



City of Rockingham

AGENDA

Ordinary Meeting of Council

To be held on Tuesday 24 August 2021 at 6:00pm
City of Rockingham Council Chambers

**Note: This meeting will be subject to audio recording
in accordance with Council's Recording and
Streaming Council Meeting's policy**



Notice of Meeting



Dear Mayor and Councillors

The next Ordinary Meeting of the Council of the City of Rockingham will be held on Tuesday 24 August 2021 in the Council Chambers, Civic Boulevard, Rockingham. The meeting will commence at 6:00pm.

A handwritten signature in blue ink, appearing to read 'Michael Parker'.

MICHAEL PARKER
CHIEF EXECUTIVE OFFICER

24 August 2021

DISCLAIMER

PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:

Statements or decisions made at this meeting should not be relied or acted on by an applicant or any other person until they have received written notification from the City. Notice of all approvals, including planning and building approvals, will be given to applicants in writing. The City of Rockingham expressly disclaims liability for any loss or damages suffered by a person who relies or acts on statements or decisions made at a Council or Committee meeting before receiving written notification from the City.

City of Rockingham
Ordinary Council Meeting
6:00pm Tuesday 24 August 2021



1. Declaration of Opening

Acknowledgement of Country

This meeting acknowledges the traditional owners and custodians of the land on which we meet today, the Nyoongar people, and pays respect to their elders both past and present.

Recording and Streaming

Clause 8.5 of the *City's Standing Orders Local Law 2001* provides that "[n]o person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council".

In accordance with clause 8.5 of the *City's Standing Orders Local Law 2001*, Council has given permission for the administration to record proceedings of this meeting.

This permission does not extend to members of the public (including those in the gallery) meaning that they must not use any electronic, visual or vocal recording device or instrument (including a mobile telephone) to record any part of this meeting. If anyone breaches this Standing Order they will be asked to leave the Council chamber.

Council meetings are recorded in accordance with Council Policy –

Recording and Streaming Council Meetings. By being present at this meeting, members of the public consent to the possibility that their voice may be recorded. Recordings will be made available on the City's website following the meeting.

The City of Rockingham disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence, or the like is considered or determined during this meeting the City warns that neither the applicant nor any other person or body should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it or the refusal of the application has been issued by the City. The official record of the meeting will be written minutes kept in accordance with the Local Government Act 1995 and any relevant regulations.

Public question time and deputations will not be recorded.

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

2.1 Councillors

Cr Barry Sammels (Mayor)	Rockingham/Safety Bay Ward
Cr Deb Hamblin (Deputy Mayor)	Rockingham/Safety Bay Ward
Cr Sally Davies	Baldivis Ward
Cr Hayley Edwards	Baldivis Ward
Cr Lorna Buchan	Comet Bay Ward
Cr Mark Jones	Comet Bay Ward
Cr Craig Buchanan	Rockingham/Safety Bay Ward
Cr Rae Cottam	Rockingham/Safety Bay Ward
Cr Leigh Liley	Rockingham/Safety Bay Ward
Cr Joy Stewart	Rockingham/Safety Bay Ward

	<p>2.2 Executive</p> <p>Mr Michael Parker Chief Executive Officer Mr Bob Jeans Director Planning and Development Services Mr Sam Assaad Director Engineering and Parks Services Mr John Pearson Director Corporate Services Mr Peter Doherty Director Legal Services and General Counsel Mr Michael Holland Director Community Development Ms Jelette Edwards A/Manager Governance and Councillor Support Mr Peter Le Senior Legal Officer Mr Aiden Boyham City Media Officer Ms Sarah Mylotte Administration Officer – Governance and Councillor Support</p> <p>2.3 Members of the Gallery:</p> <p>2.4 Apologies:</p> <p>2.5 Approved Leave of Absence:</p>
<p>3.</p>	<p>Responses to Previous Public Questions Taken on Notice</p>
	<p>3.1 Ms Janice Harwood, Baldivis – Stakehill Road, Baldivis</p> <p>At the Council meeting held on 27 July 2021, Ms Harwood asked the following questions that were taken on notice and the Director Engineering and Parks Services provided a response in a letter dated 2 August 2021 as follows:</p> <p><u>Question</u></p> <p>1. The Stakehill Road Safety Audit Report (RSA) 2019 Full Report identified that the <i>“horizontal and vertical geometry along Stakehill Road is poor and that Safe Intersection Sight Distance is restricted.”</i></p> <p>Why has the City failed to mention this in the Road Safety Audit Summary or in the Letter of Response to Stakehill Road East Residents on 23 June 2021 as it is a critical safety issue that our Community has been raising with the City since 2015 and why has the City only mentioned vegetation as restricting sight distance at intersections and driveways? We request a Full Copy of the Stakehill Road Safety Audit Report and Audit Brief please.</p> <p><u>Response (provided at the meeting)</u></p> <p><i>The Mayor advised that this has been addressed in the letter dated 23 June 2021, at the final dot point under Safety of the exiting carriageway of Stakehill Road. The feature survey will guide any proposed speed limit changes.</i></p> <p><u>Question</u></p> <p>2. The results of the Speed Analysis carried out in 2019 indicate a concerning level of speeding vehicles as recorded at 300 Stakehill Road.</p> <p>Why did the City tell our Community that there was not a problem with speeding on our road when the report shows 1148 vehicles speeding on Stakehill Rd during this period and the highest recorded speed was 141.9 kph and what risk does the City/Council think speeding combined with the roads poor horizontal and vertical geometry places on its Residents at intersections, at Concealed Accesses or at driveways with direct access onto Stakehill Road and does the City/Council consider this risk to be acceptable?</p> <p><u>Response (provided at the meeting)</u></p> <p><i>The Mayor advised that the analysis of road speed data is undertaken in accordance with national industry best practice. This utilises the 85th percentile speed as an indication of the overall impact of speeding behaviour. In relation to the interaction of speed and geometry, this is the purpose of the feature survey referred to in the previous question.</i></p>

Question

3. In June 2020, the City told our Community that there were insufficient funds in the 2019/2020 financial year to complete a Feature Survey of Stakehill Road East and that approx \$10,000 would be budgeted for the contract in the 2020/2021 Financial Year.

In 2021, City (Mr Ryan Gibson, Coordinator Planning and Design) was questioned by Resident (J Harwood) regarding the Survey, was informed that the quotes for undertaking the Feature Survey had been submitted and he was working out how to keep the surveyors safe on the road.

Why was this project suddenly halted and why were the Residents informed on 23 June 2021 that "A feature survey of the road section will need to be completed in the next financial year due to budget limitations" when it had been budgeted for and the contract let in 20/21? And can the City advise which financial year the \$278,518 allocated to upgrading Stakehill Road was for and for what purpose?

Response (provided at the meeting)

The Mayor advised that this was simply a timing matter. The feature survey could not be completed in the 20/21 financial year. As the budget for these surveys are allocated from an ongoing operational activity the funds were reallocated to the 2021/22 budget for this activity and the work is being progressed.

It is unclear what project is being referred to in relation to the \$278,518 and this will be taken on notice

Additional Response

The resurfacing of Baldivis Road between Stakehill Road and Karnup Road was fully funded by the Federal Government in 2020/21 for \$278,518. The project was completed in April 2021.

3.2 Mr James Mumme, Shoalwater – Future of Service Stations / Local Planning Strategy

At the Council meeting held on 27 July 2021, Mr Mumme asked the following questions that were taken on notice and the Director Planning and Development Services provided a response in a letter dated 9 August 2021 as follows:

PD-023/21 New petrol station

(Preamble to question)The Chairperson advised that the City has no adopted position on electric vehicles other than an action within its Sustainability Strategy to develop an Emissions Reduction Plan which will assess the City's vehicle fleet. Even if there was a more targeted position, it would not prevent the City from considering an application for Development Approval, as is the case with this matter.

Question

1. The response does not answer my question. The community want Council to Plan for Future Generations to meet the needs of the growing population, with consideration of future generations. In the case of this petrol station, Council is failing to consider both the needs of the current growing population and the needs of future generations who will more likely need charging stations, not petrol stations. Will Council take this community wish more seriously and how and if not why?

Response

The response does answer the question, stating that even if the City had a targeted position with respect to electric vehicles, it would not prevent the City from considering an application for development of a petrol station. In other words, the City does not have planning grounds in which to oppose the application on the grounds of emission reductions.

(Preamble to question) TPS 2 Demographically valid consultation with the community.

I asked "*what efforts will be made to ensure that there is demographically valid inclusion of different parts of the community - youth, genders, workers, parents, middle aged, seniors, the disabled, ethnically diverse groups?*"

Question

2. The response does not answer my question. I take it therefore that no efforts will be made to analyse responses to Town Planning Scheme review in terms of the demographic profile of the respondents and that council's community consultation will remain random and statistically invalid. If this is true, it's embarrassing. I ask why not?

Response

In terms of seeking input from a wide demographic, the City will seek to ensure that a diverse representation of the community is directly notified and invited to provide input, utilising the City's existing networks. This is being worked through with the City's community engagement consultants and, where necessary, specific working group discussions may be arranged in addition to open sessions.

Further, the City's staff will be available to discuss the Local Planning Strategy process and assist community members to engage where they are not comfortable or able to engage in a working group setting.

PD-022/21 Review of PTS 2 foreshadowing development at Cape Peron

(Preamble to question) I asked about the wording about "development at Cape Peron Foreshore that attracts investment and eco-tourist activities" and was told that "*It is simply a statement of what might be considered in any future planning process for Cape Peron, and would be, of course, subject to any decisions forthcoming from the Hon Minister on the Cape Peron Report.*"

I would point out in relation to Cape Peron that -

- Cape Peron has already had over 23 excisions totalling an estimated 25ha or XX% of the Cape Peron Regional Park
- We have already seen EPA approve a development with marina and canals, a 5 storey hotel and housing, EPBC approve it, the then Minister approve it.

Question

3. What assurance can Council give the community that you will support the retention of the little that remains of the bush at Cape Peron and that you at this point will exclude from TPS2 any possibility for residences and businesses at Cape Peron?

Response

The State Government has now endorsed recommendations to guide the future of Cape Peron. The City's new Town Planning Scheme will be required to align with the State's endorsed decision with respect to Cape Peron, the outcomes of any additional studies outlined in the State's decision, and the Metropolitan Region Scheme (as amended).

3.3 Ms Nikki Bombak, Golden Bay – Golden Bay Service Station development proposal

At the Council meeting held on 27 July 2021, Ms Bombak asked the following questions that were taken on notice and the Director Planning and Development Services provided a response in a letter dated 3 August 2021 as follows:

Questions

1. The company that Lleyton Property hired to conducted the EIA do not advertise anywhere on their website that they do any air quality consultation. The report was completed by a Geochemist (rocks, soil, groundwater analysis) and signed off by a Hydrogeologist (groundwater, soil, rock). Air quality is not their speciality.

Will the council be having the report peer reviewed by an actual Air Quality Technician similar to these guys...

<https://clicktime.symantec.com/3Y4YmkRpQSh6i51kCYGAuZ97Vc?u=https%3A%2F%2Fenvironment.com.au%2F>

2. The EIA report is solely centred around air quality at the southern boundary. There is no mention about the western/north western boundary where the child care centres are, nor dispersion of particles by the wind and sea breeze to the east of the property. Also noted is that there is a section completed with default data and not accurate to Golden Bay.
3. Why have Lleyton Property chosen not to include the residential development to the south of the property in this proposal? Is it because they realise it is audacious to submit a residential development with an application that goes against the EPA separation guidelines?

Response

A response to the above questions cannot be provided at this stage, as the revised Golden Bay mixed use development proposal is currently out for public consultation. Once the public comment period has concluded, all submissions will be assessed, issues identified and a report will be presented to Council for a decision on the matter. Question

4. Can you confirm what the zoning is for the land north of Adelong and Warnbro Sound Ave? My previous question last meeting only addressed the southern portion of land being residential. Is there any plans by PEET to change this zoning from residential like they have with other areas of this development?

Response

The land on the northern side of Adelong Avenue and Warnbro Sound Avenue is zoned Commercial and Residential 'R60' under the City's Town Planning Scheme No.2 (TPS2), whilst land on the southern side is zoned Residential 'R40' and 'R60'.



PEET Indicative Development of Neighbourhood Centre



TPS2 Zoning Map

There are no current planning applications lodged with the City in this regard, nor is the City aware of the developer's intentions pertaining to any rezoning.

Question

5. The Stakehill Road development proposal in Karnup comes with many problems, not least the plumbing and sewerage. I ask the councillors to please consider as part of your recommendations that the petrol station posed for development on the site does not adhere to the EPA separation guidelines either with a childcare centre and residential being in close proximity to a service station.

Response

With respect to the Structure Plan proposal over Lots 877 and 878 Stakehill Road, this will be the subject of a separate report to Council, for consideration at its meeting on the 24th August 2021. The merits of the Structure Plan are currently being assessed by City Officers.

Question

6. Has the Health Department made any comment or recommendations at this stage on the EIA report and can the public and myself be privy to such information at the time the council is given their recommendations. Preferably before the special meeting.

Response

In relation to the revised Golden Bay proposal, any Department of Health advice will be included as an attachment to the City's report and will be available for public inspection, prior to the Council meeting taking place.

The Mayor advised that we cannot deal with these questions now, as the proposal is currently out of public consultation. Once the public comment has concluded, all submissions will be assessed, issues identified, and a report will be presented to Council for a decision.

