations 1997. Compliance with the Regulations is required at all times of the day.

The Environmental Noise Assessment prepared by Reverberate Consulting considers noise associated with delivery vehicles, which was deemed to be acceptable in the context of sensitive premises.

City's Comment:

The City's Health Services has reviewed the applicant's submitted Environmental Noise Assessment and is satisfied that development is unlikely to have an adverse noise impact on surrounding sensitive land uses, subject to the implementation of the recommended measures contained within the Environmental Noise Assessment.

The recommended measures include:

- The requirement for a 3m high masonry wall for the length of the common southern residential boundary;
- 1.2m high mechanical equipment rooftop noise barriers; and
- Setback and height restrictions for future southern residential development on Lot 2 to be governed separately at the Development Application stage for Lot 2.

Condition/s requiring compliance with the recommended measures can be applied in the event that the development is approved by MOJDAP.

Health and Environment

Submission:

(i) Health concerns of a fuel retail building in close proximity to a Primary School, Child Care Centres and residential area.

Proponent's Response:

The development application has been referred to the Department of Health for comment. A site specific assessment against the EPA separation guidelines has been provided.

City's Comment:

Insufficient information has been provided with the application, therefore the City is unable to properly assess the potential health impacts associated with the development. Advice provided by the Department of Health recommends that the development not proceed in the absence of a site specific study which demonstrates that a lesser separation distance is appropriate having regard to public health outcomes that would result from approval of the proposed development.

The City concurs with the advice from the Department of Health, which is discussed in detail within the Policy section of this report.

Health and Environment (cont...)

Submission:

(ii) Benzene in petrol is a known carcinogen and people who live in close proximity to service stations are at a greater risk of having a cancer diagnosis.

Proponent's Response:

The assumption that there is a greater risk of cancer linked to service stations is unsubstantiated. Modern vapour recovery systems effectively capture emissions.

City's Comment:

The submission is noted. The City is aware, via the Department of Health, that there are international studies that demonstrate an increased risk of childhood leukaemia associated with residential development in proximity to Service Stations. There is also international data that suggests that benzene levels are significantly increased, above background levels, up to 150m from an emission source, however, there is no local data.

Figure 15 in the Policy section of this report, demonstrates that there are multiple sensitive land uses within close proximity of the development, inclusive of two planned Child Care Premises. The suitability of land for development, taking into account the possible risk to human health and safety, is a matter that the Local Government is required to give due regard to in its assessment of an application for Development Approval. Based on the information submitted by the applicant, the City is unable to ascertain if the impact upon human health is acceptable for the development. Health impacts are discussed in detail within the Policy section of this report.

Submission:

(iii) Concern that application does not sufficiently address the Separation distance requirements of Environmental Protection Authority.

Proponent's Response:

Noted. A more detailed site specific assessment has been prepared.

City's Comment:

The advertised material pertaining to separation distances from the applicant was generic in its content and did not provide a site specific study of the development taking into account the risk to human health and safety, hence the City concurs with the submission.

In response to concerns raised during the consultation period, a Technical Note – Attachment 3 was prepared and submitted by the applicant in an attempt to reconcile separation distance between the proposed Service Station and sensitive land uses. In summary, the City considers that the Technical Note misses the point about exposure to gaseous emissions and does not discuss the relevant health exposure risk from air borne contaminants.

Submission:

(iv) The environmental impact on the area on fuel and oil spillages has not been considered.

Proponent's Response:

Stormwater runoff associated with the service station will be treated through the use of a SPEL Puraceptor system, which captures runoff and any spillage within the forecourt area and tanker refuelling area.

The Puraceptor is an underground collection system which treats stormwater by separating fuels, oils and other potential contaminants from stormwater runoff. The treated stormwater is then discharged into the site's main stormwater management system, while the captured contaminants are retained within a separate chamber for collection and removal off site.

Use of the SPEL Puraceptor is a standard industry practice, and is generally implemented on all new fuel sites across Australia.

Health and Environment (cont...)

City's Comment:

Commercial sites are required to treat the first 15mm of rainfall runoff from trafficable surfaces pursuant to Department of Water and Environmental Regulation's decision process for stormwater management and the City's Local Planning Policy 3.4.3 – Urban Water Management. Although a SPEL Puraceptor is intended to be applied, no treatment devices have been mentioned for the remaining trafficable areas within the development.

Signage Lighting

Submission:

(i) The proposed neon signage is inappropriate at this site and is likely to shine light into backyards and homes.

Proponent's Response:

No neon signage is proposed. Any illuminated signage as part of this proposal will be internally illuminated and will comply with lighting standards.

All signage will be required to comply with the relevant luminance levels.

City's Comment:

Lighting can be designed and regulated by Australian Standard AS/NZS 4282:2010 - Control of the obtrusive effects of outdoor lighting and Australian Standard AS/NZS 1158.3.1:2005 - Lighting for Roads and Public Spaces so as to ensure there is no glare or light spill that will adversely impact the nearby sensitive residential land uses.

b. Consultation with Government Agencies

Given the proximity to the Golden Bay Primary School, the Department of Education was consulted by the City on the application. The Department of Planning, Lands and Heritage was also consulted, as the application is adjacent to Warnbro Sound Avenue road reservation, with the road affected by the Other Regional Road (ORR) reservation under the Metropolitan Region Scheme (MRS).

The proposal was also referred to the following Government Agencies for comment:

- Department of Health;
- Department of Mines, Industry Regulation and Safety; and
- Department of Water and Environmental Regulations.

The comments received are as follows:

1. Department of Planning, Lands and Heritage (DPLH)

No access is proposed from Warnbro Sound Avenue. This is in accordance with the WAPC Policy D.C 5.1, which seeks to minimise the number of new crossovers onto regional roads.

The traffic report states that the development will generate approximately 1376 vehicular trips per day (both inbound and outbound) with approximately 115 and 124 trips during the weekday AM and PM peak hours respectively.

This is below the WAPC Transport Impact Assessment Guidelines for Developments (2016) threshold for further analysis. SIDRA analysis indicates a satisfactory level of service for both intersections to 2031.

DPLH has no objection to the proposal on Other Regional Road planning grounds.

Proponent's Response:

No response provided.

1. Department of Planning, Lands and Heritage (DPLH) (cont...)

City's Comment:

DPLH comments are noted, however, the City's Land and Development Infrastructure Services has a number of concerns regarding how the traffic analysis was completed in the TIA and therefore its validity. The main concerns are listed as follows:

- The analysis for vehicle stacking capacity for the Service Station has not incorporated random vehicle arrivals, therefore it could not be entirely relied upon. Further, there is insufficient queueing space provided for the proposed Service Station. It is therefore highly likely to impact upon internal traffic flow and consequently has the potential to overflow onto Aurea Boulevard impacting on surrounding road networks, completely blocking access, heading west past the development site.
- Traffic safety risks associated with the provided swept path (i.e. movement paths) analysis due to:
 - Vehicle encroaching significantly into the opposing traffic lane;
 - Clash with kerbing;
 - Reversing movements within the parking aisle; and
 - Blocking pedestrian crossing.

Further, the City does not support the proposed Left-In/Left-Out access off Aurea Boulevard due to the following reasons:

- There is insufficient separation distance between the road intersections to accommodate the proposed access. Austroads' Guide to Road Design Part 4 Intersections and Crossings General recommends a minimum access spacing of 55m (based on "Stopping Sight Distance"). This suggests that the existing distance between the stop lines of the existing intersection should be at least 110m therefore access arrangements as proposed are unlikely able to be located between the Aurea Boulevard and Thundelarra Drive roundabout and traffic signal at the intersection of Aurea Boulevard and Warnbro Sound Avenue. The proposed intersection spacing is 40m, hence, why the approved LDP requires that no access be provided off Aurea Boulevard.
- The Aurea Boulevard access would significantly impact the performance of the two adjacent intersections as well as increase traffic safety risks.
- · Vehicle queues at the adjacent roundabout would impact on the proposed access.
- Loss of all four existing on-street parallel bays on Aurea Boulevard.

In light of the findings of the TIA report, it is concluded that the potential traffic generated from this development based on intended access arrangements could have an adverse impact on the site and its surrounding road network.

2. Department of Education (DoE)

Land Use

The proposed service station element of the proposal is located approximately 150m from Golden Bay Primary School. Whilst the distance presents some level of concern for the Department, it is acknowledged that if the service station were to operate from Monday-Saturday from 0700 – 1900 hours, the suggested buffer under the Environmental Protection Authority – Separation Distance document would be reduced by 100m to 50m.

The Department considers that the proposed separation distance between the service station and the Golden Bay Primary School to be acceptable in principle as the school generally operates within the hours of 0700 – 1900 hours, Monday to Friday.

Construction and Waste Management

The Department notes that no information has been submitted in relation to construction management. To ensure that Golden Bay Primary School is not burdened by the impacts of construction works, the Department requests that a Construction Management Plan be requested as a condition of approval.

2. Department of Education (DoE) (cont...)

No formal Waste Management Plan had been submitted as part of the application. The Department requests that a condition of approval is imposed which would require a Waste Management Plan to be submitted to the City and approved prior to the initial occupation of any tenancies. The plan should demonstrate that there would be no conflict with vehicles accessing the school site.

Recommendation

Subject to the above matters being considered, the Department offers no in principle objection to the proposal.

Applicant's Response:

No response provided.

City's Comment:

Land Use

Noted. Notwithstanding DoE comments, the Service Station land use aspect of this proposal is discussed throughout this report, where it is concluded that the proposal has not adequately addressed the relevant health exposure risks from gaseous emissions.

Construction and Waste Management

DoE recommendations is respect to construction and waste management are noted. The City's standard conditions would be appropriate in the event development is approved and are considered to sufficiently address matters raised by DoE.

3. Department of Health (DoH)

The DoH has concerns about the distance between the proposed service station and approved nearby sensitive land uses, specifically two child-care centres and the nearest residential development. The DoH concern relates to potential negative health impacts on the community in general and young children in particular, from emissions related to fuel operations.

The Environmental Protection Authority – Separation Distance document recommends a distance of minimum 200m, from boundary to boundary, between a 24-hour service station and sensitive land uses such as child care centres and residential development.

All sensitive land uses are well within 100m of both the emission sources. The fuel storage tanks are equipped with a Stage 1 Vapour Recovery System (VR1) but there are no vapour recovery systems (VR2) on the bowsers.

The DoH concern is with gaseous emissions, particularly benzene, a human carcinogen. Benzene can be elevated above background levels for some distance from service stations. The public health concern is not mitigated with a Dangerous Goods Licence, which is for the risk control of acute hazards (explosive vapours).

As outlined in the Environmental Protection Authority - Separation Distance between Industrial and Sensitive Land uses No.3, where a separation under consideration is less than in the table, it is recommended that a new project does not proceed in the absence of a site-specific investigation and a report demonstrating that the separation distance will meet acceptability criteria. There has been no assessment of gaseous emissions for this proposal.

Applicant's Response:

Refer to Technical Note provided (Attachment 3) in response to DoE comments.

City's Comment:

The submission is noted. Having regard to the specific characteristics of this application (24 hours, seven day a week fuel retailing operation in close proximity to multiple sensitive land uses), the siting of the proposed development should not be accepted in the absence of a scientific study undertaken by a suitably qualified consultant.

3. Department of Health (DoH) (cont...)

The City understands fuel vapour emissions generally relate to:

- fuel tankers filling underground fuel storage tanks;
- vehicles refuelling at bowsers;
- fuel spills when refuelling vehicles; and
- opening a vehicle fuel cap.