3.4 Mr John Scarfe, Baldivis – Traffic concerns school children / school bus – Doghill Road, Baldivis

At the Council meeting held on 27 July 2021, Mr Scarfe asked the following questions that were taken on notice and the Director Engineering and Parks Services provided a response in a letter dated 2 August 2021 as follows:

Question

Mr Scarfe referred to his questions to the Planning and Engineering Services Committee and reiterated his concern for school children walking to / from and waiting for school bus pick up / drop off at Doghill Road.

- Has anything been considered about extending Lloyd Road to Mundijong Road

Response

As part of the long term strategic planning there is no road reserve identified to develop this connection.

- Childrens safety when walking along Doghill Road to meet school bus and drop offs

Response

The responsibility for installation of signage is with Main Roads WA. The City will review whether additional school bus signage meets the MRWA warrants and makes a request to Main Roads WA if appropriate.

- Warning signs on Doghill Road about school bus stopping and children

Response

The responsibility for installation of warning signs is with Main Roads WA. The City will review whether additional school bus signage meets the MRWA warrants and makes a request to Main Roads WA if appropriate.

- There are no lines on Doghill Road and no school bush signs

Response

Doghill Road does not meet the warrants outlined by MRWA for the installation of a centre line and edge lines.

- Area is a small acreage for families not a commercial industrial area

Response

The proposed development fits within appropriate land uses for a rural zone. Properties along Doghill Road are in a rural area under the City's Town Planning Scheme.

- Any thought on the danger to push bike riders using area for training – before weekend races.

Response

Cycling training outside of races approved by the City occurs across multiple locations in the City. All road users are expected to follow the road rules including safe passing legislation in these areas when overtaking bicycles.

	<p>3.5 Ms Dawn Jecks, Safety Bay – Developer Contact Register</p> <p>At the Council meeting held on 27 July 2021, Ms Jecks asked the following questions that were taken on notice and the Director Planning and Development Services provided a response in a letter dated 9 August 2021 as follows:</p> <p><u>Question</u></p> <p>1. Does the City of Rockingham have a property Developer Contact Register where contact with the City's staff and councillors is documented in accordance with the State Records Act with a summary declared on a Developer Contact Register on the City's website?</p> <p><u>Response</u></p> <p><i>The City does not have a Developer Contract Register, however, the Department of Local Government, Sport and Cultural Industries issues Operational Guidelines dealing with this matter. The website link is below.</i></p> <p><i>Elected Members' Relationship with Developers (dlgsc.wa.gov.au)</i></p> <p><u>Question</u></p> <p>2. Does the City of Rockingham have a Property Developer Contact Policy? Is there a specific documented policy?</p> <p><u>Response</u></p> <p>No.</p> <p><u>Question</u></p> <p>3. Does the City of Rockingham have a specific Community Consultation Policy? Not asking about what measures are taken around community consultation but is there a specific documented policy?</p> <p><u>Response</u></p> <p>No.</p>
4.	Public Question Time
	<p>Members of the public are invited to present questions to the Mayor about matters affecting the City of Rockingham and its residents. This is the only opportunity in the meeting for the public to ask questions.</p>
5.	Applications for Leave of Absence
6.	Confirmation of Minutes of the Previous Meeting
	<p>Recommendation:</p> <p>That Council CONFIRMS the Minutes of the Ordinary Council meeting held on 27 July 2021, as a true and accurate record.</p>
7.	Matters Arising from the Previous Minutes
8.	Announcement by the Presiding Person without Discussion
	<p>The Mayor to announce 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 Council meeting.</p>

9.	Declarations of Members and Officers Interests		
	9.1	Item PD-025/21	Proposed Amendment to the Spires (Phase2) Standard Structure Plan - Lot 9005 Fifty Road, Baldivis
		Councillor:	Cr Hayley Edwards
		Type of Interest:	Financial
		Nature of Interest:	Cr Edwards has a commercial interest in The Spires Estate.
		Extent of Interest:	Not Applicable
10.	Petitions/Deputations/Presentations/Submissions		
11.	Matters for which the Meeting may be Closed		
	Corporate and Community Development Committee		11
	CS-020/21	Challenger Lodge and Challenger Court Disposal (<i>Absolute Majority</i>)	11
	<p>In accordance with section 5.23(2)(c) of the Local Government Act 1995 – if there are any questions or debate on Confidential Item CS-020/21 Challenger Lodge and Challenger Court Disposal, then the Council will need to defer the matter for consideration at Agenda Item 23 - Matters Behind Closed Doors.</p>		

Corporate and Community Development Committee

CONFIDENTIAL ITEM

NOT FOR PUBLIC ACCESS

Section 5.95(3) Local Government Act 1995 (the Act)

This item may be discussed behind closed doors as per Section 5.23(2)(c) of the Act

Corporate Services		
Director and Support		
Reference No & Subject:	CS-020/21	Challenger Lodge and Challenger Court Disposal (<i>Absolute Majority</i>)
File No:	LGS/702-04	
Proponent/s:		
Author:	Mr John Pearson, Director Corporate Services	
Other Contributors:	Ms Helen Savage, Senior Project Officer Ms Naomi Edwards, Coordinator City Properties	
Date of Committee Meeting:	17 August 2021	
Previously before Council:	23 March 2021 (CS-006/21), 25 May 2021 (CS-012/21)	
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	
Site:	Lot 1484 on Diagram 180048 (30) Ray Street, Rockingham	
Lot Area:	2.7189 ha	
Attachments:		
Maps/Diagrams:	1. Aerial Photo 2. Challenger Court - Street View	

Voting Requirements

Absolute Majority

Officer Recommendation

That Council:

1. **APPROVES** the transfer of the land and business located at 30 Ray Street, Rockingham (Lot 1484) to the organisation noted in the Purpose of the Report and subject to the condition described in the Purpose of the Report;

2. **DELEGATES** authority to the Chief Executive Officer to negotiate and finalise all contractual and land tenure requirements to complete the transfer of Lot 1484 to the organisation noted in the Purpose of the Report.

Committee Recommendation

That Council:

1. **APPROVES** the transfer of the land and business located at 30 Ray Street, Rockingham (Lot 1484) to the organisation noted in the Purpose of the Report and subject to the condition described in the Purpose of the Report;
2. **DELEGATES** authority to the Chief Executive Officer to negotiate and finalise all contractual and land tenure requirements to complete the transfer of Lot 1484 to the organisation noted in the Purpose of the Report.

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

12.	Receipt of Minutes of Council Committees	
	Recommendation: That Council RECEIVES and CONSIDERS the minutes of the:	
	1. CEO Performance Review Committee meeting held on 9 August 2021;	
	2. Planning and Engineering Services Committee meeting held on 16 August 2021; and	
	3. Corporate and Community Development Committee meeting held on 17 August 2021.	
13.	Officers Reports and Recommendations of Council Committees	
	Planning and Engineering Services Committee	15
	PD-025/21 Proposed Amendment to the Spires (Phase 2) Standard Structure Plan - Lot 9005 Fifty Road, Baldivis	15
	PD-026/21 Proposed Standard Structure Plan - Lot 877 and 878 Stakehill Road, Karnup	33
	EP-015/21 Membership Appointment - RoadWise Advisory Committee (<i>Absolute Majority</i>)	79
	EP-016/21 Coastal Facilities Strategy 2021-2025	82
	Corporate and Community Development Committee	88
	GM-024/21 Draft Council Policy – Attendance at Events	88
	GM-025/21 Delegation of Authority – Local Government to Chief Executive Officer and Other Employees (<i>Absolute Majority</i>)	99
	GM-026/21 Council Policy - Legal Representation for Council Members and Employees	103
14.	Receipt of Information Bulletin	
	Recommendation: That Council RECEIVES the Information Bulletins as follows:	
	1. Planning Services Bulletin – August 2021;	
	2. Engineering and Parks Services Bulletin – August 2021;	
	3. Corporate and General Management Services Bulletin – August 2021; and	
	4. Community Development Bulletin – August 2021.	
15.	Report of Mayor	
	MR-008/21 Meetings and Functions Attended by the Mayor and Deputy Mayor	119
16.	Reports of Councillors	
17.	Reports of Officers	
18.	Addendum Agenda	
19.	Motions of which Previous Notice has been given	
	Planning and Engineering Services	121
	EP-017/21 Notice of Motion - Speed Limit Reduction of Stakehill Road, Baldivis	121

20.	Notices of Motion for Consideration at the Following Meeting
21.	Questions by Members of which Due Notice has been given
22.	Urgent Business Approved by the Person Presiding or by Decision of the Council
23.	Matters Behind Closed Doors
24.	Date and Time of Next Meeting
	The next Ordinary Council meeting for the City of Rockingham will be held on Tuesday 21 September 2021 in the Council Chambers, Civic Boulevard, Rockingham.
25.	Closure

13. Officers Reports and Recommendations of Council Committees

Planning and Engineering Services Committee

**Planning and Development Services
 Strategic Planning and Environment Services**

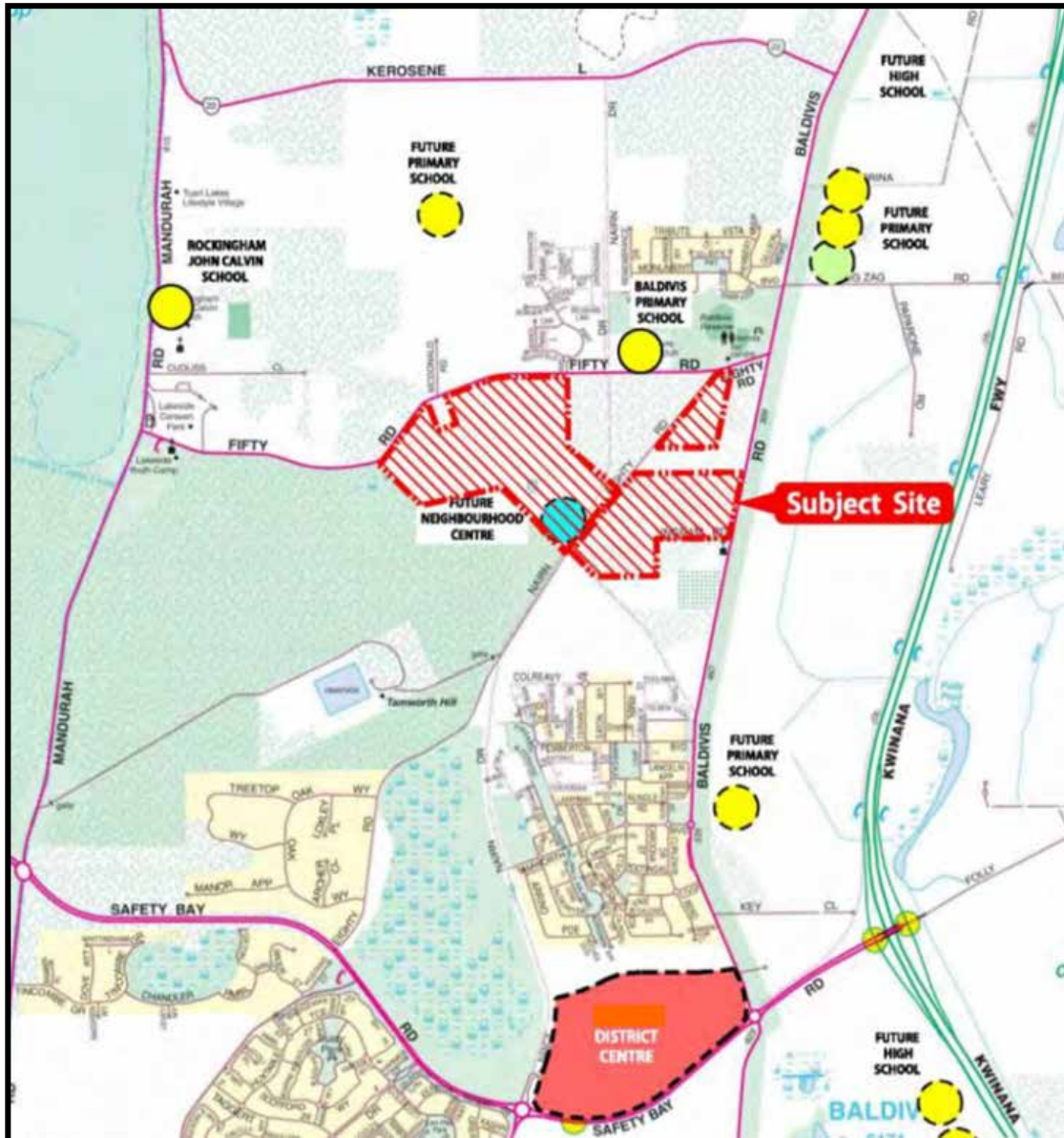


Reference No & Subject:	PD-025/21 Proposed Amendment to the Spires (Phase 2) Standard Structure Plan - Lot 9005 Fifty Road, Baldivis
File No:	LUP/1633-15
Applicant:	CDP Town Planning & Urban Design on behalf of Spatial Property Group
Owner:	Piperpoint Pty Ltd
Author:	Mr Robert Casella, Senior Strategic Planning Officer
Other Contributors:	Mr Tristan Fernandes, Coordinator Strategic Planning Mr Brett Ashby, Manager Strategic Planning and Environment
Date of Committee Meeting:	16 August 2021
Previously before Council:	September 2012 (SPE-022/12); June 2013 (SPE-011/13); July 2016 (PDS-042/16)
Disclosure of Interest:	Cr Hayley Edwards declared a Financial Interest in Item PD-025/21 Proposed Amendment to the Spires (Phase 2) Standard Structure Plan - Lot 9005 Fifty Road, Baldivis, as per Sections 5.60A and 5.65 of the Local Government Act 1995, as she has a commercial interest in The Spires Estate.
Nature of Council's Role in this Matter:	Executive
Site:	Lot 9005 Fifty Road, Baldivis
Lot Area:	54.57ha
LA Zoning:	Development
MRS Zoning:	Urban
Attachments:	Schedule of Submissions
Maps/Diagrams:	<ol style="list-style-type: none"> 1. Location Plan 2. Aerial Photograph 3. Structure Plan Comparison 4. Structure Plan Map 5. Neighbourhood Centre Concept Plan 6. Location of Advertising

Purpose of Report

To consider a proposal to amend The Spires (Phase 2) Standard Structure Plan (referred to thereafter as the 'Structure Plan') prepared over Lot 9005 Fifty Road, Baldvis, following the completion of public advertising.

The proposed Amendment to 'The Spires (Phase 2)' Structure Plan seeks to expand the activity centre by applying a 'Commercial' zone over a 5,000m² parcel of land zoned for Residential R100, for the purpose of developing a Tavern within the Baldvis North Neighbourhood Centre (BNNC).



1. Location Plan

Background

In October 2014, the Council adopted The Spires (Phase 2) Structure Plan covering Lots 2, 4 and 5 Baldvis Road, Lots 312 and 313 Fifty Road and Lots 7 and 8 Ingram Road, Baldvis. The Structure Plan included the following elements:

- Y Residential densities ranging from 'R25 - R60' to facilitate development of approximately 850 dwellings;
- Y Neighbourhood Shopping Centre; and
- Y Ten Public Open Space reserves ranging in size from 1,326m² to 9,400m².

The Spires (Phase 2) Structure Plan was approved by the Western Australian Planning Commission (WAPC) and came into effect on 12 March 2014.

Since its initial adoption, The Spires (Phase 2) Structure Plan has been the subject of four Amendments outlined in Table 1 as follows:

Table No.1 - Approved Amendments to Spires Phase Two Structure Plan

Amt No.	Description	Amendment Type	Approval Date
1	Inclusion of Lot 774 Fifty Road, Baldivis into the Structure Plan area for the purpose of residential development.	Minor (recommendation provided to WAPC under delegated Authority)	November 2014
2	Updated POS Schedule within Part Two (relevant to Lots 312 and 313 Fifty Road, Lots 2, 4, 7, 8 Eighty Road and Lot 5 Baldivis Road, Baldivis)	Minor (recommendation provided to WAPC under delegated Authority)	November 2014
3	Updated road network replacing the cul-de-sac with a through road between land coded R40 and the northern portion of the land zoned Commercial and delete the nib road abutting the southernmost area of land between R60 coded land and the public open space reserve.	Minor (recommendation provided to WAPC under delegated Authority)	September 2015
4	Inclusion of R100 Residential Density coded land surrounding the Neighbourhood Centre.	Major	February 2017
5	Increase of density from R40 to R60 Grouped Housing Lot (Cnr Nairn Drive and Amazon Drive)	Minor (recommendation provided to WAPC under delegated Authority)	May 2017

Status of Amendment to Adjoining Structure Plan (Lots 1401 and 1402 Fifty Road)

In context to this proposal, the Baldivis North Neighbourhood Centre is subject to another Structure Plan proposal located on its northern boundary, which has sought to expand the footprint of the Activity Centre and change nearby residential densities.

At its Ordinary meeting held in January 2021 (PD-002/21), the Council considered an Amendment to the Lot 311 Fifty Road Structure Plan, which abuts the subject land. The Amendment proposed to introduce the following changes:

1. Reallocate residential density codes across the western and central portions of the site, increasing the estimated lot yield to 221 (increase of 31 lots) by:
 - (i) Increasing the base density from R20 (450m² average lot size) to R25 density (350m² average lot size).
 - (ii) Redistributing R30 (300m² average lot size) and R40 densities (220m² average lot size), that provides for an overall reduction of R40 density within the Structure Plan area.
 - (iii) Applying an R60 density (150m² average lot size) within and north of the Commercial zone.
2. Increase the area allocated for Commercial Development from 0.204ha to 1.8ha to accommodate the following:
 - (i) An additional supermarket and specialty shops, to a maximum of 4,000m², resulting in shop/retail floor space total of up to 11,000m² for the overall centre.
 - (ii) Potential for bulky goods showrooms, fast food outlets, child care centre, medical centre, service station and other non-retail commercial uses.

3. Introduce minor changes to the movement network to facilitate the above Amendments to the subdivision design.

The Council resolved to recommend the WAPC to:

1. Refuse the proposed Amendment as proposed; and
2. Advise the City would be prepared to support a modified application, reducing the proposed expansion of the Neighbourhood Centre to a maximum retail floorspace of 1,500m² within Lot 311 and an area of 0.6ha, subject to a range of modifications (refer to PD-002/21 for the extensive list of modifications).

The Statutory Planning Committee considered the proposal on 1 June 2021, where it supported the Council's alternate recommendation to require significant modifications to the Structure Plan.

As of late July, the landowner Aigile Royal Developments has appealed the decision for the WAPC's Statutory Planning Committee.

Details

Site Context

The Structure Plan is bounded by Fifty Road to the north, Baldivis Road to the east and Amazon Drive and a Parks and Recreation reserve to its south and western boundary.



2. Aerial Photograph

Description of the Proposal (as advertised)

The Amendment application to the Structure Plan proposes to:

1. Rezone land from R25 (Average lot size of 350m²) to R40 (Average Lot Size of 220m²) and R100 (plot ratio of 1.3 to a maximum building height of 4 storeys or 15m) in the vicinity of the Baldivis North Neighbourhood Centre (BNNC);
2. Rezone land from R100 to Commercial to facilitate the development of a 'Tavern' adjacent to the planned Public Open Space.

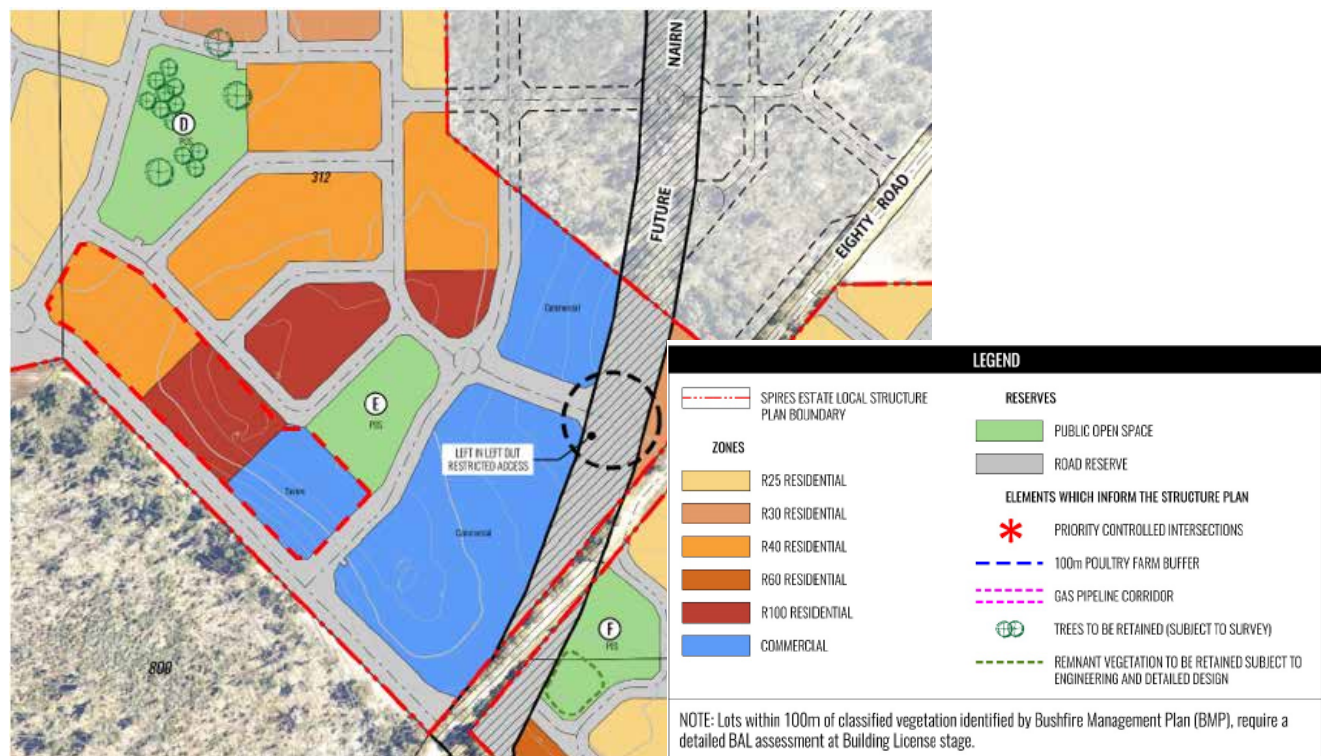


3. Structure Plan Comparison

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), the applicant submitted the following supporting information for assessment:

- Structure Plan Map;
- Updates to the Structure Plan Report Implementation and Explanatory Sections;
- Retail Needs Assessment;
- Traffic Impact Assessment Addendum Report; and
- Addendum to the Urban Water Management Plan

The advertised plans of the Structure Plan Amendment are illustrated in Figures 4 and 5 as follows:



4. Advertised Structure Plan

Development of the R40 and R100 densities, where within the walkable catchment of the BNNC, are to be designed in accordance with the principles stipulated in the approved Structure Plan.



5. Neighbourhood Centre Concept Plan

Implications to Consider

a. Consultation with the Community

Advertising Methodology

Advertising was undertaken in accordance with the requirements of Schedule 2, Part 4, Clause 18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

The advertising period commenced on 20 May 2021 and concluded on 1 July 2021 and was carried out in the following manner:

1. Nearby owners and occupiers (400 referrals) of properties, being those that may be directly or indirectly impacted from the proposed Structure Plan Amendment, were notified of the proposal by letter (refer to Figure 6) (400m radius);
2. The City erected two signs on the subject land, at the intersection of Amazon Drive and Nairn Drive; and another at the south east corner of Pantheon Road and Santorini Parkway intersection;
3. The City placed a notice in the Sound Telegraph newspaper which circulated the area on 26 May 2021.
4. Notified the community through the City's 'RockPort' portal for information to the community.
5. Copies of the proposed Structure Plan Amendment and relevant documents were made available for inspection at the City's Administration Offices and on the City's website.

At the close of the advertising period, the City received no public submissions.



6. Location of Advertising

b. Consultation with Government Agencies

At the close of the advertising period, the City received one (1) submission from the Department of Communities requesting the following matters be addressed:

Department of Communities
<p>Submission:</p> <ul style="list-style-type: none"> - Residential development surrounding the Neighbourhood Activity Centre to provide a high percentage of housing opportunities for people of all ability, by building dwellings to a silver star liveability standard. - The Neighbourhood Activity Centre incorporate universal accessibility design principles at the detailed design stage.
<p><u>City Comment:</u> The City notes the submission. The matters raised will be addressed within the development application stage of the planning process.</p>

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 the growing population, with consideration of future generations.

d. Policy

Assessment of the Structure Plan has been informed by the following strategies and policies:

Liveable Neighbourhoods

Comment:

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

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

Element 1 - Community Design

Element 2 - Movement Network

Element 3 - Lot Layout

Element 4 - Public Parkland

Element 5 - Urban Water Management

Element 6 - Utilities

Element 7 - Activity Centres and Employment

Element 8 - Schools

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

The City has assessed the proposal in accordance with the Objectives' and 'Requirements' of LN. The assessment outcomes are summarised as follows:

Element 1 - Community Design

Liveable Neighbourhoods (LN) recommends that a minimum density of 20 to 30 dwellings per site hectare be provided for areas within 400m of a neighbourhood centre. The principle is to provide smaller residential lots and higher density housing in areas close to neighbourhood centres. This is noted in Element 1 Requirement 18 which states:

"The lot layout should provide a mix of housing types, lot sizes and densities, with smaller residential lots and higher density housing in areas close to town and neighbourhood centres, near public transport stops, and in areas with high amenity such as next to parks".

The proposed Structure Plan Amendment maintains the R100 density, whilst also introducing R40 density in lieu of R25. This new density provides an improved transition from high density development into a suburban environment and is supported.

The City's assessment has determined that with the proposed changes will result in a residential density of 23 lots per site hectare, equating to an estimated 940 dwellings.

Element 2 - Movement Network

The Structure Plan Amendment does not propose to make any changes to the planned movement network.

An addendum to the Traffic Assessment has been prepared in support of the proposal.

The City's assessment has identified technical considerations in relation to the validity of the traffic model.

Liveable Neighbourhoods (cont...)

To ensure the traffic report and model accurately reflects the approved uses, it is recommended the addendum to Traffic report be updated to account for the changes in land use proposed. The Amendments proposed to the addendum to the Traffic Report will inform the City's consideration of subsequent stages of the planning process.

The Amendments required will be detailed within the Schedule of Modifications submitted to the Western Australian Planning Commission for determination.

Element 3 - Lot Layout

In the context of the subject proposal, LN requires the preparation of Local Development Plans (LDP) for lots abutting Public Open Space (POS) and over neighbourhood and town centres.

A LDP has been approved over the BNNC and identifies Yellowstone Road as a main street. The proposed Tavern land use site is located on the north east corner of the intersection of Yellowstone Road (south east) and Amazon Drive (south west).

The approved LDP specifies development standards for buildings to address the primary active and secondary active frontages street frontages. Considerations include nil setbacks to the footpath, minimum building façade height, minimum percentage of glazing to the ground floor façade, pedestrian shelter, and catering for visual interest.