The proposal only includes a Stage 1 Vapour Recovery System (VR1) for the tank filling process. There will be as a consequence, fuel vapours that are not captured by the measures proposed by the applicant.

The applicant's Technical Note is insufficient in this regard.

4. Department of Mines, Industry Regulations and Safety (DMIRS)

Based on the provided information there is no issue identified at this stage with the proposal. Before the site is used to store Dangerous Goods above manifest quantity, it will require a Dangerous Goods Site licence.

Applicant's Response:

No response provided.

City's Comment:

Noted. DMIRS considered the risk under the Dangerous Goods Safety Act 2004 and Regulations, in terms of explosive gas atmospheres and hazardous zones only (i.e not health risks associated with gaseous emissions).

5. Department of Water and Environmental Regulations (DWER)

The Department does not object to the proposal, however, recommends a stormwater management plan be prepared for the site in accordance with the Stormwater Management Manual for Western Australia that demonstrates the appropriate management of small, minor and major rainfall events.

Proponent's Response:

No response provided.

City's Comment:

As vehicles will be moving through the fuel area and into the surrounding car parking next to the convenience store, it is highly likely that hydrocarbons will be mobilised outside of the bunded area. The piped drainage network outside of this area must therefore be connect to the SPEL unit. Underground tanks and their pipe work (excluding any gas venting and tank fill lines that are normally dry) should have double-walled construction, with an leak-monitoring space. Should development be approved, a condition requiring a Stormwater Management Plan is recommended.

The applicant has been provided with a copy of the DWER submission.

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Strategic Community Plan 2019-2029:

Aspiration 3: Plan for Future Generations

Strategic Objective: Responsive Planning and Control of Land Use - Plan and control

the use of land to meet the needs of a growing population, with consideration of future generations.

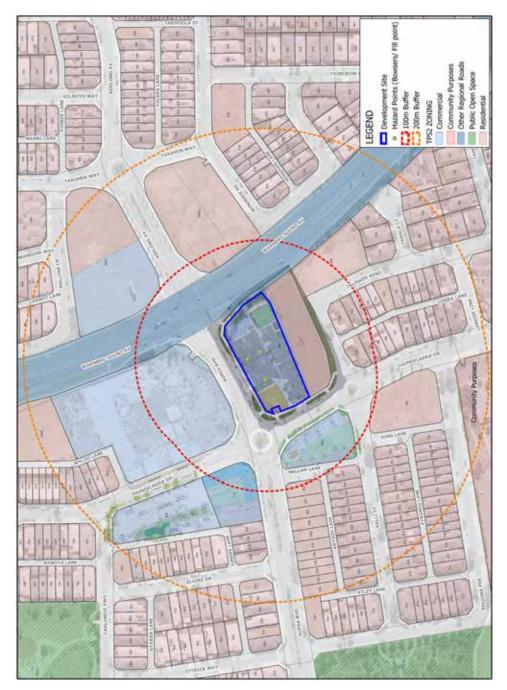
d. Policy

State Government Policies

<u>Environmental Protection Authority (EPA) – Separation Distance Between Industrial and</u> Sensitive Land Uses No.3 (Guidance Statement)

The EPA Guidance Statement provides advice to proponents, responsible authorities, stakeholders and the public, on the minimum requirements for environmental management which the EPA would expect to be met when the Authority considers a development proposal. For the purpose of the Guidance Statement, "industrial land use" is used in a general way to encompass a range of industrial, commercial and rural activities, associated with off-site emissions that may affect adversely the amenity of sensitive land uses. A table of land uses is provided in the Guidance Statement, however, it is recognised that the list is not definitive. Service Station land use is identified in the table.

The generic separation distances are based on the consideration of typical emissions that may affect the amenity of nearby sensitive land uses. These include gaseous and particulate emissions, noise, dust and odour. For developments of this kind, the EPA recommends a 200m separation distance to all 24 hour Service Station operations from sensitive land uses because of gaseous, noise, odour and risk associated implications. It should be noted that the separation distance recommended by the Guidance Statement is not absolute but instead are default distances providing general guidance in the absence of a site-specific technical study.



15. Generic 200m separation buffer

Figure 15 above depicts the extent of existing and planned development within 200m generic separation distance from the two main sources of gaseous vapour. Within the 200m separation distance, a total of five (5) sensitive land uses are identified, comprising of:

- 130 established residential dwellings;
- a minor portion of the Golden Bay Primary School site;
- seven (7) vacant Grouped Dwelling sites (approximate lot yield of 75 units); and
- three (3) vacant Commercial sites which have current Development Approvals for independent living purposes (89 apartments) and two Child Care Premises, approved for 92 places at Lot 716 Thundelarra Drive and 100 places at Lot 263 Aurea Boulevard. The Child Care Premises at Lot 716 Thundelarra Drive has commenced development and is expected to open by September 2021.

The suitability of land for development taking into account the possible risk to human health and safety is a matter that the Local Government is required to give regard to in its assessment of an application for Development Approval. As such, the impact on human health resultant from this development is a valid planning consideration.

The two main sources of gaseous vapour identified as part of this service station development are:

- 1. The refilling of the underground fuel storage tanks to the west of the canopy along the northern side of the development site. This also includes the vent pipes connected to the underground tanks which are proposed to be located adjacent to Aurea Boulevard.
- 2. The refuelling of vehicles beneath the fuel canopy, isolated to the petrol bowers and nozzles.

The underground fuel storage tanks are proposed to be equipped with a VR1. It is understood VR1 captures 95% of all vapour during the refuelling process.

There are no vapour recovery systems VR2 on the fuel bowsers.

The DoH concern is with gaseous emissions which are likely to be resultant due to the nature and intensity of the proposed fuel operations. The 24 hour Service Station will also increase the volume of fuel stored and sold which could increase concerns. As stated previously above, in the case of a new Industry type land use being proposed near existing sensitive land uses, where the separation distance is less than the generic distance, a scientific study based on site and industry-specific information must be presented to demonstrate that a lesser distance will not result in unacceptable impacts. With respect to the Technical Note (Attachment 3) provided by the applicant, both the DoH and the City consider it does not address exposure to gaseous emissions, as it does not discuss the relevant health implications of long-term exposures to benzene and other compounds at the development site. The risk is not related to explosive gas atmospheres.

The potential unknown health impacts on the community (particularly children), from emissions related to fuel operations at this site has not been adequately addressed and therefore the proposal, as it stands in the absence of a site specific report, is contrary to orderly and proper planning.

Otherwise, impacts pertaining to noise, lighting, odour and risk from an explosive gas perspective have been adequately addressed by the proponent.

Local Policies

Planning Policy 3.3.1 - Control of Advertisements (PP3.3.1)

The following provides an assessment of signage seeking to vary the requirements of PP3.3.1.

Pylon Sign must:	Officer Comment	Compliance - 10m high Pylon Sign	Compliance - 6m high Pylon Sign
(a) shall not be located within 1.8m of a lot boundary.	The 10m high pylon sign associated with the multiple tenancies is setback approximately 800m from Warnbro Sound Avenue road reserve and results in removal of an established tree.	No	No
	The 6m high pylon sign associated with the fuel retailing building has a Nil setback from the Thundelarra Drive road reserve.		

Pylon Sign must:	Officer Comment	Compliance - 10m high Pylon Sign	Compliance - 6m high Pylon Sign
(d) have a height exceeding 6.0m, unless it can be demonstrated to the Council that a greater height is warranted and it complies with the objectives of this Planning Policy. In any event, a Pylon Sign shall not exceed 9.0m in height.	A 10m height above natural ground level is proposed for the multiple tenancies pylon sign, whilst a 6m height above natural ground level is proposed for the fuel retailing building pylon sign.	No	Yes
(f) have a face area exceeding more than 3.5m width or height.	The face area of both proposed pylon signs exceed 3.5m in height.	No	No
(g) have a face area of more than 4m² on each side (single tenancy) or 13m² on each side (multiple tenancy).	The pylon signs have face areas of approximately 19.7m² and 12m² respectively.	No	No

The following objectives of PP3.3.1 are relevant for the consideration of pylon signs:

- "(a) Ensure that advertisements are appropriate for their location;
- (b) Minimise the proliferation of advertisements;
- (c) Ensure that advertisements do not adversely impact on traffic circulation and management, or pedestrian safety."

The 6m high pylon sign associated with the fuel retailing building adjacent to Thundelarra Drive is designed in a way which ensures vehicles are able to read the content of sign panels without any visual impact to the surrounding amenity, traffic circulation or pedestrian safety.

With regard to the proposed 10m high multiple tenancies pylon sign, it is noted that its location results in the unnecessary removal of an established tree. The sign presents as a prominent structure, clearly visible from the public realm and measures, at a height of 4m greater than the ceiling of the building the sign is adjacent to. It's base also sits approximately 800mm higher than the adjoining pedestrian footpath level along Warnbro Sound Avenue.

In Golden Bay, no signage has been approved with a height in excess of 6m. It is considered that the overall height of the multiple tenancies pylon sign does not fit the context of the Golden Bay Neighbourhood Centre Precinct.

The applicant has indicated that the scale and location of the 10m high pylon sign ensures vehicles travelling to Rockingham (north) and Mandurah (south) along Warnbro Sound Avenue have sufficient opportunity to identify the facility and access the site safely. The City considers that a 9m high pylon sign slightly repositioned away from the tree would maintain its panel visibility and permit safe access to the site. The City would accept pruning of the subject tree if it can be demonstrated to be warranted.

In light of the above, two pylon signs can be supported on this development site subject to a height and relocation modification of the 10m high multiple tenancies pylon sign.

Planning Policy 3.3.14 - Bicycle Parking and End of Trip Facilities (PP3.3.14)

PP3.3.14 facilitates the appropriate provision of secure, well designed and effective on-site bicycle parking and end-of-trip facilities to encourage the use of bicycles as a means of transport and access to and from the City.

Bicycle Parking Requirement

	Required			
Land Use	Short Term		Long Term	
	Rate	Number	Rate	Number
Retail (Service Station - Convenience Store component)	0.15 spaces per 100m ² NLA	1	0.07 spaces per 100m ² NLA	1
Shop - Neighbourhood Centre (Commercial Tenancy)	0.30 per 100m² NLA	1	0.12 spaces per 100m ² NLA	unknown 1
All other uses (Recreation - Private)	0.05 spaces per visitor	unknown 3	0.1 spaces per staff	unknown 1
Total	5		3	

Given there is no confirmed tenant for the gymnasium or the commercial tenancy, the number of staff and visitors could not be confirmed at the time of preparing this report. A practical baseline calculation is considered appropriate in this circumstance (e.g. up to eight staff for commercial tenancy at any one time and up to 50 visitors and 10 staff at the gymnasium at any one time).

No bicycle spaces have been provided.

e. Financial

Nil

f. Legal and Statutory

Amended Planning and Development (Local Planning Schemes) Regulations 2015 (Planning Regulations)

Clause 67 of the Schedule 2 Deemed Provisions outlines the matters to which the Local Government is to give due regard when considered relevant to an application. Where relevant, these are discussed throughout this report.

Clause 27 - Effect of a Structure Plan

A decision-maker for an application for Development Approval in an area that is covered by a Structure Plan is to have due regard to, but is not bound by, the Structure Plan when deciding the application.

The development site falls within the Golden Bay Local Structure Plan (LSP) which was adopted by Council in May 2012. The LSP applies a Commercial zoning on the land and identifies it as located within a Neighbourhood Centre Precinct. The following annotation on the LSP is applicable to the subject site:

"The Neighbourhood Centre Precinct is a main street based centre and is subject to the preparation of a Local Development Plan."

With regard to this annotation, it is noted that the proposed gymnasium built form has generally been designed to address Thundelarra Drive, being the centre 'main street' for the Golden Bay neighbourhood centre, except that no direct access into the building is provided from the street.

In relation to Aurea Boulevard, the buildings do not provide for a continuous built form to the street, due to the break between the gymnasium and fuel retailing buildings which fragments built form and streetscape along the street. Aurea Boulevard is a lower order street however, therefore the break in built form can be sustained. The City, however, considers that a greater emphasis should be placed on retention of existing established trees along Aurea Boulevard to provide visual relief from the public realm and "screen the gap" in the frontage at this point. The vent pipes connected to the underground tanks adjacent to Aurea Boulevard are also not appropriately screened.

Clause 56 - Effect of a Local Development Plan (formerly known as a Detailed Area Plan – DAP)

A decision-maker for an application for Development Approval in an area that is covered by a Local Development Plan has been approved by the Local Government must have due regard to, but is not bound by, the Local Development Plan when deciding the application. The Golden Bay Neighbourhood Centre Local Development Plan applies.

Golden Bay Neighbourhood Centre Detailed Area Plan (LDP)

As noted, the LSP required the preparation and approval of a LDP for the Neighbourhood Centre. The Golden Bay Neighbourhood Centre LDP was approved by the City in March 2015. An assessment of the requirements of the LDP is provided below, this assessment has been limited to areas where discretion is sought to vary a requirement:

Provision	Requirement	Proposal	Assessment
			Plan
Land Use	Residential	Commercial	Although the LDP identifies the development site for residential development, it is zoned as Commercial under TPS2. Therefore, the appropriateness of the land use can be ascertained by how the built form and amenity responds to the neighbourhood centre context. Built form The design of the proposal has been discussed throughout this report where it is concluded that the development can be acceptable, with appropriate conditions of approval that respond to its neighbourhood centre location. Amenity The amenity aspects of the proposal has been discussed throughout this report where it is concluded that the proposal has not adequately addressed the relevant health exposure risk from gaseous emissions from the proposed Service Station. Therefore, the development has not adequately considered amenity impacts from the Service Station land use.
Preferred vehicle access point	Preferred vehicle access from Thundelarra Drive	Two access points are proposed, one from Thundelarra Drive and one from Aurea Boulevard	The LDP illustrates that no access is to be provided off Aurea Boulevard due in part to residential development as suggested in the IDP.

Provision	Requirement	Proposal	Assessment
		Plan	(cont)
			A crossover is also proposed from Aurea Boulevard as part of this development and is said to be required to ensure optimal and efficient circulation of vehicles throughout the development site. The City agrees with this comment, however, the City considers that the potential traffic generated from this development based on the access arrangement will have an impact on the site and its surrounding road network.
Parallel parking	Parallel parking required on Aurea Boulevard.	Removal of existing parallel parking bays on Aurea Boulevard to make way for a slip lane/access point	As above, the City has raised concern in relation to the proposed crossover from Aurea Boulevard due to traffic related matters. Therefore, the removal of all four existing parallel parking bays is not considered to be justified in the City's view.
Special vegetation screens	Special vegetation screens provided to Aurea Boulevard and Warnbro Sound Avenue	Removal of special vegetation screens inclusive of shrubs and 16 trees to Aurea Boulevard and Warnbro Sound Avenue	The intention of the vegetation screen was to provide a visual green buffer from residential development to Aurea Boulevard and commercial development to the north. Given that the development site is zoned Commercial and proposed purely for commercial purposes, there is a valid argument that screening is not required, although, it is noted that the vegetation also serves as an entry statement into the Golden Bay estate. A balanced approach has not been considered by the applicant, as the majority of the vegetation screen are sought to be unnecessarily removed in order to allow for unimpeded views of the fuel retailing building and its associated signage. The trees proposed to be removed are not remnant vegetation. Nevertheless, the City seeks to retain several established trees and minimise clearing wherever possible. Further, the existing vegetation is considered likely to provide visual relief from the public realm. It is recommended that eight (8) out of the 16 trees identified for removal as illustrated in



Provision	Requirement	Proposal	Assessment
	Provisions		
Minimum Building Height	Sites developed exclusively for commercial purposes are permitted as single storey but with a minimal parapet height of 5.5m of a minimum eaves height of 4.5m where a pitched roof is utilised.	Service Station parapet wall 4.35m in lieu of minimum 5.5m.	The Service Station building is designed in response to the site's prominent location fronting Warnbro Sound Avenue and Aurea Boulevard. The building design creates a recognisable entrance into the neighbourhood centre.

As outlined above, the development does not adequately address the fundamental LDP (plan) requirements pertaining to land use, preferred vehicle access point and parallel parking.

Town Planning Scheme No.2

Clause 3.2 - Zoning Table

The development site is zoned 'Commercial' under TPS2. The proposed uses of 'Service Station', 'Recreation-Private' and 'Restaurant/Café' are uses that are not permitted ('D'), unless the Council has exercised its discretion by granting Development Approval. A 'Shop' use is permitted ('P'), providing the use complies with the relevant development standards and the requirements of TPS2.

Clause 4.6.1 - Objective of Commercial zone

The application seeks approval for a Mixed Commercial Development which has been designed to respond to the 'main street' context of the site and which can be considered in the zone. The proposal seeks to address a community need

"The objective of the Commercial zone is to provide for the development of District, Neighbourhood and Local shopping facilities to cater for the present and future residents of the Local Government consistent with the Local Government's Local Commercial Strategy and supported by any other Plan or Policy that the Local Government from time to time may adopt as a guide for the future development within the zone."

The City has a suite of Planning Policies including the Local Commercial Strategy which the proposed development has been considered against within the Policy section of this report.

The development site is situated at a prominent intersection. The area to the north-west including the development site is envisioned to transition to a commercial/retail precinct as per the LSP, with a future supermarket based development to be established on Lot 622 Thundelarra Drive.

The proposed development is considered to be generally consistent with the objectives of the Commercial zone.

Clause 4.6.2 - Form of Development

In considering applications for Development Approval in the Commercial Zone, the Council shall "ensure that the site planning scale, built form, elevations and landscaping of the development positively contribute to the streetscape, appearance and amenity of the locality".

The built form of development is guided by the LDP. As discussed earlier built form is generally considered appropriate within its context.

Clause 4.6.3 - Parking

TPS2 requires the provision of on-site parking for vehicles for development on Commercial zoned land in accordance with the provisions of Clause 4.15 and Table No.2. The table below provides an assessment of the proposal against the relevant car parking requirements of TPS2.

Table No.2 - Car parking table

Use	Rate	Required	Provided
Service Station	1 bay for every service bay, plus 1 bay per employee and 6 bays per 100m ² NLA of retail floorspace	0 service bay plus 2 employee bays and 9 retail bays	
Recreation - Private	1 bay per every 4 persons the building is designed to accommodate	18 bays (up to 68 visitors and 4 staff)	45 regular bays plus 3 accessible
Shop	6 bays per 100m ² NLA	11 bays (183m²)	bays and 1 air + water bay
OR			
Restaurant/Cafe	1 bay for every 4 persons the building is designed to accommodate	20 bays (up to 80 persons)	
	Total	40/49	49 bays

A total of 40 car parking bays are required for the proposed development if the south eastern commercial tenancy is used as a Shop, or 49 bays if it is used as a Restaurant/Café with an estimated capacity of 80 people. In either scenario development satisfies Clause 4.15 of TPS2.

Clause 4.6.5 - Landscaping

"(a) within any development in a Commercial Zone a minimum of ten percent (10%) of the total site area shall be provided as landscaping in the form approved by the Local Government. The area of the site required to be provided under this subclause shall not include areas which would normally be set aside for pedestrian movement."

The development provides a total of approximately 12.3% (560m²) as landscaped areas.

Clause 5.3 - Control of Advertisements

Clause 5.3.1 requires Development Approval to be obtained for the erection of advertisements. In considering an application for an advertisement, the Council is required to consider the objectives of TPS2.

Signage is discussed in detail in the Policy section of this report where it is concluded that the proposed signage is appropriate for its location, subject to conditional approval.

g. Risk

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

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

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

Nil

mark gon

Comments

The proposed Mixed Commercial Development raises potential land use conflicts and traffic concerns which are inadequately addressed. Where these matters have not been covered already in this report, they are discussed below and form part of the basis for the City's deferral recommendation.

EPA Separation Guidelines

TPS2 requires the Council to consider possible risk to human health and safety impact of development within its setting. The proposed development is sited in proximity to several existing and planned sensitive land uses, which has potential to create long-term air pollution (i.e air borne contaminants), potentially impacting on human health.

The applicant's comments relating to human health and safety within Attachment 3 - Technical Note of the report are noted, however, as it was not prepared by a suitably qualified consultant, it does not provide certainty that the air borne pollutants will not unreasonably impact on the adjoining sensitive land uses, particularly the two approved Child Care Premises.

Traffic

Access for the development is constrained due to amenity and interface matters associated with the future residential development on Lot 2, which eliminates any opportunity to investigate alternative means of access via Warnbro Sound Avenue or Talisker Bend in lieu of Aurea Boulevard.

Traffic access is unresolved, however, the City considers traffic and safety issues associated with development could be reconciled by virtue of a Left-Out only crossover movement from Aurea Boulevard. Such an access arrangement would likely result in improved circulation and performance of the two existing intersections with any stacking being limited internally. It is likely that some of the existing on-street car parking bays could also be retained.

Conclusion

On the basis that the proposal has not sufficiently clarified matters pertaining to human risk and traffic circulation, the proposal is recommended for deferral.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADOPTS** the Responsible Authority Report for the application for the Mixed Commercial Development at Lot 265 (No.40) Talisker Bend, Golden Bay contained as Attachment 1 as the report required to be submitted to the presiding member of the Metro Outer Joint Development Assessment Panel pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulation 2011, which recommends:

That the Metro Outer Joint Development Assessment Panel resolve to **DEFER** Development Assessment Panel reference DAP/21/01952 and accompanying plans:

- Site Plan, Revision L dated 25.03.2021;
- Floor Plans, Revision L dated 25.03.2021;
- Elevations, Revision L dated 25.03.2021;
- Perspectives, Revision K dated 29.01.2021;
- Signage Plan, Revision K dated 29.01.2021;
- Site Plan Stage 2 Sketch, Revision K dated 29.01.2021; and
- Landscape Plan, Revision L dated 25.03.2021

in accordance with the Metropolitan Region Scheme and Clause 68 of the amended Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of clause 68(2)(c) of the deemed provisions of the City of Rockingham Town Planning Scheme No. 2, subject to the following reasons:

Reasons

- 1 It has not been sufficiently demonstrated that the development will not result in an unacceptable risk to human health as the proposed Service Station is near several existing and planned sensitive land uses. The separation distance specified for development of this kind within Environmental Protection Authority Guidance Statement No.3 (Separation Distances between Industrial and Sensitive Land Uses 2005), require that a site specific study be provided which demonstrates the lesser separation distance than has been proposed should be approved.
- 2. The potential traffic generated from this development, based on the proposed Left-in/Left-Out access arrangement, will have an adverse impact on the site and its surrounding network. As a result, modifications are required to ensure improved safety and performance of the two adjacent intersections along Aurea Boulevard and to limit traffic queuing to within the site.