The LDP requires the main street to accommodate on-street parking, with consideration for a high-level of pedestrian amenity by incorporating features such as street furniture, low planting, street trees and lighting where practical and safe. It is expected the proposed tavern development be designed to complement the vision for the Baldivis North Neighbourhood Centre.

Matters relating to the Lot Layout are explained further within the Comments Section of this Report.

Element 4 - Public Parkland

Objective 5 and requirement 12 require POS to be provided which is safe and overlooked by nearby buildings.

The proposed Tavern land use is proposed to abut the POS reserve, with landscape concepts reflecting outdoor dining to overlook the POS and provide a public boardwalk connecting the two land uses.

The Structure Plan does not proposed to alter the provision of POS within the Structure Plan area.

Element 5 - Urban Water Management

The proposed Structure Plan Amendment will result in a minor increase in runoff rates from the higher density lots. This impact has been satisfactorily addressed within the addendum to the Urban Water Management Plan.

Element 6 - Utilities

The subject site is capable of being serviced by necessary utilities at subsequent planning stages.

Element 7 - Activity Centres and Employment

Refer to the 'Comment' Section of the report, below.

Element 8 - Schools

(Not Applicable)

Recommendation 1:

Update the Traffic Assessment by reviewing the inputs in the traffic model and peak hour queue lengths, justifying the outputs.

State Planning Policy No. 4.2 - Activity Centres (SPP 4.2)

The Policy was Gazetted in August 2010 with the objective to specify broad planning requirements for the planning and development of new activity centres and the redevelopment and renewal of existing centres in Perth and Peel. The Policy focuses on:

- *the integration of activity centres with public transport to reduce the overall need to travel;*
- *ensuring activity centres contain a range of activities to promote community benefits through infrastructure efficiency and economic benefits of business clusters; and*
- *lowering transport energy use and associated carbon emissions by supporting the employment of cycling and walking infrastructure.*

The objectives of SPP4.2 include:

1. *Distribute activity centres to meet different levels of community need and enable employment, goods and services to be accessed efficiently and equitably by the community.*
2. *Apply the activity centre hierarchy as part of a long-term and integrated approach by public authorities and private stakeholders to the development of economic and social infrastructure.*
3. *Plan activity centres to support a wide range of retail and commercial premises and promote a competitive retail and commercial market.*
4. *Increase the range of employment in activity centres and contribute to the achievement of sub-regional employment self-sufficiency targets.*
5. *Increase the density and diversity of housing in and around activity centres to improve land efficiency, housing variety and support centre facilities.*
6. *Ensure activity centres provide sufficient development intensity and land use mix to support high-frequency public transport.*
7. *Maximise access to activity centres by walking, cycling and public transport while reducing private car trips.*
8. *Plan activity centre development around a legible street network and quality public spaces.*
9. *Concentrate activities, particularly those that generate high numbers of trips, within activity centres.*

SPP4.2 promotes for a desirable density target of 25 dwellings per gross hectare within a 200m walkable catchment of a neighbourhood centre, however, stipulates for a minimum of 15 dwellings per gross hectare.

Section 5.2.2 Residential Density, states:

1. *Commercial and residential growth should be optimised through appropriately-scaled buildings and higher-density development in walkable catchments in centres.*
2. *Higher-density housing should be incorporated within and immediately adjacent to activity centres to establish a sense of community and increase activity outside normal business hours.*
3. *Housing supply in specialised centres should be assessed on a case-by-case basis."*

Draft State Planning Policy 4.2 – Activity Centres

A draft review of SPP4.2 was released for comment, in November 2020. The intent of the review is to ensure planning and development adequately considers the distribution, function and broad land use options for activity centres.

The objectives include:

1. *Provide a hierarchy and network of activity centres that meets community need and provides social, economic and environmental benefits to all Western Australians;*
2. *Enable the distribution of a broad range of goods, services and activities, including retail, commercial and mixed-use development that do not undermine the hierarchy of activity centres.*

State Planning Policy No. 4.2 - Activity Centres (SPP 4.2) (cont...)

3. Ensure consistency and rigour in the planning and development activity centres.

Section 7.4 of the Policy states that higher-density housing should be incorporated within and immediately adjacent to activity centres to support non-residential functions of the activity centre, establish a sense of community and increase activity outside of normal business hours with density targets established as a guide to inform further detailed, evidence-based planning for each activity centre.

The residential density targets provided in the draft Policy review requires a minimum of 25 dwellings per gross urban zone hectare within the 200m walkable catchment of a neighbourhood centre.

Assessment

The application proposes to counter the loss of dwelling yield attributed by the introduction of the 'Tavern' land use over an approved Residential R100 zone, by replacing the R25 density adjacent the Tavern site with both R40 and R100 densities.

Based on the dwelling yield forecast, the overall dwelling yield has the potential to achieve the minimum 25 dwellings per gross hectare requirement outlined within the draft SPP 4.2

The density targets are set out as follows:

Table 2: Density requirements within walkable catchment of Activity Centre

	Walkable catchment for Neighbourhood Centre	Residential density target per gross hectare		
		Minimum	Desirable	Proposed Amendment
SPP4.2 (2010)	200m	15	25	25
Draft SPP4.2 (2021)	200m	25+	NA	25

The proposed Amendment to the Spires Structure Plan satisfies the density requirements of SPP4.2.

Further discussion of matters relating to the changes proposed to the Activity Centre are outlined within 'Comments' section of the Report.

e. Financial

Nil

f. Legal and Statutory

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

In accordance with Clause 19(1) of the Regulations, the local government:

- (a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and
- (b) may consider submissions made to the local government after that time; and
- (c) may request further information from a person who prepared the structure plan; and
- (d) may advertise any modifications proposed to the Structure Plan to address issues raised in submissions.

Determination of a Structure Plan ultimately rests with the WAPC. In accordance with Clause 20 of the Regulations, the local government must perform the following actions:

- (1) The local government must prepare a report on the proposed Structure Plan Amendment and provide it to the WAPC no later than 60 days after the day that is the latest of:
 - (a) the last day for making submissions specified in a notice given or published under clause 18(2); or

- (b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or
 - (c) a day agreed by the Commission.
- (2) The report on the proposed Structure Plan Amendment must include the following:
- (a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);
 - (b) any comments by the local government in respect of those submissions;
 - (c) a schedule of any proposed modifications to address issues raised in the submissions;
 - (d) the local government's assessment of the proposal based on appropriate planning principles;
 - (e) a recommendation by the local government on whether the proposed structure plan should be approved by the WAPC, including a recommendation on any proposed modifications.

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 Comments section provides the City's technical assessment in relation to key matters associated with the proposed Structure Plan Amendment.

1. Activity Centre

The proposed Amendment to 'The Spires (Phase 2)' Structure Plan seeks to expand the activity centre by applying a 'Commercial' zone over a 5,000m² parcel of land zoned for Residential R100, for the purpose of developing a Tavern within the Baldivis North Neighbourhood Centre (BNNC).

The application is supported by a Retail Sustainability Assessment (RSA), which assesses the provision of a tavern site within the BNNC against relevant policy framework and its potential impact on surrounding existing and planned tavern sites.

Under the WAPC's Land Use and Employment Survey and Information Sheet, a Tavern is categorised as an 'entertainment/recreational/cultural' land use, which are activities that provide entertainment, recreation and culture for the community, which occur in buildings and/or on land.

The City's Local Commercial Strategy states that a Tavern is exempt from shopping floorspace, as it has no impact on the retail sustainability of the approved BNNC and surrounding centres.

The draft SPP4.2 requires any major development proposals, where the floorspace for an activity centre exceeds the threshold of 5,000m² NLA for a Neighbourhood Centre, to be supported by an Impact Test (previously Retail Sustainability Assessment). A Retail Needs Assessment was prepared in accordance with SPP4.2.

As a Tavern Land use is a non-retail land use, it was determined that an independent review of the RSA was not required. It is considered that the Tavern provides diversity in the employment and facilitates the night-time economy at the Neighbourhood Centre, contributing to creating a vibrant centre that promotes social interaction.

In order to protect the intent of the BNNC, the City recommends the proposed Tavern site be classified as a 'Special Use' zone, rather than a 'Commercial' zone, to remove the potential for it to be developed for commercial/retail uses, not assessed under the current scenario presented in the RSA.

1. Activity Centre (cont...)

Development of the site and its interface with adjoining residential uses and interface to POS are to be guided through the preparation of a Local Development Plan (LDP). The LDP is recommended to guide matters which are reflective of those provisions approved under the Spires Commercial LDP including built form, landscaping, interface with street and adjoining land uses, pedestrian and vehicle access, parking, waste storage, servicing and noise management.

As the proposed 'Tavern' is located adjacent to high density residential, any development application over the site should be accompanied by the following:

- Detailed Acoustic Assessment:

This is to ensure noise generated from the site as a result of the activities associated with a Tavern are minimised, by demonstrating compliance with the Environmental Protection (Noise) Regulations.

- Waste Management Plan:

Suitable consideration is to be given to the location and size of bin stores from the Tavern site to ensure no odour (or noise) nuisance will be created and imposed on nearby residents. A detailed waste management plan is required subject to building works commencing, detailing the location, size and number of bin stores proposed.

Recommendation 2:

1. The proposed commercial site be zoned Special Use on the Local Structure Plan Map.

2. Amend *Part One - Implementation Section* to include the following land use permissibility under Section 4.1 for the 'Special Use' zo, which are to be introduced into the Local Planning Scheme No.2 following finalisation of subdivision and development.

The following uses are permitted, subject to advertising (A) :

- ***Tavern***
- ***Restaurant/café***
- ***Reception Centre***
- ***Brewery***

The following uses are permitted providing they are incidental to the primary use (IP)

- ***Liquor Store Small***
- ***Betting agency***

3. Update the list of criteria under Section 5 Local Development Plans of Part One to including the requirement to prepare an LDP over land zoned 'Special Use' and include the following design criteria to be addressed:

- **Built form;**
- **Interface and relationship with the public realm;**
- **Landscaping;**
- **Setbacks;**
- **Building orientation;**
- **Pedestrian circulation;**
- **Access;**
- **Car parking;**
- **Noise;**
- **Waste and servicing**

4. Introduce a Section 4.3 'Special Use' and listing the following:

The following reports are to be prepared and submitted within a Development Application over the 'Special Use' site:

1. Activity Centre (cont...)

- (a) ***A detailed acoustic assessment be prepared to mitigate any noise generated from the permitted activities and demonstrating compliance with the Environmental Protection (Noise) Regulations.***
- (b) ***A Waste Management Plan be prepared as part of a Development Application for the proposed Tavern, detailing the location, size and number of bin stores proposed.***
5. **In relation to the design criteria in recommendation 3, update Section 3.2 of Appendix 12 - Amendment No.5 Explanatory Section to include justification, explaining the intended outcomes for the site, with consideration to the provisions of the approved Spires Commercial Local Development Plan.**

2. Local Development Plan

Local Development Plans

The Structure Plan states that the development of R40 and R100 coded lots are required to prepare a Local Development Plan, which address the following:

- Building Height;
- Nil or minimum front setbacks;
- Garage and access points;
- Built form orientation;
- Fencing (where abutting POS and Special Use zone); and
- Waste collection (R100 sites).

The City supports the above provisions, however, recommends that LDP's for land coded R40 and R100 coded lots also address the following matters:

- Landscaping;
- Visitor parking/on-street parking provisions;
- Private and communal open space; and
- Noise attenuation (R100 site adjacent Tavern land use).

Recommendation 3:

Update the list of design criteria under section 3.2 of Part Two of the Structure Plan Report, to include the following:

- **Landscaping;**
- **Visitor parking/on-street parking provisions;**
- **Private and communal open space; and**
- **Noise attenuation (R100 site adjacent Tavern).**

Conclusion

The City received an application to amend the Spires (Phase 2) Structure Plan. The application proposes to:

1. Rezone land from R25 (Average. 350m² lot size) to R40 (Average. 220m² lot size) and R100 (plot ration of 1.3) in the vicinity of the Baldivis North Neighbourhood Centre;
2. Rezone land from R100 to Commercial to facilitate the development of a 'Tavern' adjacent to the planned Public Open Space.

Following public consultation, the City only received one submission from a government agency which provided comment for matters that should be considered within a future development application.

The proposed land use classification satisfies the guiding planning framework around activity centres, which requires higher density development within and adjacent to activity centres, whilst also providing opportunities for a diversified economy. In this particular case, the intended tavern proposal has been identified as having no impact on surrounding tavern sites and will contribute towards the high-time economy for the local centre.

The City has identified some uncertainties around the submitted Traffic Assessment, which are of a technical nature. These matters are raised in a Local Government Report to the WAPC for its consideration.

The City supports the proposed Amendment to the Spires (Phase 2) Structure Plan, subject to the following modifications:

Recommendation 1:

Update the Traffic Assessment by reviewing the inputs in the traffic model and peak hour queue lengths, justifying the outputs.