Committee Recommendation

Moved Cr Hamblin, seconded Cr Sammels:

That Council ADOPTS the Responsible Authority Report for the application for the Mixed Commercial Development at Lot 265 (No.40) Talisker Bend, Golden Bay contained as Attachment 1 as the report required to be submitted to the presiding member of the Metro Outer Joint Development Assessment Panel pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulation 2011, which recommends:

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- The potential traffic generated from this development, based on the proposed Left-in/Left-2. Out access arrangement, will have an adverse impact on the site and its surrounding network. As a result, modifications are required to ensure improved safety and performance of the two adjacent intersections along Aurea Boulevard and to limit traffic queuing to within the site.

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

Planning and Development Services Statutory Planning Services



PD-015/21 Proposed Holiday House
DD20.2021.00000013.001
Mr Murray Clitheroe
Mr Murray Clitheroe
Mr Kevin Keyes, Planning Officer
Mr David Waller, Coordinator Statutory Planning Mr Mike Ross, Manager Statutory Planning
19 April 2021
Tribunal
Lot 267 (No.29) Mulloway Place, Warnbro
520m ²
Residential R20
Urban
Schedule of Submissions
Applicant's House Management Plan
 Locality Plan Aerial Photograph
3. Proposed Site Plan
4. Proposed Floor Plan
5. View from Mulloway Place towards the Subject Lot

Purpose of Report

To consider an application seeking Development Approval for a Holiday House at Lot 267 (No.29) Mulloway Place, Warnbro.

Consultation Plan



1. Locality Plan



2. Aerial Photograph

Background

Complaint

In December 2020, the City received a complaint relating to the operation of the Holiday House on the subject site.

The complaint stated the following:

"- An Air B&B is causing issues for the neighbours, at 29 Mulloway Place Warnbro. Police have attended due to a party being out of control. Ongoing issues with damage to surrounding houses and roads. Caller has had windows broken from people staying there. Stealing plants from garden beds. Throwing rubbish over the fence. Parking on the verge and breaking the reticulation. Caller has spoken to the owner and they won't take any responsibility; and

 Please increase patrols around Mulloway Place due to anti-social behaviour from the Air B&B".

The complaint was investigated by the City and resulted in the owner submitting a Development Application for a Holiday House.

Scheme Amendment No.173

In December 2019, Town Planning Scheme No.2 (TPS2) was amended in accordance with Scheme Amendment No.173, which had the effect of removing the land use term 'Short Stay Accommodation' from TPS2. The Scheme Amendment introduced a new land use definition called "Holiday House". Further details are provided in the Statutory and Legal section of the report.

Details

On 15 January 2021, the City received an application seeking Development Approval for a Holiday House on the subject land.

The subject land is located within the residential locality of Warnbro. It is approximately 570m from Warnbro Beach to the west and one kilometre from the Aqua Jetty Aquatic Centre and Warnbro Fair (Shopping Centre) situated on Warnbro Sound Avenue.

The application is summarised as follows:

- The targeted customers are a combination of working professionals looking for short term accommodation for temporary and/or locum work; young families/couples/individuals from WA, interstate and overseas for vacation accommodation;
- Bookings and enquiries will be arranged via the online platforms Airbnb and HomeAway (Stayz);
- The new Property Manager of the accommodation is a relative of the applicant and resides in the nearby suburb of Safety Bay;
- The applicant (owner) is based in Karratha and will not be directly involved in the management of the accommodation;
- A maximum of five (5) guests may attend the premises at any one time;
- It is expected that a maximum of two (2) cars will be parked at the premises at any one time;
- Parties and events are prohibited; and
- A House Management Plan has been submitted with the application.

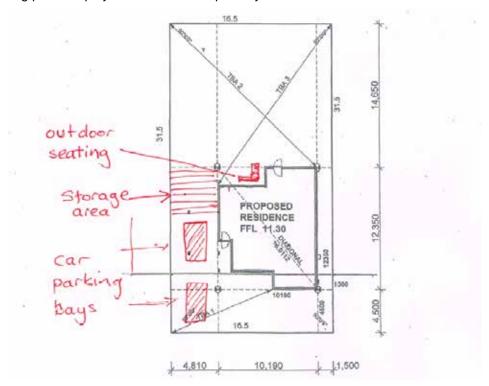
The Property Manager is responsible for:

- Managing all guest bookings;
- Receiving guest enquiries/bookings and screening guests;
- Welcoming and informing guests of booking requirements and House Rules;
- Arranging cleaning services, property maintenance and gardening;
- Managing and addressing any issues arising and complaints made by guests or neighbours, including being the first point of contact for guests and neighbours.

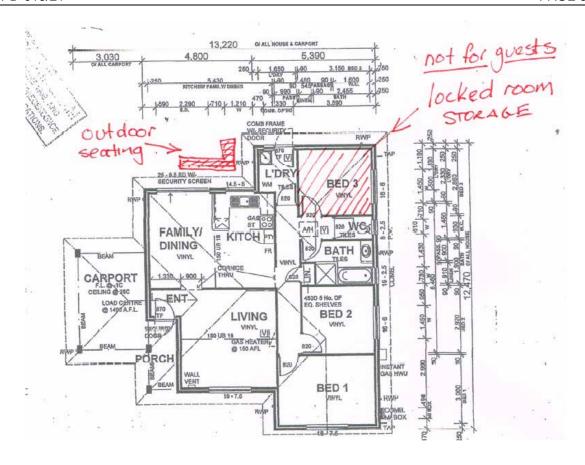
The proposed House Management Plan includes the following:

- (i) The neighbours will each be given the email address and contact phone number of the Property Manager for contact in the case of problems or emergencies. Any complaint will be investigated, documented and addressed.
- (ii) All bookings are screened and any bookings for guest numbers in excess of the maximum number of five (5) will be refused. Guests unable or unwilling to provide proof of identity will be refused a booking.
- (iii) Given a maximum of five (5) guests are allowed to stay, a maximum of two (2) vehicles are expected.

- (iv) No outside visitors, no overnight guests will be accepted without prior approval from the Property Manager.
- (v) Guests must observe 'quiet hours' when noise is kept down from 10pm to 8am, so as not to impact on adjacent owners.
- (vi) The Check-in time is no earlier than 2pm and no later than 7pm on the day of arrival. In the event that guests may check-in after 7pm the Property Manager will inform guests to be quiet when arriving at the property.
- (vii) The Check-out time is no earlier than 7am and no later than 10pm on the day of departure. The following plans display the site and floor plan layout for the accommodation:



3. Proposed Site Plan



4. Proposed Floor Plan



5. View from Mulloway Place towards the Subject Lot

Implications to Consider

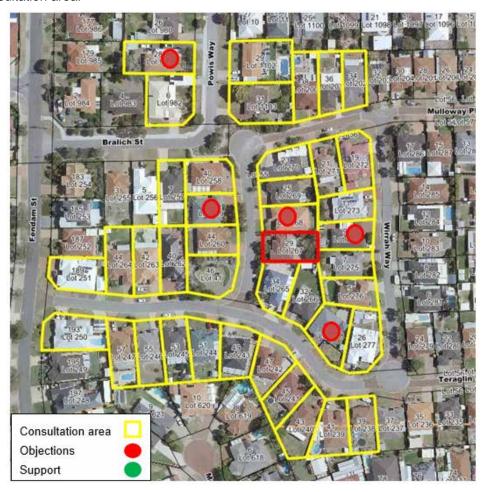
a. Consultation with the Community

The application was advertised for public comment for a period of two weeks, in accordance with clause 64 of the deemed provisions of TPS2, in the following manner:



- Letters were sent to all owners/occupiers of residential properties in close proximity to the subject site, as indicated on the Consultation Plan below; and
- The application was placed on the City's website for public viewing, indicating that submissions will be received until 12 February 2021.

At the close of the submission period six (6) submissions were received; one (1) in support and five (5) in objection to the proposal. Of these six (6) submissions, only one (1) submission is not included on the Consultation Plan below as it was from outside the consultation area.



6. Consultation Plan

The submissioner concerns in objection to the proposal are summarised as follows:

Unsuitable Location, Short-term Guests Have Different Objectives

Submission:

- (i) The neighbourhood is occupied by permanent residents with families young and old. It's a home for hard-working residents whom pay their taxes and rates. It is not a holiday destination nor accommodation hotspot.
- (ii) When people are on holiday they have a very different agenda to those that are living and working day-to-day doing their regular routine.
- (iii) Nearby submissioners indicated that numbers of guests, at any one time, has been excessive in the past and created unacceptable levels of noise and disturbances late at night.

Applicant's Comment:

"Managed correctly as per the management plan I do believe that the property is suitable."

Unsuitable Location, Short-term Guests Have Different Objectives (cont...)

City Response:

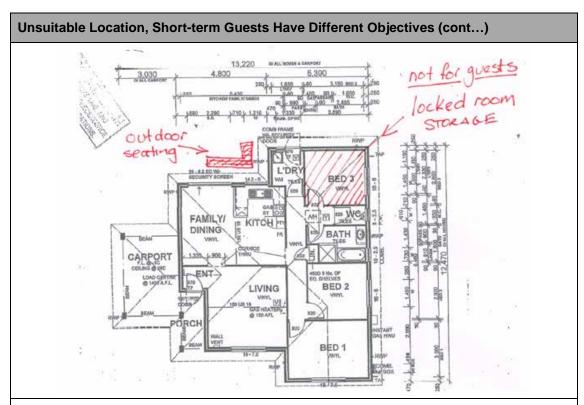
(i) Western Australian Planning Commission (WAPC) Planning Bulletin No.99 Holiday Homes Guidelines (Sept 2009) recognises that holiday homes are a component of the short stay accommodation sector in WA and are an important aspect of the overall mix of tourism accommodation, particularly in popular tourist destinations within the State. The Planning Bulletin recognises that to reduce conflict between holiday homes and ordinary dwellings in residential zones that they should be located in preferred areas identified as either a tourism component of a local planning strategy or in a local planning policy.

Planning Bulletins provide advice and guidance on legislation, planning practice, subdivision and development control, and policy positions of the WAPC. Planning Bulletin 99 was specifically developed in response to the growing number of holiday homes - particularly in popular tourism destinations. It also provides guidance on location criteria, possible changes to local planning schemes and the preparation of policies tailored to address specific issues encountered by local governments in their region.

The City is currently preparing its local planning strategy, and in the absence of a local planning policy, Council can refer to the Planning Bulletin for guidance. Planning Bulletin No.99 advises as a guide, Holiday Houses are more appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas, but may not be appropriate in suburban locations.

The proposed holiday home is in a suburban location, which is not preferred, but it is within walking distance to Warnbro beach which is a key tourism attraction and is not far from the Warnbro Shopping Centre. While not within a high tourism amenity location, the proposed location while not ideal still provides reasonable access to Warnbro Beach.