Recommendation 2:

1. The proposed commercial site be zoned Special Use on the Local Structure Plan Map.
2. Part One - Implementation Section of the Local Structure Plan be modified to include the following land use permissibility's under section 4.1 for the 'Special Use' site:

The following uses are permitted, subject to advertising (A):

- Tavern
- Restaurant/café
- Reception Centre
- Brewery

The following uses are permitted providing they are incidental to the primary use (IP)

- Liquor Store Small
- Betting agency

3. Update the list of criteria under Section 5 Local Development Plans of Part One to include the requirement to prepare an LDP over land zoned 'Special Use'.
4. Introduce a Section 4.3 'Special Use' and listing the following:

The following reports are to be prepared and submitted with a development application over the 'Special Use' site:

- (a) *A detailed acoustic assessment be prepared to mitigate any noise generated from the permitted activities and demonstrating compliance with the Environmental Protection (Noise) Regulations.*
- (b) *A Waste Management Plan be prepared as part of a Development Application for the proposed Tavern, detailing the location, size and number of bin stores proposed.*

5. Update Section 3.2 of Appendix 12 - Amendment No.5 Explanatory Section by including the following requirements to be addressed through the preparation of an LDP:

- Built form;
- Interface and relationship with the public realm;
- Landscaping;
- Setbacks;
- Building orientation;
- Pedestrian circulation;
- Access;
- Car parking;
- Noise;
- Waste and servicing

Recommendation 3:

Update the list of design criteria under Section 3.2 of Part Two of the Structure Plan Report, to including the following:

- Landscaping;
- Visitor parking/on-street parking provisions;
- Private and communal open space; and
- Noise attenuation (R100 site adjacent Tavern).

Voting Requirements

Simple Majority

Officer Recommendation

That Council **APPROVES** the lodgement of a Local Government Report to the Western Australian Planning Commission, with respect to the proposed Standard Structure Plan Amendment No.5 prepared over Lot 98 Ingram Road, Lot 323 Fifty Road and Lots 529 and 530 Baldvis Road, Baldvis ('Spires Phase Two Structure Plan'), which recommends the Structure Plan Amendment should not be approved until such time as the applicant has addressed the following recommendations to the satisfaction of the WAPC on advice of the City:

1. The proposed commercial site be zoned Special Use on the Local Structure Plan Map.
2. Part One - Implementation Section of the Local Structure Plan be modified to include the following land use permissibility's under section 4.1 for the 'Special Use' site:

The following uses are permitted, subject to advertising (A):

- Tavern
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The following uses are permitted providing they are incidental to the primary use (IP):

- Liquor Store Small
- Betting agency

3. Update the list of criteria under Section 5 Local Development Plans of Part One to include the requirement to prepare an LDP over land zoned 'Special Use' and include the following design criteria to be addressed:
 - Built form;
 - Interface and relationship with the public realm;
 - Landscaping;
 - Setbacks;
 - Building orientation;
 - Pedestrian circulation;
 - Access;
 - Car parking;
 - Noise; and
 - Waste and servicing.
4. Introduce a Section 4.3 'Special Use' and listing the following:

The following reports are to be prepared and submitted with a development application over the 'Special Use' site:

 - (a) *A detailed acoustic assessment be prepared to mitigate any noise generated from the permitted activities and demonstrating compliance with the Environmental Protection (Noise) Regulations.*
 - (b) *A Waste Management Plan be prepared as part of a Development Application for the proposed Tavern, detailing the location, size and number of bin stores proposed.*
5. In relation to the design criteria in recommendation 3, update Section 3.2 of Appendix 12 – *Amendment No.5 Explanatory Section* to include justification, explaining the intended outcomes for the site, with consideration to the provisions of the approved Spires Commercial Local Development Plan.
6. Update the list of design criteria under section 3.2 of Part Two of the Structure Plan Report, to include the following:
 - (i) Landscaping;
 - (ii) Visitor parking/on-street parking provisions;
 - (iii) Private and communal open space; and
 - (iv) Noise attenuation (R100 site adjacent Tavern).

7. Address technical comments relating to traffic as identified within the City's assessment and contained within the Schedule of Modifications.

Committee Recommendation

That Council **APPROVES** the lodgement of a Local Government Report to the Western Australian Planning Commission, with respect to the proposed Standard Structure Plan Amendment No.5 prepared over Lot 98 Ingram Road, Lot 323 Fifty Road and Lots 529 and 530 Baldivis Road, Baldivis ('Spires Phase Two Structure Plan'), which recommends the Structure Plan Amendment should not be approved until such time as the applicant has addressed the following recommendations to the satisfaction of the WAPC on advice of the City:

1. The proposed commercial site be zoned Special Use on the Local Structure Plan Map.
2. Part One - Implementation Section of the Local Structure Plan be modified to include the following land use permissibility's under section 4.1 for the 'Special Use' site:
The following uses are permitted, subject to advertising (A):
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 - Restaurant/café
 - Reception Centre
 - Brewery*The following uses are permitted providing they are incidental to the primary use (IP):*
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 - Betting agency
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 - Built form;
 - Interface and relationship with the public realm;
 - Landscaping;
 - Setbacks;
 - Building orientation;
 - Pedestrian circulation;
 - Access;
 - Car parking;
 - Noise; and
 - Waste and servicing.
4. Introduce a Section 4.3 'Special Use' and listing the following:
The following reports are to be prepared and submitted with a development application over the 'Special Use' site:
 - (a) A detailed acoustic assessment be prepared to mitigate any noise generated from the permitted activities and demonstrating compliance with the Environmental Protection (Noise) Regulations.
 - (b) A Waste Management Plan be prepared as part of a Development Application for the proposed Tavern, detailing the location, size and number of bin stores proposed.
5. In relation to the design criteria in recommendation 3, update Section 3.2 of Appendix 12 – Amendment No.5 Explanatory Section to include justification, explaining the intended outcomes for the site, with consideration to the provisions of the approved Spires Commercial Local Development Plan.
6. Update the list of design criteria under section 3.2 of Part Two of the Structure Plan Report, to include the following:
 - (i) Landscaping;
 - (ii) Visitor parking/on-street parking provisions;
 - (iii) Private and communal open space; and
 - (iv) Noise attenuation (R100 site adjacent Tavern).

7. Address technical comments relating to traffic as identified within the City's assessment and contained within the Schedule of Modifications.

Committee Voting (Carried) - 4/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

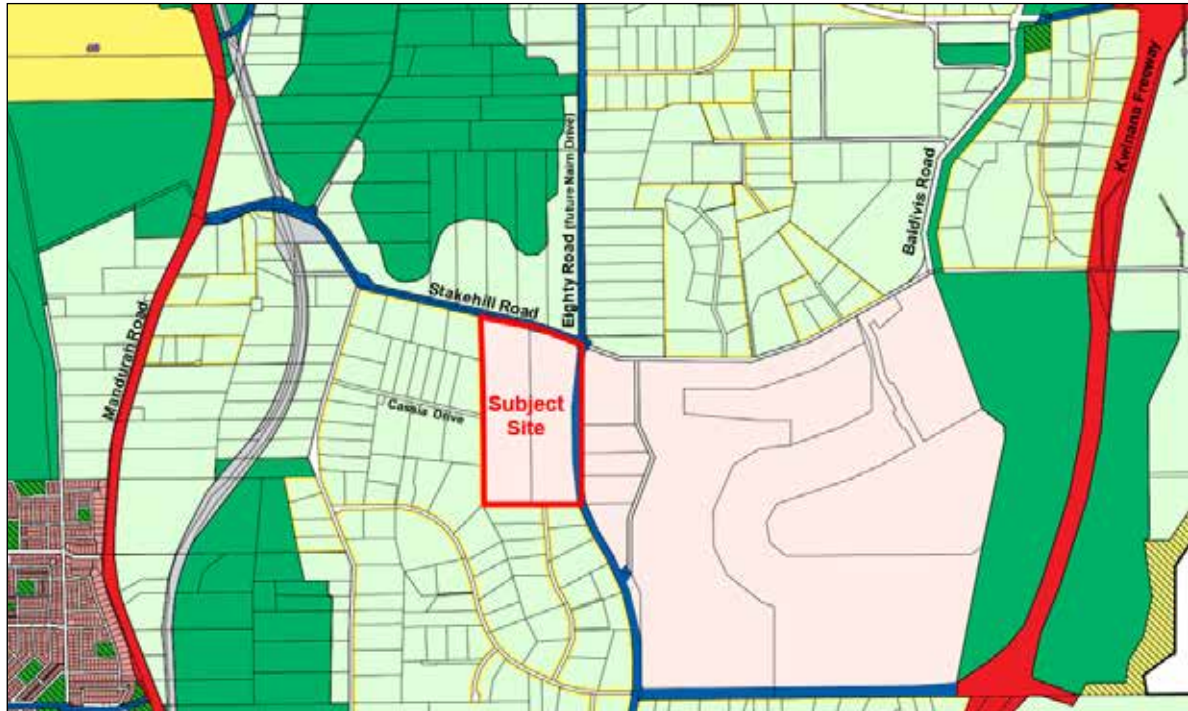
Planning and Development Services
Strategic Planning and Environment Services



Reference No & Subject:	PD-026/21 Proposed Standard Structure Plan - Lot 877 and 878 Stakehill Road, Karnup
File No:	LUP/2083-02
Applicant:	Element Advisory Pty Ltd
Owner:	Mr J and J Garbin
Author:	Mr Robert Casella, Senior Strategic Planning Officer
Other Contributors:	Mr Tristan Fernandes, Coordinator Strategic Planning Mr Brett Ashby, Manager Strategic Planning and Environment
Date of Committee Meeting:	16 August 2021
Previously before Council:	
Disclosure of Interest:	
Nature of Council's Role in this Matter:	Executive
Site:	Lot 877 and 878 Stakehill Road, Karnup
Lot Area:	48.71ha
LA Zoning:	Development
MRS Zoning:	Urban Deferred
Attachments:	<ol style="list-style-type: none"> 1. Schedule of Submissions 2. Schedule No.2 - Assessment of Submission Issues
Maps/Diagrams:	<ol style="list-style-type: none"> 1. Location Plan 2. Advertised Karnup Phase One Development Concept Plan 3. Karnup Phase One Structure Plan Urban Deferment Area 3. Bush Forever Sites No.278A and 278B 4. Planning Control Area No.155 – Stakehill Road, Karnup 5. Aerial Photograph 6. Structure Plan Map 7. Neighbourhood Centre Concept Plan 8. Location of Advertising 9. Road Hierarchy 10. Location of Poultry Farms 11. Market Garden Locations

Purpose of Report

To consider a proposed Standard Structure Plan (referred to as the 'Structure Plan' thereafter) prepared over Lots 877 and 878 Stakehill Road, Karnup, following the completion of public advertising.



1. Location Plan

Background

Zoning

The subject land is zoned 'Urban Deferred' under the Metropolitan Region Scheme (MRS) and 'Development' zone under the City of Rockingham's Town Planning Scheme No.2 (TPS2).

Prior to the gazettal of TPS2 in November 2004, the City was directed by the then Minister for Planning and Infrastructure to zone all land in the District which was zoned 'Urban Deferred' under the MRS to 'Development' zone under the TPS2. As a result of this action, the City is required to consider a Standard Structure Plan over land that has not completed higher order district and regional planning.

'Karnup Phase One' Structure Plan

In October 2013, Landcorp (now DevelopmentWA) requested the City give consideration to the preparation of a Structure Plan over the majority of the now decommissioned Karnup Munitions Depot site, ahead of the preparation of a District Structure Plan for the broader Karnup locality.

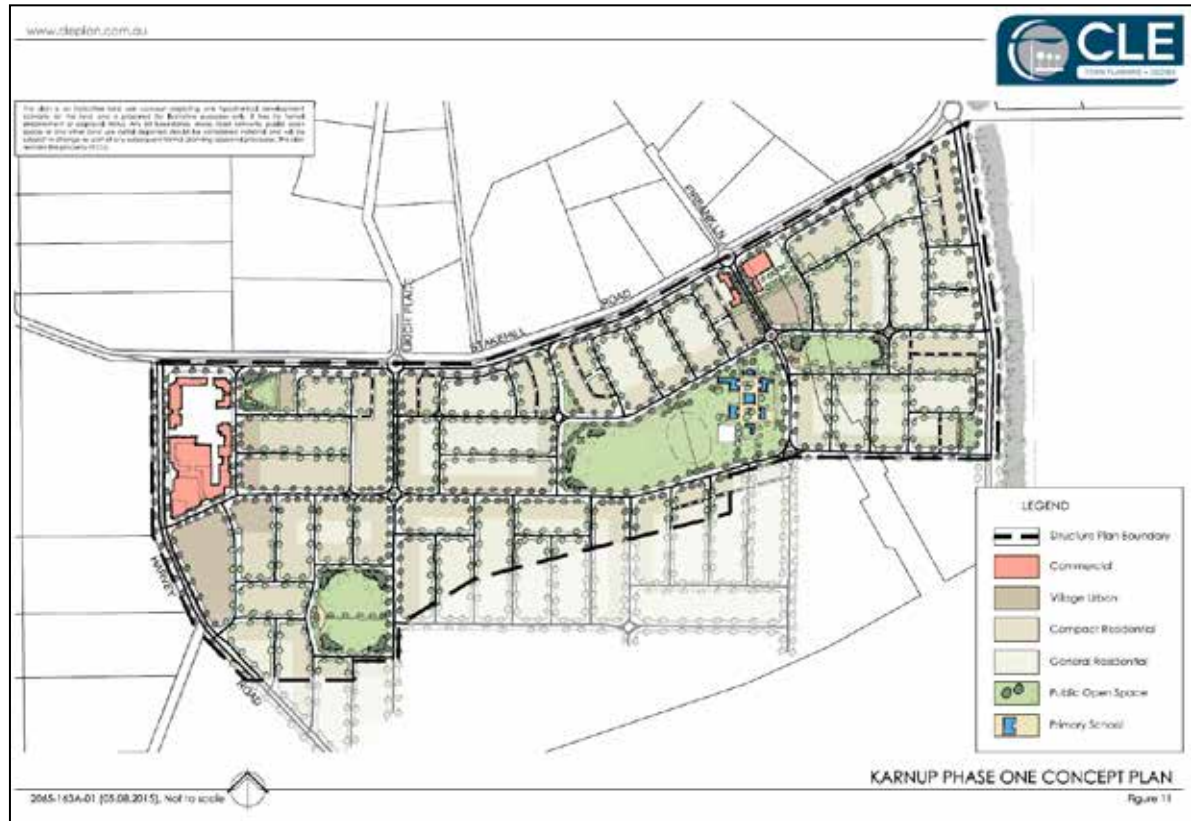
In January 2014, the City advised that following consultation with the Department of Planning (now Department of Planning, Lands and Heritage), the City could only consider the preparation of a Structure Plan that would not prejudice planning at a State or Regional level.

In this regard, special consideration was made for the preparation of a Structure Plan for a primary school catchment, located in the northern portion of the munitions depot site abutting Stakehill Road. The Structure Plan addressed the provision of services and key land uses required to support its local population.

In February 2016 (PDS-007/16), the Council considered a proposed Structure Plan at Lots 316 and 1340 Stakehill Road, Karnup following the completion of public advertising. The Structure Plan provided for the following land uses:

- ÿ Residential densities ranging from R25 to R80 proposed to facilitate development of approximately 1000-1200 dwellings;
- ÿ A Primary School site;
- ÿ A Local Centre accommodating 1500m² retail floor space;
- ÿ Five areas of Public Open Space (POS) totalling 8ha;

- Y An extension to Baldivis Road at the intersection of Stakehill Road and an extension and upgrade to Harvey Road; and
- Y Two new north/south neighbourhood connector roads being provided at the intersections of Ukich Place/Stakehill Road and Firkank Close/Stakehill Road and a new east/west neighbourhood connector road between Baldivis Road and Harvey Road.



2. Advertised Karnup Phase One Development Concept Plan

The Council recommended to the Western Australian Planning Commission (WAPC) that the applicant address setback requirements to established rural land uses adjacent to the Structure Plan area; alignment and profile of Stakehill Road to address rural amenity; removal of a portion of the District Centre shown in the Structure Plan and address a range of technical changes identified within the City's assessment of the proposal.

In June 2017, DevelopmentWA withdrew its application from the WAPC's determination, advising that the proposal would be reconsidered at a future date pending the resolution of regional and district planning considerations.

Lifting of Urban Deferment

In April 2020, the City was notified by the WAPC that an application was lodged to lift Urban Deferment under the MRS over the subject land.

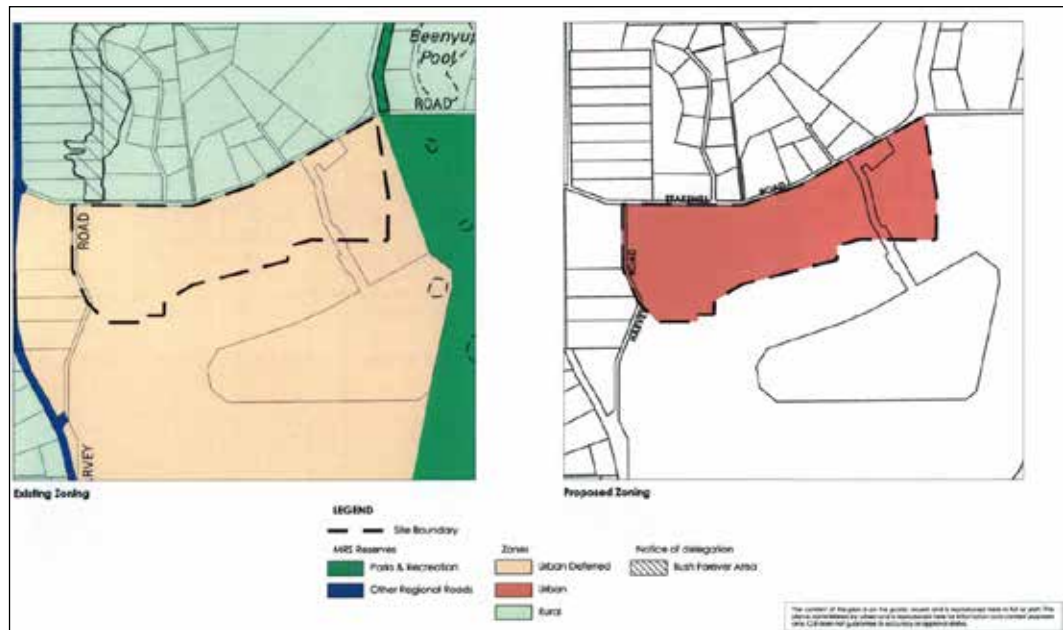
In June 2020, the City recommended that the following matters be addressed to the satisfaction of the WAPC prior to the MRS Amendment being considered for initiation:

1. The application did not suitably address the WAPC's criteria to lift Urban Deferment with respect to the following criteria (outlined in italics):
 - (i) *The land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services;*
City Comment: No agreement was presented in support of the request to provide essential services to the subject land.
 - (ii) *Planning is sufficiently advanced to depict an acceptable overall design to guide future development;*

City Comment: Planning had not been sufficiently advanced over the subject land. The City noted that an incomplete application for a (Local) Structure Plan had been presented for assessment. The application did not represent a plan that has been considered or approved by the WAPC to represent planning to be sufficiently advanced over the subject land.

- (iii) *The proposed urban development represents a logical progression of development;*

City Comment: The City noted that the proposal references the City's recommendation to the WAPC in 2015 with regard to the lifting of Urban Deferment over Part Lots 100, 101, 200 and 1340 Stakehill Road, Karnup (see Figure 3).



3. Lifting of Urban Deferment Map for Karnup Phase One Structure Plan

In this regard, the City's previous recommendation had no bearing to this request as it was considered on the information prepared in support of that proposal and the planning framework applicable at the time.

The WAPC did not resolve to lift Urban Deferment over this land and it is understood DevelopmentWA has abandoned plans to develop the subject land within a short to medium term timeframe.

The site is isolated from any public transport, employment opportunities and essential services that are attributed to an urban context. The site also requires a significant extension to essential infrastructure to service the subject land. The applicant's submission stipulated that an extension of utility infrastructure would be required in advance of the Water Corporation's current infrastructure program.

As such, the City did not consider the proposal to represent a logical progression of development.

Further, it was noted that the Framework specifies development of this locality to occur within the medium term (2022 - 2031) timeframe. While the City acknowledged the Framework outcomes, it cautioned the WAPC against initiating an MRS Amendment in the absence of clear implementation guidance to support subsequent phases of the planning process.

- (iv) *Regional requirements (such as regional roads, open space and public purposes) have been satisfied or provision made for them; and*

City Comment: The request had not considered the outcomes of the *Stakehill Road Reservation Study*, which was being prepared by the Department of Planning, Lands and Heritage. It was recommended that the outcomes of the Study be reflected in the MRS Amendment.

- (v) *Any constraints to urban development, including in relation to environmental, hazard and risk issues, can be satisfactorily addressed.*

City Comment: The City did not support the applicant's justification for the negotiated planning solution. Further details are outlined below.

2. Requirements of the Sub-Regional Planning Framework

The information contained within the proposal did not present information to suitably address the criteria contained within the Section 4.2 – *Staging and Sequencing of the South Metropolitan Peel Subregional Planning Framework* (Framework) (see italics text). In particular, the following key matters were recommended to be addressed by the Scheme Amendment:

- (i) *The proposal represents a logical expansion and consolidation of the existing developed urban form.*

City Comment: Refer to comments contained within item 1(iii) above.

- (ii) *The proposal is compatible with the economic development of the area and the planned provision of employment opportunities for the projected population within the sub-region.*

City Comment: No information had been provided to satisfy this requirement.

- (iii) *The development can be readily accessed without the provision of additional transport infrastructure, unless that infrastructure is already funded.*

City Comment: This has not been demonstrated within the request and it was the City's assessment this cannot be suitably addressed given the site's current isolation.

- (iv) *The proposal will not detrimentally impact upon the staging timeframes of other urban land, in terms of the ability to service other land.*

City Comment: No information had been provided to demonstrate this criterion.

- (v) *Agreed and finalised funding arrangements are in place with essential service providers, acknowledging that funding is the responsibility of the landowner, unless provided for in a current capital works program of the relevant servicing authority.*

City Comment: No evidence was provided from essential service providers as part of the request to address this criterion.

- (vi) *Servicing can be economically provided over its lifespan.*

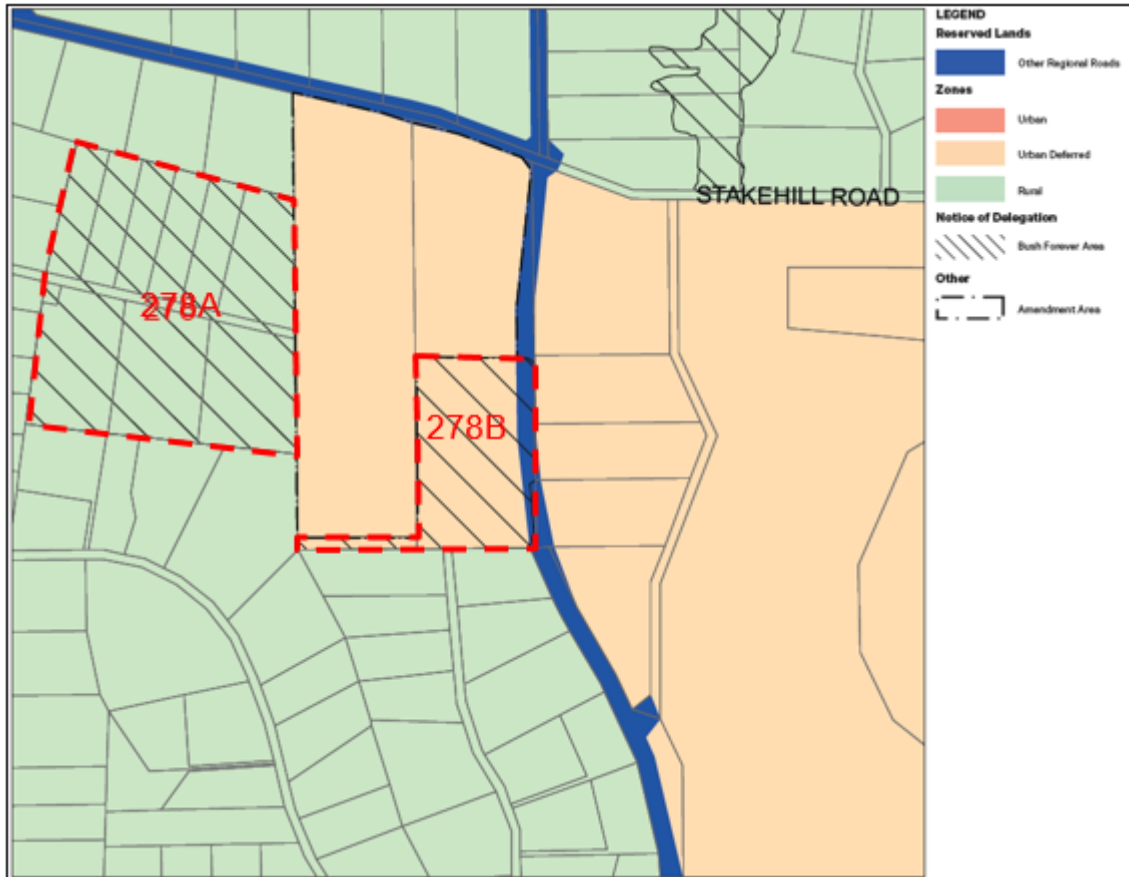
City Comment: No evidence had been provided from essential service providers that this can be appropriately achieved in the absence of considering a larger urban land area to be serviced with essential utility infrastructure.

3. The Negotiated Planning Solution (NPS) was not appropriately resolved (see Background section relating to this matter).
4. Modification to the Bushfire Management Plan being prepared in advance of the NPS being finalised, which assumes an agreed conservation area that had not been determined.
5. Referral of the proposal to Federal Department of Environment and Energy for impacts to flora and fauna protected under the *Environment Protection and Biodiversity Conservation Act* (1999) (EPBC Act).
6. Provision of information demonstrating appropriate separation distances between industrial and sensitive land uses, including an extractive industry operation, odour modelling to nearby poultry farms, and a spray drift assessment to a nearby market garden.
7. Provision of a Retail Needs Assessment.
8. Further technical reporting to support the request to lift Urban Deferment.

The lifting of Urban Deferment request is currently being held in abeyance pending the resolution of the Structure Plan application.

Negotiated Planning Solution

The subject site contains Bush Forever Site 278B along the southern and south-eastern southern boundary of the subject site, as depicted by the hashed area of Figure 4.



4. Bush Forever Sites 278A and 278B

The State Government's *Bush Forever Report (2000)* outlines a process to determine the proportion of a Bush Forever site required to be protected on land designated for future urban purposes, called a Negotiated Planning Solution (NPS).

Planning proposals are encouraged to develop innovative design solutions that retain core conservation values and threatened ecological communities, whilst providing an appropriate development and bushland interface.

In its response on the request to lift 'Urban Deferment' under the MRS over Bush Forever Site 287B, the City recommended the entire Bush Forever site be reserved for conservation, aside from land required for the 'Other Regional Road' reserve for Nairn Drive.

The City noted that the Tuart Woodland Threatened Ecological Community (TEC) is listed as 'Critically Endangered' under national environmental legislation and offers important habitat to threatened Black Cockatoo species.