- (ii) It is recognised that short term guests have different objectives to permanent residents residing in this location. Short-term guests have the potential to create more noise or disturbance to adjacent owners due to this, if left unchecked.
 - The application, though limits guests to 5 people, as guest numbers have been an issue in the past. The City, however, considers guest numbers should be limited to no more than four adults or a single family not exceeding five persons.
 - If Council grants Development Approval, a condition to this effect is recommended. The applicant has also advised that while the property has 3 Bedrooms, Bedroom 3 is not to be used for guests and will be locked for storage, which limits guest capacity.
- (iii) There is an outdoor area to the rear of dwelling that could be a source of noise. In this regard, the applicant has advised that the house rules include details of acceptable conduct and noise, which will be displayed in the kitchen/dining area. The City considers the Outdoor Seating Area should not be used between the hours of 9pm and 8am.



Recommendation 1:

If the Council grants Development Approval to the proposed Holiday Home, the following conditions are recommended in response to the submissioner concerns, as follows:

- Limit guest numbers for each booking to no more than four adults, or one family with a maximum of five persons; and
- The Outdoor Seating Area to the rear of the house must not be used between the hours of 9pm and 8am.

Inadequate On-site Car Parking

Submissions:

- (i) Car parking on neighbours verge and damage to reticulation.
- (ii) It has also created an unacceptable level of car parking within the adjoining road reserve.

Applicant's Comment:

"As per the management plan Guests must agree to parking conditions before agreeing to rent the property. Max 2 cars, one in carport and one in the driveway."

City Response:

There is sufficient room to park two vehicles on-site, which is likely to be adequate for four adult guests or a single family. A Condition of Development Approval can be applied to address the submissioner concerns, requiring all guest parking to occur on-site.

Recommendation 2:

If the Council grants Development Approval to the proposed Holiday Home, the following condition is recommended in response to the submissioner concerns regarding parking, as follows:

All guest parking must be provided on-site and no guest parking is permitted at any time on Mulloway Place, including the verge area, for the duration of the approval.

Uncontrolled Party

Submission:

Some submissioners indicated there have been out of control gatherings and antisocial behaviour at the property which have adversely impacted the surrounding residential amenity.

The residents' primary concern is the ability of the owner to adequately manage the property given the past event. The specific objections are summarised below:

- Youth Party led to fighting in the street;
- Bricks/other objects used as projectiles, kids scaling neighbour fences;
- Riot Police were called to break up gathering;
- Rock thrown through a neighbours window, plants stolen, bins filled by guests;
- Parties with more than 5 guests and two cars occur;
- Concerned about the ability of the applicant to manage the property given these events:
- Owner not taken accountability and shifted blame to one guest booking the place.
- Owner does not live at the place and only interested in commercial use of the house;
- Airbnb were approached via complaint process with very poor customer service and with no outcome;
- Guests from interstate or abroad will not adhere to the rules on parties as it's a short-term use; and
- It could be different is the owner/manager lived near the address and they could monitor and deal with issues as they arise. Living elsewhere means the neighbours have to put up with or deal with complications.

Applicant's Comment:

"The measures outlined in the property management plan, in particular the requirements for photographic identity and closer vetting of potential guests when a booking is made, installation of security cameras, more rigorous house rules and emergency contacts available to residents nearby. These measures will significantly lower the risk of disturbances to the neighbours and community.

The property being used as a Party house

Number of guests / Persons at the property 4 adults or family of 5 this must be maintained at all times.

Security cameras fitted with remote viewing. Guests can be monitored and held to account if numbers exceed. This also enables confirmation of identity of the person making the booking. Higher bond of \$600 put in place will deter people likely to abuse the property for parties.

Residents bins being filled

Rules in place that guests are not to use neighbours bins. If excess rubbish accrues they are to contact the Property Manager Carol and it will be disposed of.

Objects thrown over fence

As per the management plan, photographic identity ID must be provided by the guests so if any damage or problems arise they will be held to account.

Plants stolen from garden

I do know of this incident. The guests leaving the property that day flew back over east. I strongly doubt that they would be responsible for the missing plants.

Added security cameras and ID supplied will deter this kind of behaviour if it occurs.

Screening of guests

All booking enquiries will be screened and all guests must supply photo identify and be a minimum age of 21 years.

Noise from property

Max 4 adults or family of 5 guest allowed at any one time as per management plan.

Carol and my contact information will be supplied to neighbours. With the property manager only 5min away the guest can be visited and managed if they do not adhere."

Uncontrolled Party (cont...)

City Response:

In December 2020, the City received a complaint of an out of control party related to a booking at the subject property. The City has no other record of other complaints in relation to the property being used for Holiday House accommodation purposes. The youth party referred to by submissioners is concerning, with respect to the significant adverse impact this has had on adjacent owners and the extent of concerns is noted.

To address submissioner objections the applicant has proposed new measures in a significant attempt to prevent parties occurring and impacts on neighbours. These new measures are included in the applicant's House Management Plan which are likely to assist in maintaining residential amenity. Given the submissioner objections and recent event, it is considered appropriate that any Development Approval be limited to an initial 12 month period for the applicant to demonstrate that the Holiday House can be effectively managed.

Recommendation 3

If the Council grants Development Approval to the proposed Holiday Home, the following conditions are recommended in response to the submissioner concerns regarding parties as follows:

- This approval is temporary only and is valid for a period of 12 months from the date of this approval.
- Prior to expiry of the approval, if the applicant wishes to continue operation of the Holiday House after this period, the applicant must lodge a fresh application stating whether any part of the proposal has been amended since the original approval
- The House Management Plan being amended to include 24 hour contact details of the Property Manager.
- The House Management Plan requiring guests to only use the allocated bins to the Holiday House and not neighbours bins for the disposal of rubbish, at any time.

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2019-2029:

Aspiration 3: Plan for Future Generations:

Strategic Objective: Responsive planning and control of land use: Plan and control the

use of land to meet the needs of the growing population, with

consideration of future generations.

d. Policy

State Government Policies

Ni

Local Planning Policies

Nil

e. Financial

Nil

f. Legal and Statutory

Town Planning Scheme No.2 (TPS2)

Clause 3.2 - Zoning Table

mork for

The subject land is zoned Residential R20 within TPS2.

Clause 3.2.4 - Zoning Table

The proposed use is interpreted as a "Holiday House" which is defined to mean:

"A single dwelling on one lot used to provide short term accommodation but does not include a bed and breakfast".

As there is currently no provision for a 'Holiday House' in the Zoning Table, the application has been technically considered as a 'Use Not Listed'.

Clause 3.2.4

When a use of land is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the Use Classes, the Local Government may:-

- "(a) determine that the use is consistent with the objectives and purpose of the particular zone and is therefore permitted;
- (b) determine that the proposed use may be consistent with the objectives and purposes of the particular zone and thereafter follow the advertising procedures of Clause 64 of the deemed provisions in considering an application for development approval; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."

The main objective of the Residential zone is as follows:

"4.1 Residential Zone

4.1.1 Objective

The objective of the Residential Zone is to promote a high quality residential environment by maintaining and enhancing the quality of existing residential areas and providing for a range of residential densities and housing types throughout the Scheme Area."

While acknowledging the concerns raised by submissioners, the additional controls being put in place by the owners House Management Plan are considered to be appropriate and should assist in managing guest behaviour whilst maintaining the amenity of surrounding residents. The proposed Holiday House is therefore considered to be consistent with the objective of the Residential zone.

Clause 4.15.1.2 - Carparking

In accordance with *Table 2 - Car Parking Standards*, car parking for Holiday Accommodation shall be provided at 1 bay per unit and, plus 1 bay per employee.

The property can accommodate two (2) car bays on-site within the existing driveway and car port. Therefore, car parking for a maximum of four (4) adult guests or one family not more than five (5) persons, at any one time, is considered adequate.

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations)</u>

Clause 67 of the Planning and Development (Local Planning Scheme) Regulations ('the

Regulations') outlines matters to be considered by the Council in determining this application.

The relevant provisions of Clause 67 are described below:

- "(a) The aims and provisions of this scheme;
- (b) The requirements of orderly and proper planning;
- (m) The compatibility of the development within its setting, including the relationship of the development to development on adjoining land or on other land in the locality;
- (n) The amenity of the locality including the following:

- (ii) The character of the locality;
- (iii) Social impacts of the development;
- (w) The history of the site where the development is to be located;
- (x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) Any submissions received on the application;
- (zb) Any other planning considerations the local government considers appropriate".

g. Risk

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

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

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

Nil

Comments

The proposed location of the Holiday House is relatively close to Warnbro beach, and a kilometre to the Warnbro District Shopping Centre, high frequency public transport and City leisure facilities (Aqua Jetty). The proposed holiday home is in a suburban location, which is not preferred, but it is within walking distance to Warnbro beach which is a key tourism attraction and is not far from the Warnbro Shopping Centre. Although the proposal is not within a high tourism amenity location, the proposed location, whilst not ideally located, still has reasonable access to Warnbro Beach.

Following review of public submissions from adjacent owners there was a significant concern related to an out of control party in late 2020, which had an adverse impact on the amenity of area. Prior to this event, the City has not received any noise complaints regarding the Holiday House.

The applicant's House Management Plan generally includes sufficient information to allow a comprehensive assessment of the potential impacts upon local amenity. The applicant has proposed to limit guest numbers to a maximum of five persons, however, the City considers the House Management Plan should also include a limit of four adults and include other relevant information. The additional measures proposed by the applicant are considered appropriate and should assist in managing guests. If the measures proposed by the applicant are implemented diligently, the amenity of adjacent owners should be maintained.

Having regard to the matters raised by submissions, a 12 month temporary Development Approval is recommended to allow the applicant to demonstrate how the Holiday House will be appropriately managed, following which the matter can be reviewed.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **APPROVES** the application for a Holiday House at Lot 267 (No.29) Mulloway Place, Warnbro.

Committee Recommendation

Moved Cr Buchan, seconded Cr Hamblin:

That Council **APPROVES** the application for a Holiday House at Lot 267 (No.29) Mulloway Place, Warnbro, subject to the following conditions:

- All development must be carried out in accordance with the approved plans and drawings as listed below:
 - ¥ House Management Plan, received on 15 March 2021;

- Property Manager Consent Letter;
- Y Single House (Site Plan), Job No.P1683; and
- ¥ Single House (Floor Plan), Job No.P1683.

save that, in the event of an inconsistency between the approved plans and a requirement of the conditions set out below, the requirement of the conditions shall prevail.

- 2. This approval is temporary only and is valid for a period of 12 months from the date of this approval.
 - Prior to expiry of the approval, if the applicant wishes to continue operation of the Holiday House after this period, the applicant must lodge a fresh application stating whether any part of the proposal has been amended since the original approval.
- 3. No more than four adult guests are permitted, or one family with a maximum of five persons are permitted to occupy the Holiday House at all times and any visitors must be prior approved by the Property Manager.
- 4. The applicant's House Management Plan must include the following:
 - (i) The maximum number of guests to be four adults or a family of no more than five persons.
 - (ii) All guests to be provided 24 hour contact details of the nominated Property Manager;
 - (i) The Outdoor Seating Area to the rear of the house must not be used between the hours of 9pm and 8am.
 - (ii) The Property Manager emergency telephone number and email address.
 - (iii) Guests must only use the allocated bins to the Holiday House and are not permitted to use neighbours bins for the disposal of rubbish, at any time.
- 5. The Property Manager nominated by the applicant must:
 - (i) Provide all visitors a copy of the approved House Management Plan; and
 - (ii) Ensure that guest accommodation is appropriately managed to ensure compliance with the approved House Management Plan at all times and for the duration of this approval.
- 6. The Outdoor Seating Area marked on the applicant's site plan, must not be used between the hours of 9pm to 8am.
- 7. All guest parking must be provided on-site and parking must not occur on Mulloway Place, including the verge area.
- 8. A Visitor Log Book recording of guests must be maintained, including guest arrival and departure dates and client length of stay.
- 9. All public complaints must be managed as follows:
 - The amended House Management Plan in condition 4 above, must be provided to all owners and occupiers who were consulted by the City, as shown in the Council Minutes from April 2021;
 - (ii) A complaints log must be kept as part of the Visitor Log Book in which the following is to be recorded:
 - (a) the date and time of each complaint made and received;
 - (b) the means (telephone or email) by which the complaint was made;
 - (c) any personal details of the complainant that were provided or, if no details were provided a note to that effect;
 - (d) the nature of the complaint;
 - (c) the steps or actions taken in response to each complaint (and when those steps or actions were taken), including any follow-up contact with the complainant; and
 - (d) if no actions or steps were taken in relation to the complaint or enquiry, the reasons why no action or steps were taken.

- (iii) A written response on how the complaint was managed must be recorded within the complaints log which must be provided to the City within 3 working days from the date of receipt of the complaint.
- 10. If the nominated Property Manager ceases managing the Holiday House, the applicant must temporarily cease renting the Holiday House use until the City has been advised of a new local Property Manager, following which the Holiday House use may recommence.

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

Planning and Development Services Directorate, Planning Services



PD-016/21 Proposed Planning Policy No.3.3.25 Reference No & Subject: Percent for Public Art - Private Developer **Contribution (Final Adoption)** File No: LUP/1265-05 Applicant: Owner: Author: Mr Bob Jeans, Director Planning and Development Services Other Contributors: Date of Committee Meeting: 19 April 2021 Previously before Council: 27 January 2021 (PD-008/21) Disclosure of Interest: Nature of Council's Role in Executive this Matter: Site: Lot Area: LA Zoning: MRS Zoning: Attachments:

Purpose of Report

Maps/Diagrams:

To consider Council adoption of Planning Policy No.3.3.25 - Percent for Public Art - Private Developer Contribution following completion of public advertising.

Background

At its Ordinary meeting held on 27 January 2021, Council resolved to approve Proposed Planning Policy No.3.3.25 - Percent for Public Art - Private Developer Contribution for the purpose of community consultation.

In support of the draft Policy, the following information was provided to the Council:

"Embedded within all Rockingham Strategic Metropolitan Centre Policies is a supplementary 'Central Arts Policy'. The objective of the Policy is to:

'Integrate the arts and culture into the built fabric and the day-to-day functioning of the City Centre with 1% of the capital cost of public buildings and other appropriate public works is intended to be set aside for the integration of an arts component.'

This was a 'non-binding' Policy position, applying to public buildings or works, generally undertaken by the City, within the Strategic Metropolitan Centre.

There was no Policy framework dealing with public art contributions arising from private sector developments within the local government.

Without clear processes or established guidelines regarding the assessment and delivery of privately funded public art, standard conditions (relating to the provision of public art) have not been applied to development approvals from the private sector. In these circumstances, the onus has been on the developer to provide public art for private developments, if so desired. This was rarely done.

With clear guidelines and procedures established in the new Public Art Procedures Manual (being presented to Council seeking adoption at the April 2021 Council meeting), which includes provision for 'Private Sector Inherited' artwork, it is proposed to expand on the existing City Centre Public Art Policy by requiring certain private sector developments to contribute to public art.

This will be achieved by applying the 'Percent for Public Art - Private Developer Contribution' Planning Policy city-wide.

Where the estimated construction cost of a development is \$5 million or greater, a development approval will be subject to a standard development condition requiring a developer to provide public art to the value of not less than 1% of the total value of the building works.

Research suggests that the estimated cost of development that initiates the requirement to provide public art across other local government areas can vary, however, it generally ranges from between \$2 million to \$5 million.

In this regard, a proponent can nominate to either:

- (i) Provide public artwork in a publicly visible location within the boundaries of an approved development site; or
- (ii) Provide a cash-in-lieu payment to enable the City to procure artwork for installation on public land within the vicinity of the approved development site.

There are a number of development types which will be exempted from the Policy; these include development on land zoned industrial/light industrial, external façade upgrades, servicing infrastructure, demolition and minor residential development.

In lieu of commissioning the artwork detailed in option (i), a developer may nominate to contribute a cash-in-lieu payment in which case, the artwork budget will be administered by the Coordinator, Cultural Development and the Arts, to commission the artwork in accordance with the City's Public Art Procedures Manual."

Details

Nil

Implications to Consider

a. Consultation with the Community

The proposed Policy was advertised for public comment in the following manner:

- A notification letter was sent on 8 February 2021 to:
 - Rockingham Chamber of Commerce;
 - HIA WA: and
 - Master Builders WA
- An advertisement was published in the Sound Telegraph newspaper on Wednesday 10 February 2021; and

A copy of the proposed Policy was advertised on the City's website from Wednesday 10 February 2021 to Friday 5 March 2021 (26 days).

At the conclusion of the public advertising period, no submissions were received.

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:

Aspiration 1: Actively Pursue Tourism and Economic Development

Strategic Objective: Investment Attraction - Attract local and international investment to

the City to contribute to the local economy.

Aspiration 3: Plan for Future Generations

Strategic Objective: Responsive Planning and Control of Land Use - Plan and control

the use of land to meet the needs of a growing population, with

consideration of future generations.

d. Policy

Nil

e. Financial

Advertising costs associated with the newspaper advertisement were \$398.78. It is anticipated that the Notice of Adoption will also cost a similar amount.

f. Legal and Statutory

Town Planning Scheme No.2

The Council may adopt a local Planning Policy in accordance with Part 2, Division 2 of the Deemed Provisions of TPS2.

g. Risk

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

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

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

Nil

Comments

The application of the Policy will enhance private and public spaces with a diverse range of artwork that will contribute to the cultural economy by improving amenity and adding vibrancy to the City.

It is recommended that Council adopts Planning Policy No.3.3.25 - Percent for Public Art - Private Developer Contribution and publishes a Notice of Final Adoption in the local newspaper.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADOPTS** Planning Policy No.3.3.25 - Percent for Public Art - Private Developer Contribution.

Committee Recommendation

Moved Cr Buchan, seconded Cr Sammels:

That Council **ADOPTS** Planning Policy No.3.3.25 - Percent for Public Art - Private Developer Contribution as follows:

PLANNING POLICY NO.3.3.25 - PERCENT FOR PUBLIC ART - PRIVATE DEVELOPER CONTRIBUTION

1. INTRODUCTION

The City seeks to facilitate the provision of public art as part of the development application approval process by applying a percent for public art contribution.

Percent for public art as part of the development application approval process forms part of a broader focus which promotes the City as a place of artistic excellence and community pride and contributes toward the delivery of enhanced built form and streetscape outcomes.

2. POLICY OBJECTIVES

The objective of this Policy is to facilitate private sector funded participation in the provision of public art in a publicly visible location within the boundaries of an approved development site or, within the vicinity of an approved development to:

- Apply a clear and consistent approach for the provision of public art as part of the development application approval process;
- Enhance a sense of place by encouraging public art forms which provide an interpretation and expression of the natural physical characteristics and social values of the local area;
- · Improve interpretation of cultural, environmental and built heritage; and
- Improve way finding and legibility of streets, open spaces and buildings.

3. POLICY SCOPE

This Policy shall apply where a proponent nominates to either:

- (i) Provide public artwork in a publicly visible location within the boundaries of an approved development site; or
- (ii) Provide a cash-in-lieu payment to enable the City to procure artwork for installation on public land within the vicinity of the approved development site.

With the exception of those types of development listed below, any development application requiring approval with an estimated construction cost to the value of \$5M or greater, shall be subject to a requirement to provide public art to the value of not less than 1% of the building works.

As part of the approval of all applications for development approval with an estimated development cost of over \$5 million, a condition of development approval will be applied requiring the developer to make a contribution equal to 1% of the total construction value for the provision of public art in accordance with either 3 (i) or 3 (ii) above.

Where a developer elects to provide a cash-in-lieu payment, the prescribed amount is required to be paid to the City prior to the issue of a Building Permit. These funds will be expended by the City within five (5) years of the issue of a Building Permit on public artwork within the vicinity of the approved development site.

Exempted Development Proposals

- (i) Development within an area the subject of an approved Structure Plan, Local Development Plan or other planning instrument adopted by the Council that contains alternative requirements for the provision of public art within that area;
- (ii) Development on land zoned:
 - (a) Light Industry

- (b) General Industry
- (c) Special Industry
- (d) Special Commercial
- (e) Service Commercial
- (f) Port Kennedy Business Enterprise
- (g) Community Purposes
- (h) Special Use
- (i) Rural
- (i) Special Rural
- (k) Special Residential
- (iii) Wholly residential developments containing less than 10 dwellings;
- (iv) External façade upgrade works and/or signage to non-residential buildings;
- (v) Building refurbishments to existing premises of less than 1,000m² floor area; or
- (vi) Development comprised solely of demolition, site works or other servicing infrastructure.

4. PUBLIC ART

For the purposes of this Policy, public art shall include a diverse range of art and may include but not be limited to the following:

- Ÿ Stand-alone sculptural art
- Ÿ Statue
- **Ÿ** Community/cultural place-making projects
- Wurals, tiles or mosaics covering blank walls, floors or walkways
- Building facades
- ¥ Landscaping/land-form sculpture

For the purposes of this Policy, public art does not include:

- Promotional branding associated with the subject development
- Y General advertising signage of any nature
- Y Art reproductions
- Y Mass produced play equipment
- Landscaping or hardstand elements approved as part of the development
- Y Services or utilities associated with the development

5. APPROVAL OF ARTWORK

Public Art Procedures Manual

The City's Public Art Procedures Manual guides the administration and procurement of artworks and includes reference to 'Private Sector Funded' artwork. In this regard, public artwork provided as a cash-in-lieu payment will be administered and approved by the Coordinator, Cultural Development and the Arts against the criteria defined in the subject Manual.

Development Approval

A separate development application is not required to install private sector funded public artwork located within the boundaries of the development site or within the vicinity of the approved development site.

6. STATUTORY BACKGROUND

This Planning Policy has been adopted by the Council under clause 4 of the Deemed Provisions of Town Planning Scheme No.2 and whilst it is not part of the Scheme and does not bind the City in respect of any application for Development Approval, the City is to have due regard to the provisions of the Policy and the objective which the Policy is designed to achieve before making its determination.

Planning and Development (Local Planning Scheme) Regulations 2015 (the 'Act')

This Policy is prepared in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015; Schedule 2 - Deemed Provisions for Local Planning Schemes; Part 2 - Local Planning Framework; Division 2 - Local Planning Policies.

Town Planning Scheme No.2 (the 'Scheme')

The Scheme comprises:

- (i) The Deemed Provisions (as set out in the Act);
- (ii) The Scheme Text; and
- (iii) The Scheme Maps.

Development Cost

7. DEFINITIONS

Developer means the nominated person or parties responsible for carrying out

the development and may include the applicant for the development application, the owner of the property being developed or their authorised representative. The property owner is ultimately responsible for fulfilling the obligations of this Policy and any conditions of development approval related to the provision of public art on-site or a cash-in-lieu percent for public art payment.

public art on-site or a cash-in-lieu percent for public art payment.

means the approximate cost of the proposed development nominated on the Application for Development Approval form

required to be submitted with the development application.