The City's justification is based on the following provisions and objectives from *Bush Forever (2000)* and *the Bush Forever Volume 1 Policy Documents*:

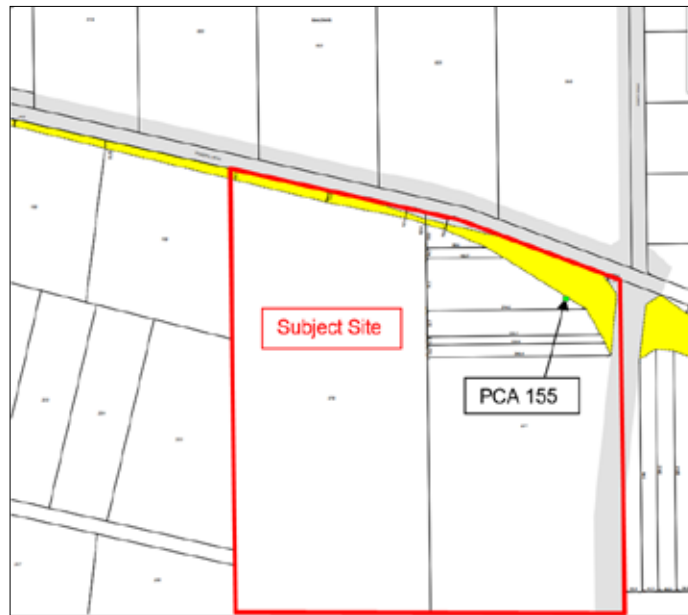
- (i) *All new planning and development strategies, development proposals and operational activities should seek to avoid, wherever possible, any adverse impacts on regionally significant bushland identified in Bush Forever consistent with the site implementation recommendation;*
- (ii) *There will be a general presumption against clearing bushland containing threatened ecological communities or representation of vegetation complexes of which less than 10% currently remains on the Swan Coastal Plain portion of the Perth Metropolitan Region (generally involving vegetation complexes on the eastern side of the Swan Coastal Plain);*
- (iii) *To enable the development of an area, developers will be encouraged to develop innovative design solutions that retain core conservation values and Threatened Ecological Communities and provide an appropriate development and bushland interface, with Bush Forever Sites being seen as part of the essential environmental infrastructure to enable an area to be developed; and*

- (iv) *To maximise bushland retention for stand-alone Bush Forever Sites through statutory planning processes and environmental approvals processes, where applicable, and to seek a balance between the needs of conservation and development and a reasonable outcome. Maximising the retention of vegetation by these means will involve some development trade-off.*

Planning Control Area

In August 2020, the WAPC declared a Planning Control Area No.155 (PCA) over land for Stakehill Road, Karnup. The purpose of the PCA is for the protection of future widening and upgrading of Stakehill Road between the western boundary of Fletcher Road to the Kwinana Freeway at Karnup Road.

The PCA ensures that no development occurs on this land which might prejudice this purpose until it may be reserved for 'Other Regional Roads' in the MRS. The PCA area is illustrated in Figure 5.



5. Planning Control Area No.155 - Stakehill Road, Karnup

Details

Site Context

The subject site is located approximately 6.5kms south of the Baldivis Town Centre, approximately 2.5km west of the Kwinana Freeway, and is located in the south-west corner of the intersection at Stakehill Road and Eighty Road.

The site is located on the north-west boundary of the future Karnup urban expansion area outlined in the *South Metropolitan Peel Sub-Regional Planning Framework*.

Historically, most of the site had been extensively cleared over 50 years ago for rural pursuits/market garden. Improvements on-site include a single dwelling, sheds and artificial soak for irrigation, all located in the north-west corner of the property.

The south eastern portion of the site is remnant vegetation excluded from historical clearing, now designated as Bush Forever Site 278B. An aerial photo of the site is shown in Figure 6.



6. Aerial Photograph

Description of the Proposal (as advertised)

The proposed Structure Plan seeks to introduce the following:

1. A Neighbourhood Activity Centre abutting the southern side of Stakehill Road providing a total floor area of 5,500m² Net Lettable Area (NLA). The centre comprises the following indicative land uses:

Commercial Zone

- Hardware Store (800m²)
- Medical Centre/Pharmacy (1,100m² NLA)
- Service Station/Convenience Store (350m²)
- Liquor Store (600m²)
- 3 x Fast Food Outlets (total 750m² or 250m² each)

Service Commercial Zone

- Child Care Centre (600m²)
- Veterinary Clinic/Hospital (350m²)
- Learning and Wellbeing/Health Studio/Dance Studio (800m²)

A Concept Plan for the Neighbourhood Centre is shown in Figure 6.

2. Residential Densities ranging from R25 to R40 and distributed across the Structure Plan area in the following manner:
 - (i) R25 (Average 350m² lot size) density applied as the base residential density across the Structure Plan area;
 - (ii) R30 (Average 300m² lot size) and R40 (Average 220m²) densities to be applied over lots that are:
 - Directly opposite or abutting public open space and/or Bush Forever; or
 - Accessed via a rear laneway; or
 - Within 400m of service commercial or commercial land uses.
3. The provision of 3.54ha towards Public Open Space (POS), in addition to the retention of 6.36ha of land protected under the WAPC's Bush Forever policy.

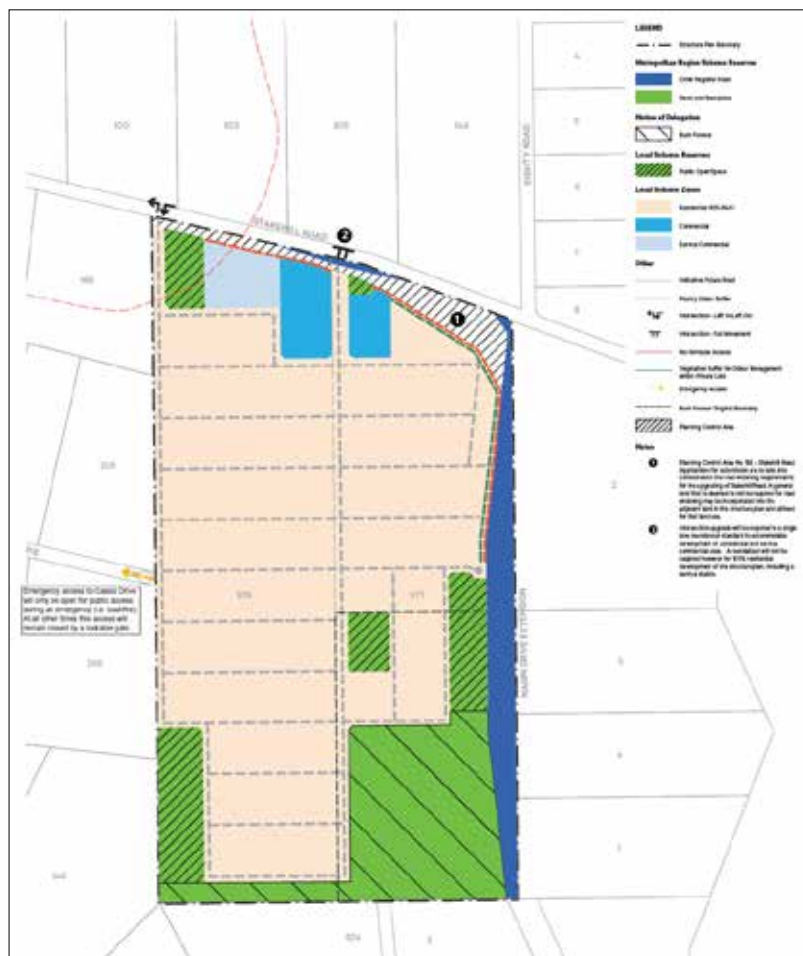
Of the POS being provided, 1.6ha is proposed to be located within the current Bush Forever Policy area to contribute towards the retention of native vegetation.

- Two road connections onto Stakehill Road, with an emergency access to the west, along Cassia Drive.

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), the applicant submitted the following technical documentation for assessment:

- Structure Plan Map
- Structure Plan Report
- Pre-Lodgement Consultation
- Environmental Assessment Report
- District Water Management Strategy
- Local Water Management Strategy
- Acoustic Assessment 2017
- Acoustic Assessment 2019
- Bushfire Management Plan
- Transport Assessment
- Landscaping Concept Plans
- Engineering Servicing Report
- Retail Sustainability Assessment

The advertised Structure Plan Map and Neighbourhood Centre Concept Plan are illustrated in Figures 7 and 8 as follows:



7. Structure Plan Map



8. Neighbourhood Centre Concept Plan

Implications to Consider

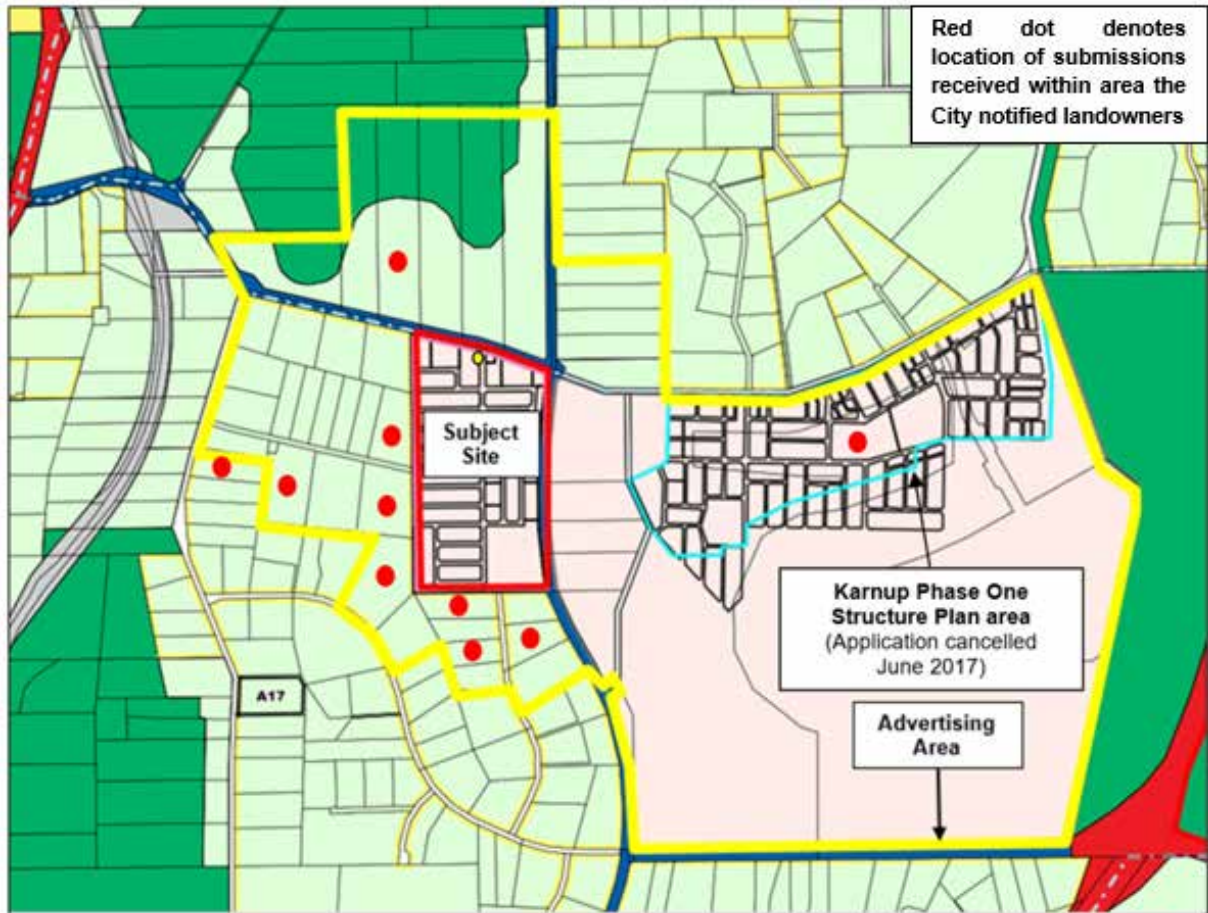
a. Consultation with the Community

Advertising Methodology

Advertising was undertaken in accordance with the requirements of Schedule 2, Part 4, Clause 18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

The advertising period commenced on 20 April 2021 and concluded on 1 June 2021 (42 days) and was carried out in the following manner:

1. 64 nearby owners and occupiers of properties, which may be directly or indirectly impacted by the proposed Structure Plan area (500m radius), were notified of the proposal by letter (refer to Figure 9);
2. The City erected signage on the subject land, fronting Stakehill Road;
3. The City placed a notice in the Sound Telegraph Newspaper on 21 April 2021;
4. Notified the community through the City's 'Rock Port' portal for information to the community; and
5. Copies of the proposed Structure Plan and relevant documents were made available for inspection at the City's Administrative Offices and on the City's website.



9. Location of Advertising

At the close of the advertising period, the City had received 42 submissions from landowners and occupiers. Submissions were received from throughout the City and are summarised as follows:

- Nine were received from within the notification area shown in Figure 7;
- Eight submissions were received from within southern Baldivis, located outside of the notification area;
- Six submissions were received from within Karnup, located outside of the notification area;
- 14 submissions were received from within the City but located outside the localities nominated above; and
- Five submissions did not contain an address.

Of the 42 submissions:

- 13 were in support;
- Six were neutral or raised concerns; and
- 23 raised objections.

Response to Submission Issues

The City's detailed assessment of submission issues, including the applicant's response to the matters raised, are outlined within Attachment 2 - *Schedule No.2 – Assessment of Submission Issues*. A full copy of the submissions received during the advertising period is set out in the Schedule of Submissions (Attachment 1 to this Report).