Public Art refers to criteria defined within the City's Public Art Procedures

Manual.

8. ADOPTION

This Planning Policy was adopted by the Council at its Ordinary meeting held on xxxx

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

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Engineering and Parks Services

Engineering and Parks Services Infrastructure Project Delivery



Reference No & Subject: EP-006/21 Delegated Authority - Shoalwater Reserve Activity Node Tender Award (Absolute

Majority)

File No: LUP/2084-05

Applicant:

Owner:

Author: Mr Ian Daniels, Manager Infrastructure Project Delivery

Other Contributors:

Date of Committee Meeting: 19 April 2021

Previously before Council:

Disclosure of Interest:

Nature of Council's Role in this Matter:

Executive

Site: Shoalwater Foreshore Reserve (between Churchill Avenue and

Gloucester Avenue), Lot 1869 Arcadia Drive, Shoalwater

(Reserve No 25119)

Lot Area: 38,850m²

LA Zoning: Parks and Recreation

MRS Zoning:

Attachments:

Maps/Diagrams:

Purpose of Report

For Council to delegate authority to the Chief Executive Officer (CEO) to award the contract for the construction of the Shoalwater Reserve Activity Node.

Background

In December 2017, Council resolved to commence a Master Plan project for the foreshore reserve and abutting road reserves generally between Boundary Road, Shoalwater and Warnbro Beach Road, Safety Bay. Subsequently, this was called the Safety Bay Shoalwater Revitalisation Master Plan (Master Plan).

The adopted 'Project Purpose' for the Master Plan was:

- To develop a strategic vision for the Safety Bay and Shoalwater Foreshore Precinct that gives direction to:
 - Realising its tourism potential, including 'marine based tourism', with a focus on the emerging kite-surfing and wind-surfing industry;
 - Coordinating the existing and future commercial activity within the foreshore;
 - Maximising community use by enhancing the existing recreational experiences; and
 - Protecting key environmental and built assets.

Following two rounds of community consultation, one of which established the 'Design Drivers' to inform the content of the Master Plan and the other to advertise the draft Master Plan, in December 2019 Council adopted the Master Plan.

In February 2020, Council adopted the Shoalwater Reserve Activity Node as the first stage works to be undertaken. The final design of this area is in keeping with the design intent of the Master Plan with minor modifications.

Details

The City advertised Tenders for the construction of the Shoalwater Reserve Activity Node on Saturday, 13 February 2021 and this was scheduled to close at 2:00pm on Wednesday, 10 March 2021. Due to unforeseen circumstances outside the City's control, the City was unable to receive or send emails from approximately 12:30pm on 10 March 2021 to late on 12 March 2021. For this reason, the City was unable to receive electronic submissions for the Tender during this timeframe and was unable to extend the Tender period prior to the closing date and time. Prior to the email issue commencing, the City had received two submissions.

To be fair to all possible Tenderers and to ensure all parties have the opportunity to make an electronic submission, the CEO (under delegated authority) declined the submitted Tenders and readvertised the Tender in the West Australian newspaper on Saturday, 20 March 2021 as "T20/21-63 - Construction of Shoalwater Reserve Activity Node". As this Tender was due to close on Wednesday, 7 April 2021, a full assessment and report could not be completed in time for the April 2021 Council meeting.

Implications to Consider

a. Consultation with the Community

The City undertook full consultation with the community and stakeholders during the Master Plan process.

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:

Aspiration 2: Grow and Nurture Community Connectedness and Wellbeing

Strategic Objective: Services and Facilities - Provide cost effective services and facilities

which meet community needs.

Strategic Objective: Accessibility - Ensure that the City's infrastructure and services are

accessible to seniors and to people with a disability.

Aspiration 3: Plan for Future Generations

Strategic Objective: Infrastructure Planning - Plan and develop sustainable and safe

infrastructure which meet the current and future needs of the City's

growing population



Liveable Suburbs - Plan for attractive sustainable suburbs that Strategic Objective:

provide housing diversity, quality public open spaces, walkways,

amenities and facilities for the community.

Aspiration 4: Deliver Quality Leadership and Business Expertise

Management of current assets - Maintain civic buildings, sporting Strategic Objective:

facilities, public places and road and cycle way infrastructure based

on best practice principles and life cycle cost analysis.

d. **Policy**

In accordance with the City's Procurement Framework Policy, for purchases above \$250,000, a public Tender process is to be conducted in accordance with the provision of section 3.57 of the Local Government Act 1995, and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11(1).

The City's Delegated Authority Register, Delegation 1.6 Acceptance/Rejection of Tenders -For Supply and Goods of Services states the CEO can accept Tenders up to the value of \$500,000 (excluding GST). Therefore, approval is required for amounts over this threshold.

Financial e.

The 2020/2021 Council Budget includes \$1,061,388 for Shoalwater Foreshore Development. After taking into consideration other factors such as Superintendence, Construction Administration, Contingencies and Oncosts, there is approximately \$850,000 available for the construction contract.

The delegated authority will only extend to the CEO awarding the contract if the preferred Tender received is within this budget allocation.

f. Legal and Statutory

In accordance with section 3.57 of the Local Government Act 1995 - Tenders for providing goods or services and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11(1), Provision of goods and services:

Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000 unless sub regulation (2) states otherwise'.

In accordance with section 5.42 of the Local Government Act 1995 - Delegation of some powers and duties to CEO, by Absolute Majority:

'A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties.'

Under section 5.43 of the Local Government Act 1995 - Limits on delegations to CEO, the Council can delegate authority to the CEO to accept a Tender, provided it does not exceed an amount determined by the local government.

Risk g.

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

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

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

Nil

Comments

The delegation of authority to the CEO to award the contract for the construction of Shoalwater Reserve Activity Node is necessary to enable the project to commence as early as possible. This will enable the successful contractor to commence the procurement process for 'long lead' items such as playground and lighting equipment, as well as completing the majority of the ground works prior to the winter season. It is intended for the works to be completed prior to the 2021/2022 summer season but more importantly, have the new vegetation installed in time to allow growth and consolidation prior to summer.

Advice of the successful contractor, as well as regular project updates, will be presented to Council through the regular Infrastructure Project Delivery Bulletin.

Voting Requirements

Absolute Majority

Officer Recommendation

That Council **DELEGATES** authority to the Chief Executive Officer to award the Tender for the construction of the Shoalwater Reserve Activity Node up to the value of \$850,000.

Committee Recommendation

Moved Cr Edwards, seconded Cr Sammels:

That Council **DELEGATES** authority to the Chief Executive Officer to award the Tender for the construction of the Shoalwater Reserve Activity Node up to the value of \$850,000.

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

Engineering and Parks Services Director and Support Services



Birodioi an	a support solvious	2
Reference No & Subject:	EP-007/21 Council Policy - Memorials Places	in Public
File No:	COM/13-19	
Applicant:		
Owner:		
Author:	Mr Sam Assaad, Director Engineering and Parks Se	rvices
Other Contributors:	Ms Michelle Ebert, Business Analyst	
Date of Committee Meeting:	19 April 2021	
Previously before Council:	27 January 2021 (EP-002/21)	
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	
011		
Site:		
Lot Area:		
LA Zoning:		
MRS Zoning:		
Attachments:	Schedule of Submissions ¹	

Purpose of Report

Maps/Diagrams:

To consider Council Policy - Memorials in Public Places for adoption following completion of public advertising.

Background

At its Ordinary meeting on 27 January 2021, Council resolved to:

'SUPPORT the draft Memorial Policy, for the purpose of public comment, as follows:'

Details

The public consultation period for the draft Council Policy - Memorials in Public Places concluded on 25 February 2021.

¹ Typographical error in heading corrected

On the basis of the responses, the following items are proposed to be adjusted between the advertised draft and final recommended Council Policy - Memorials in Public Places:

- Tenure for a roadside memorial cross to be extended from 14 months to 26 months
- Provision of roadside memorial plaque to be removed.

Other than these changes, it is recommended that the other elements of the revised policy are maintained as advertised. Further details of the consultation outcomes are in the 'Implications to Consider' section of this report.

Implications to Consider

a. Consultation with the Community

Advertising Methodology

The draft Council Policy - Memorials in Public Places was advertised on 28 January 2021 for a period of 28 days.

- Advertised in the Sound Telegraph on 3 February 2021;
- Share Your Thoughts on the City's website;
- An invitation to comment was distributed via Rockport; and
- Social media posts during the advertising period to encourage submissions through the City's website.

Public Submissions

At the conclusion of the public advertising period, a total of 234 submissions were received.

A full copy of the submissions is attached to this report. The content of these submissions is summarised and addressed in the tables below. Submissions have been divided into three categories:

- Draft policy supported, in full or partially (15)
- Draft policy not supported (214)
- Comments/suggestions only (5)

1. Draft Policy Supported (15 submissions)

Summary of submissions:

Of the submissions in this group:

- (i) 67% (10) agreed with the draft policy in full
- (ii) 13% (2) indicated concerns regarding fees and charges
- (iii) 13% (2) indicated concerns regarding the tenure of existing plaques
- (iv) 7% (1) expressed the need for an alternative location for existing plaques

City's Comments:

- (i) The comments in support of ceasing the provision of memorials provided the following reasons:
 - (a) Fairness and equity once a location is used for a memorial, future community members are essentially prevented from having their own memorial in that location. This is also relevant to discussion on tenure.
 - (b) Congestion most memorials are placed in locations that are also a favourite place for many others and has led to the issues of congestion of memorial bench seats in a short section of the foreshore.
 - (c) Purpose of these spaces the use of public open space for memorialisation can have negative impacts for other users. Specific mention is made to the following comment:

1. Draft Policy Supported (15 submissions) (cont...)

"There are people who say that the crosses are a reminder to other drivers to take increased care. To the best of my knowledge there are no studies that show a reduction in fatalities as a result of the crosses. My main reason for opposing the placing of crosses is they are a constant reminder to first responders of the event they may have had to attend at that particular site. I had to resign as a Paramedic because of PTSD due to attending too many difficult call outs, many of which were motor vehicle crashes."

- (ii) Comments regarding fees and charges did not recognise that fees and charges for memorials are already in place.
- (iii) One response indicated that they were associated with an existing memorial.
- (iv) Suggestions were received for an option for memorial owners to replace the bench seats or to move the existing plaques to an alternative location after 15 years.

2. Draft Policy Not Supported (214 submissions)

Summary of Submissions:

Of the submissions in this group:

- (i) 39% (83) disagreed with the tenure only, including 6% who also indicated that tenure was not specified when the memorial was originally purchased
- (ii) 28% (60) disagreed with fees and charges only
- (iii) 23% (50) disagreed with both tenure and charges
- (iv) 6% (12) did not specify their concerns
- (v) 4% (11) were opposed to disallowing future memorials and/or wished to have freedom to erect a future memorial

City's Comments:

- (i) There were a total of 133 submissions who did not support the proposal to impose a 15 year tenure on existing memorials. Essentially the reasons were:
 - (a) There was no tenure on the original approval,
 - (b) Many of these memorials have been in place for many years; and
 - (c) They are favourite spots for family to congregate and reflect.

All these reasons are important however it needs to be noted that these locations are also valued by other community members and the focus of having memorials impacts on the enjoyment of these spaces by others. The use of these favourite spots for family of the deceased is not dependent on the placement of a plaque or other memorial structure. In fact, there is sufficient information that confirms that this limits the enjoyment of the public open space by others. Specific mention is made of the following comment:

"As for the memorial seats, I do not like to use them as I feel I am invading someone's resting place. What happens if I am using it when the family come to pay their respects? Am I required to move? I understand that everyone grieves differently, but if we continue to allow these memorials in public places, eventually the whole town will become a cemetery, and us ratepayers will have an ever increasing bill for the upkeep of them."

- (ii) Public misconception of the administration fees and charges was highlighted in the responses, noting that;
 - (a) Fees and charges are already in place for memorial plaques and benches; and
 - (b) There are no fees associated with temporary roadside memorials.

2. Draft Policy Not Supported (214 submissions) (cont...)

- (iii) Only 4% (11) submissions against the draft policy raised issue with the future restriction of memorials. The main reasons provided by these submissions were:
 - (a) A desire to add to an existing memorial bench for future generations; and
 - (b) That these are a means to recognise community members.
- (iv) It is noted that 64 responses indicated that they were associated with an existing memorial and five responses indicated they were awaiting approval of a new memorial request.

3. Others (5 submissions)

Summary of Submissions:

- (i) Requests for information relating to existing and future plaques. (2)
- (ii) Suggestions only. (3)

City's Comments:

- (i) The requests for information were noted and passed onto the relevant City staff to action as appropriate.
- (ii) Suggestions received:
 - (a) Alternative roadside memorials (Main Roads).
 - (b) Maintenance costs to be passed onto the applicant.

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:

Aspiration 3: Plan for Future Generations

Strategic Objective: Preservation and Management of Bushland and Coastal Reserves -

Encourage the sustainable management and use of the City's

bushland and coastal reserves.

Aspiration 4: Deliver Quality Leadership and Business Expertise

Strategic Objective: Management of Current Assets - Maintain civic buildings, sporting

facilities, public places and road and cycle way infrastructure based

on best practice principles and life cycle cost analysis.

d. Policy

Nil

e. Financial

Nil

f. Legal and Statutory

Nil

g. Risk

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

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

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

Nil

Comments

Future Memorials

The provision of memorials is a highly sensitive and emotive subject and this is acknowledged by the City.

It is noted that 214 submissions did not support the proposed policy, however of these, 110 were only based on opposition to the perceived charges. It needs to be clarified that the draft policy does not describe any fees and further:

- 1. The City currently provides memorials and other than temporary roadside crosses, all have existing fees and charges which have been applicable for many years.
- 2. The policy did not describe any fee for temporary roadside crosses and it is recommended that no charge is made for such an application. This has been captured in the revised wording of the policy.

In addition the City recognises that the ongoing costs related to management of memorials is an impost on the City's resources and the true costs are not recovered from the applicants. This is especially true in relation to the ongoing vandalism and thefts that occur regularly. These costs are borne by the wider community and ultimately limit the City's capacity to provide other highly desired services such as benches in other reserves or bus stops.

When looking at other local governments, it is noted that very few provide a memorial option within their public open spaces. Of those that do, there has been a recent shift to strengthen the reasons for approval of such memorials and essentially memorials are integrated with the donation of a significant asset. The primary considerations commonly include;

- · The person contributed significant time to the development of the City.
- · The person contributed to three or more sectors of the community.
- The person has a relevant relationship with the location.

It is the officer's view that the provision of significant assets places a significant cost impost on the families, having the effect of excluding those who may not have the financial resources to invest in such a memorial. On that basis it is considered that this approach does not meet the fairness test.

In conclusion, it is considered that the number and split of responses relating to the future provision of memorials support the cessation of memorials in public open space but the continuance of roadside memorial crosses.

Tenure

The officers view is that the provision of memorials reinforces the perception of exclusive use of public land by private person(s) and should therefore be provided on a broad, open and transparent basis. That is not the case with memorials which have been provided on a first-come basis, and have locked out availability for an indefinite period. An unlimited tenure for memorials does not provide a resolution of this issue.

Despite this, there also needs to be a recognition of the sensitivity in imposing a new time limit on existing memorials. It is noted that some of these submissions provided for alternative periods ranging from 25 to 70 years.

The provision of a fixed tenure is recommended as it corresponds to good governance and is consistent with current practice by other Cemetery and Memorial providers and the requirements of the Cemeteries Act 1986. On the basis of submissions it is felt that the balanced approach is to implement the same tenure to existing memorials.

The officer also notes that even if future memorials are no longer permitted, it is appropriate for a time limit to be applied to existing memorials for the following reasons:

1. These existing memorials have a real cost to the general community and an opportunity cost for the provision of other desirable services; and

2. It would be unreasonable that due to timing of the death of a loved-one, some memorials are allowed into perpetuity and others are prevented. A tenure applies an element of fairness to the transition to having no new memorials.

In conclusion, to recognise the sensitivity of this issue, it is recommended that a 25 year tenure to existing memorials provides sufficient duration to make alternative plans. In the case of the memorial walls and roadside plaques, the 25 year tenure is applied for consistency of management and equity between all memorial options.

Roadside Memorials

In relation to the provision of a memorial plaque for roadside memorials, it is recommended that this option is removed and any existing roadside plaques are provided with the same tenure as other memorials. In lieu of this and to reflect on the comments received, the tenure for a temporary roadside cross is recommended to be 26 months (the draft provided for 14 months).

Main Roads have revised their Roadside Memorials Policy and Guidelines so that crosses may not be placed in close proximity to residential dwellings where they may cause concern to the occupants.

It is also noted that very few local governments determine a policy for roadside memorials either being silent or following the Main Roads guidelines.

It is also recommended that the requirement to apply to install a temporary cross is maintained as this is the only means that the City has to communicate with the family in case of the need for the cross to be moved for roadworks or by third parties (utilities for example). It is not proposed for a fee to be applied for application and the applicant be permitted to install the memorial cost themselves. These changes have been included in the policy text.

In conclusion in relation to roadside memorials, it is recommended that the tenure for roadside crosses is increased to 26 months and applicants, subject to approval can install the crosses themselves. It is recommended that the option for a memorial plaque is ceased. Existing roadside plaques will have the same tenure as other memorial plaques for consistency of approach.

Voting Requirements

Simple Majority

Officer Recommendation

That Council ADOPTS the Memorial in Public Places Policy.

Committee Recommendation

Moved Cr Edwards, seconded Cr Buchan:

That Council **ADOPTS** the Memorial in Public Places Policy, as follows:

Council Policy - Memorials in Public Places

Council Policy Objective

To ensure that existing memorials are managed in an empathetic manner.

Council Policy Scope

This Policy recognises that the appropriate location for memorialisation of individuals is within the grounds of the two existing cemeteries within the district, East Rockingham Pioneer Cemetery or Rockingham Regional Memorial Park.

This Policy does not apply to commemorations for historical events or causes, which will be considered on a case-by-case basis.

This Policy does not apply to requests to name places or facilities for people who have made a significant contribution to the City of Rockingham.

Temporary roadside memorials are permitted for individuals who have died tragically on roads within the district.

Council Policy Statement

Existing Memorial Bench Plaques

All existing memorials on benches across the City are transitioned to a 45 25 year grant from the date of approval of this Policy.

Any replacement of existing plaques will be subject to the same grant expiry date as the plaque it replaces. The original applicant(s) will be responsible for all costs associated with repair or replacement of the memorial plaque.

The City will be responsible for all costs associated with the repair, maintenance and replacement of the bench.

At the expiry of the grant, the memorial plaque will be removed and, where possible, returned to the first named original applicant or their nominated agent. The City will retain the right to retain the bench seat as a City asset.

Existing Plaques - Waikiki or Rockingham Beach Memorial Walls

All existing memorials on the memorial walls are transitioned to a 45 25 year grant from the date of approval of this Policy. This will include any reserved (unused) spaces on these walls.

At the expiry of the grant, the memorial plaque will be removed and, where possible, returned to the first named original applicant or their nominated agent.

The original applicant(s) will be responsible for all costs associated with repair or replacement of the memorial plaque during the grant period. Any replacement plaques will be subject to the same grant expiry date as the plaque it replaces.

Memorials will be subject to the same level of maintenance as the wall to which it is attached. Any additional maintenance will be the responsibility of the applicant(s).

Applicants will retain the opportunity to add a second name to an existing plaque. The revised plaque will be subject to the same grant expiry date as the original plaque.

Temporary Roadside Memorials

Temporary roadside memorials (cross or plaque only) are to be installed in accordance with the City of Rockingham Memorial Specifications and can only be provided for one individual. Where multiple lives are lost in a single accident, each life will be permitted to have individual roadside memorials colocated near the site of the accident.

Roadside memorials using a white cross will only be approved for a period up to 44 26 months from the date of the accident at which time the cross and all associated materials must be removed.

removed; or

replaced with a roadside memorial plaque.

A roadside memorial plaque may be approved for an additional period of two years.

Approval Process

Applications for a roadside memorial cross will be at no cost to the applicant but must be made in writing. If the application is from an organisation or person other than a family member of the deceased, a letter of permission from the deceased's family is required.

Approval of applications are at the discretion of the City when taking account the wishes of the family and friends of the deceased and nearby residents.

Roadside memorials will be placed as near as possible to the position requested by the applicant. Applicants may compose the wording for the plaque, subject to approval by the City.

Works and costs

Following approval of the application, installation will may be carried out by the City applicant. The City will not permit installation by applicants or their contractors under any circumstance.

Costs

All costs associated with the installation of a roadside memorial cross are to be borne by the applicant. Full payment is required after approval of the application and prior to the ordering and installation of the memorial.

Maintenance

The City does not undertake any maintenance on roadside memorial plaques.

The City will not be responsible for the replacement of any memorial plaques which are vandalised, damaged or stolen.

Memorial Removal

All existing memorials will have a finite life as follows:

- Plaques on memorial walls and benches 45 25 years
- Temporary roadside memorial cross 44 26 months
- Temporary rRoadside memorial plaque 2 25 years.

Council reserves the right to remove any memorial after these timeframes, with all attempts made to return the plaque to the first named original applicant or their nominated agent.

Should an installed memorial become disturbed through works by the City, the memorial shall be removed and reinstalled, if appropriate, in the same location or installed in another location nearby (all reasonable attempts will be made to contact the original applicant prior to works commencing).

Definitions

Memorial - a structure or asset that is placed for the purpose of remembrance of individuals or events.

Legislation

Cemeteries Act 1986

Local Government Act 1995.

Local Government (Uniform Local Provisions) Regulations 1996 - Regulation 6.

Public Places and Local Government Property Local Law 2018.

Land Administration Act 1997.

Land Information Authority Regulations 2007 3 - Information prescribed as fundamental land information.

Other Relevant Policies/Key Documents

Policies and Standards for Geographical Naming in Western Australia.

City of Rockingham Memorial Specifications.

Responsible Division

Engineering and Parks Services

Review Date

XXX

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

13.	Reports of Councillors
	Nil
14.	Addendum Agenda
	Nil
15.	Motions of which Previous Notice has been given
	Nil
16.	Notices of Motion for Consideration at the Following Meeting
	Nil
17.	Urgent Business Approved by the Person Presiding or by Decision of the Committee
	Nil
18.	Matters Behind Closed Doors
	Nil
19.	Date and Time of Next Meeting
	The next Planning and Engineering Services Committee meeting will be held on Monday 17 May 2021 in the Council Chambers, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.
20.	Closure
	There being no further business, the Chairperson thanked those persons present for attending the Planning and Engineering Services Committee meeting, and declared the meeting closed at 5:02pm .