The following summary outlines the key issues raised in submissions received:

1. Environment

- The Bush Forever area should be retained in full and improved with walk paths, undergrowth and POS buffer to protect the flora and fauna values attributed to the site.
- In accordance with the intent of the Bush Forever Policy, an ecological linkage should be maintained between Bush Forever Sites 278A and 278B (refer to Figure 4).
- The undeveloped natural vegetation within the site contains a number of Threatened Ecological Communities (TECs) including habitat which currently affords protection to rare Orchids, Carnaby and Red Tailed Black Cockatoo breeding and ranging habitats.

2. Amenity

- The Structure Plan design does not provide an appropriate interface to established and permanent Special Rural lots. This interface should provide vegetation and larger residential lots to transition between a rural and future urban context.
- The development should provide some context as to how the Structure Plan will be designed sensitively towards preserving the local character.
- The Structure Plan design does not address the heat island effect from the intense urban development and minimal verge width.
- The proposed land uses within the Structure Plan land will impact permissible land use activities, maintenance, land owner expectations and the amenity associated with adjoining 'Special Rural' zoned land.

As the balance of the precinct is shown as remaining 'Rural-Residential' in the Framework, any urban development must demonstrate that it will not impact on the existing character and amenity of the remaining land.
- The submitted acoustic report fails to provide an assessment of the proposed Structure Plan and residential lots (assessed against 2019 plan).

3. Servicing and Infrastructure

- The Structure Plan does not adequately address current servicing constraints for the land (including water, wastewater, telecommunication and electrical service capacity), prefunding of essential physical and community infrastructure requirements for the Karnup locality.
- The Structure Plan does not appropriately consider the implications to delivering utility services to the site.
- The development of the Structure Plan area is proposed without having due regard for how the overall provision of services to support urban development will be provided for the greater urban expansion of the Karnup locality.
- The location of the proposed wastewater pump station has not been appropriately considered.
- The proposal to construct a 10km spur connection for the Trunk Sewer extension to service 634 residents would cause problems for future planners, as this isolated wastewater and water supply network would need to be integrated into the future Karnup network or exist as a separate feature, making it an inappropriate and inefficient use of resources.
- The Structure Plan provides little detail on community infrastructure including the provision of schools and how these facilities will be accessed if not provided for within the Structure Plan area.

4. Poultry Farm

- The odour report has not taken into consideration that the poultry farm was depopulated of any birds and manure between March and October 2017, during which a field assessment was conducted in April 2017, forming the basis of the odour assessment.
- The odour assessment has not considered the impact of the poultry farm when it is operating at its approved capacity of 30,000 birds, including manure processing on-site.
- The suggested odour buffer of 120m is well understated from the recommended 300m to 1000m buffer applied to existing poultry farms under the Environmental Protection Agencies Guidance Statement No.3 - *Separation Distances between Industrial and Sensitive Land Uses*.
- The odour assessment modelling conducted in April 2017 is fundamentally flawed.
- The poultry farm use which will continue for the foreseeable future, is subject to a lease agreement and an odour buffer should be imposed to protect the rights of the existing land use until it is discontinued.
- The development of the subject site will create a detrimental land use conflict with the current and future operations of the existing poultry farm to the north-west of the Structure Plan area. The proposal poses considerable bio-security risk to the operation of the free range poultry egg business.

5. Community Design

- The proposed road along the western lot boundary is not an appropriate response to land use interface to the existing residential typology and does not provide a transition between the existing Special Rural properties.
- A more appropriate outcome would include lower R-coded properties (R5) along the western boundary to address the existing bushland areas. This outcome would be more aligned with the City of Rockingham's Planning Policy 3.1.1 - Rural Land Strategy.
- The current proposed street layout does not actively support pedestrian and cycling friendly streetscapes and facilitate accessibility for all users. The current decision is proposing residential block lengths in excess of the recommended maximum length for permeability.
- The proposed design is more conducive to the dominance and usage of the private vehicle. The lack of public transport, schools and recreation facilities within close proximity to the development will only seek to exacerbate this issue.
- No road linkage between Cassia Drive (North) to Cassia Drive (South) is proposed as part of the development. The current proposed layout restricts the accessibility between the existing development in the area and proposed development, resulting in an outcome that provides poor amenity. No road linkage between the two streets is an identified issue with emergency service vehicles being directed to the incorrect ends of Cassia Drive.
- The current smaller scale commercial development fails to address requirement 4.3 of Objective 4:
"4.3 Neighbourhood and local activity centres located centrally within a 400 metre walkable catchment area, located on or at the intersection of local streets."
- The proposed commercial precinct should be internalised within the site to better encourage a greater walkable, rideable catchment, rather than forcing an isolated fringe development and should take into consideration where other large scale commercial and shopping precincts may be located in future development sites.
- The Structure Plan being lodged with the City of Rockingham is prior to the endorsement of the District Structure Plan and will prejudice the orderly and proper planning of the overarching document.

- In the absence of the City of Rockingham Local Planning Strategy, the proposed green fill development is also being undertaken in contravention to orderly and proper planning principles. On this basis the supporting documentation to guide the surrounding future development has not adequately been considered as part of this application.
 - With the identified and documented decline in activity levels within the community, the proposed road network fails to take into consideration the Department of Transport's Safe Active Streets Program to ensure the design intends to make streets friendlier and safer for all users, including people in cars and those riding bikes and walking.
6. Public Open Space
- Public Open Space is too small and does not afford sufficient buffer between the existing rural residential land uses with the proposed residential development.
 - The Structure Plan should consider the provision for larger Public Open Space - Table 3 of the submitted documentation fails to identify the intended use of the POS within the schedule. Refer to Table 16 for the 'pro forma schedule'.
 - POS 6 does not provide adequate native and endemic bushland to allow for a continuation and green linkage between the two portions of Bush Forever Site 248 and 248B.
 - The proposed Structure Plan does not adequately provide a bushland corridor with adequate depth to allow for effective movement of native fauna along the southern boundary.
7. Neighbourhood Activity Centre
- The proposed location of the 'neighbourhood activity centre' prior to the District Structure Plan would not be aligned with orderly and proper planning.
 - Given that the proposed activity centre is not greater than 6,000m² and proposes land uses generally associated with local activity centres. It would be more beneficial if the activity centre was centralised within the development, to provide a more pedestrian orientated development.
 - The proposed activity centre fails to include a typology of residential development within the commercial area. No mixed use multistorey developments are included within the proposed design. The current proposed design inadequately utilises the amenity provided to the commercial area.
 - The neighbourhood centre provides no provision for a supermarket to provide local conveniences to existing and future residents.
 - The provision for fast food outlets is not warranted in the Karnup locality. Sufficient outlets exist in the surrounding areas.
 - Despite the close proximity to the neighbourhood centre proposed by the Structure Plan, the Retail Sustainability Assessment has not considered its impacts on the aforementioned proposed District Centre, Specialised Centre and local centres viability. The District Centre must have primacy over smaller centres and any centres that will negatively impact on its catchment should be avoided.
8. Movement Network/Traffic
- The Structure Plan will contribute to greater traffic congestion and safety issues along Stakehill Road without any upgrades beyond the Structure Plan boundary.
 - The development of Karnup should only be supported once the following road matters have been addressed:
 - (i) Widen the freeway to three lanes between Karnup Road and Russell Road (north and south bound);

- (ii) Realign the intersection of Kulija Road and Baldivis Road, with the introduction of a roundabout;
 - (iii) A roundabout installed at Kulija Road and Mandurah Road; and
 - (iv) Improvement to traffic capacity at Stockland Baldivis activity precinct and carpark.
- The proposed Structure Plan does not adequately provide for connectivity for adjoining land to the west and south namely future connections to Cassia Drive west/south wards and to the overall regional road network, including the timing for any upgrades/widening.
 - The Structure Plan identifies Planning Control Area No. 155, which relates to the protection for the future widening and upgrading of Stakehill Road. The final alignment and widening extents have not been finalised and there are concerns that if the potential widening area is included in the SP that it will impact on the land to the east.
 - The Structure Plan does not propose any access to the future Nairn Drive extension noting it as an 'Other Regional Road'. Nairn Drive should be considered as a key traffic connection in addition to the emergency access to Cassia Drive.
 - Will the funding for Nairn Drive be included within the City's Development Contribution Plan? If not, has the City contemplated funding sources?
 - Stakehill Road is not suitable for the proposed high density housing. The road is a rural road with blind corners and blind dips, resulting in fatalities and damage to property occurring from traffic accidents. This will be exacerbated if development occurs on the site and no commitment to urbanising the road is provided prior to lots being created.
 - The proposed Structure Plan does not adequately provide for connectivity for adjoining land to Cassia Drive west/south and to the overall regional road network (Nairn Drive).
 - The Structure Plan makes no provision for active transport (pedestrian/cycle) connections between existing rural living areas and the proposed neighbourhood centre and public transport links proposed along Stakehill Road/future Nairn Drive.
 - The Structure Plan should explicitly set out options for future vehicular and active transport linkages both to the south and west of the Structure Plan area, including the treatment of Cassia Drive.
 - The proposed block lengths exceed the recommended maximum 240m, reducing the permeability of the proposed development.
 - No walkable catchment analysis has been provided with the application to identify the permeability of the proposed design in alignment with Design Principle 1.
 - The proposed internal road width fails to consider and 'seriously entertain' the minimum requirements for Neighbourhood Connector A roads, as illustrated within Figure 16 of the Draft Liveable Neighbourhoods 2015.
 - The proposed internal road width fails to consider and 'seriously entertain' the minimum requirements for Access Street D, illustrated within Figure 22 of the Draft Liveable Neighbourhoods 2015.
 - The Structure Plan does not address the isolated nature of the development, particularly its lack of access to schools, community services and access to other educational resources for children and young families.
9. Lot layout/Density
- Greater diversity in lot sizes are needed to provide an appropriate transition of densities from adjoining Rural and Rural Residential lots which are sensitive to the current and long-term planning for the area to provide an appropriate transition. Appropriate lot sizes of 2000m² should be imposed along the western boundary.

- Current lot sizes are too small to capture the character of the rural fringe.
- Cottage style lots should be located near the proposed activity centre and public open space instead of being within proximity of the Bush Forever site.
- The site is better suited to be developed for semi-rural size blocks.

10. Urban Water Management

- The District Water Management Strategy should be updated by addressing what measures will be employed for preventing nutrient run-off from the site given the surrounding wetlands and low lying areas.
- The landscape plans should be designed so as to prevent open bodies of standing/stagnant water for risk of creating mosquito breeding habitat. Mosquitoes are a health concern in the Karnup area that needs to be addressed within the Structure Plan design.
- The District Water Management Strategy fails to account for the surrounding wetland and low lying areas – Nutrient Run-off.

11. Karnup District Structure Plan

- The proposed Structure Plan is premature and approval of the Structure Plan in its current form will undermine future district level planning for the Karnup locality.
- In the absence of a District Structure Plan, it is difficult to assess the suitability and feasibility of the proposed neighbourhood centre and its relationship with other planned centres including a planned district centre in Karnup (east).
- In order to provide for a coordinated planning process for this Structure Plan and other Structure Plans within the Karnup area, it is requested that the City progress the preparation of the Karnup District Structure Plan (DSP) as a matter of priority.

The DSP will assist in resolving land use (e.g. activity centres and floorspace allocation) and infrastructure (e.g. DCP items) issues and will allow landowners in the locality to progress proposals with confidence.

12. Bushfire

- Lack of connection to Cassia Drive and constructed road connections, presents fire management implications.
- The Structure Plan does not adequately address the inherent bushfire risk associated with BAL-APZ rated landholdings (encompassing Bush Forever Site 278) immediately abutting Lot 878 and the Bush Forever site within the Structure Plan area.
- The proposed development is located in an area of elevated bushfire risk from surrounding bushland. The threat is exacerbated due to the vast majority of residents required to be funnelled out through only two access roads connecting to the wider road network.
- The provision of an emergency access point into Cassia Drive is questionable as a bushfire is more likely to occur from the west and south, suggesting that an alternative access point be located away from the potential source of the bushfire.

13. Community Infrastructure

- The proposed Structure Plan does not adequately address current servicing constraints for the land prefunding of essential physical and community infrastructure.

The staging plan has not adequately demonstrated how the Structure Plan area is capable of being provided with essential services and that agreements have been reached between the developers and service providers regarding the staging and financing of these services.

The servicing of the Structure Plan area and the staging plan should be fully considered and addressed by the proponent, particularly before the lifting of Urban Deferment in the MRS is supported.

14. Heritage

- The Structure Plan lacks any consideration for the cultural/historical value of Karnup, having a strong relationship to the Whadjuk peoples and early settlements.

15. Process

- The manner in which the application was advertised was insufficient to inform an appropriate segment of the Karnup community.

To address the issues raised in public submissions, a range of recommendations are provided within the Comments section of this report, which address the Bush Forever site, arrangements for servicing, changes to Public Open Space, the interface with existing Special Rural areas, analysis of potential odour impacts from adjacent poultry farms, and connection of the Structure Plan to the future Nairn Drive.

b. Consultation with Government Agencies

As part of the advertising process, relevant government agencies and servicing authorities were notified of the proposal in writing and invited to comment pursuant to Schedule 2, Part 4, Clause 18(1)(b) of the Regulations. In this regard, the City invited comments from the following agencies:

- ATCO Gas Australia
- Department of Biodiversity, Conservation and Attractions
- Department of Communities
- Department of Education
- Department of Planning, Lands and Heritage
- Department of Fire and Emergency Services
- Department of Transport
- Public Transport Authority
- Telstra
- Water Corporation
- Department of Health
- Department of Water and Environmental Regulations
- Western Power

Following the close of the advertising period, the City received 10 submissions from State Agencies and Service Authorities.

Response to Submission Issues

The City's detailed assessment of submission issues, including the applicant's response to the matters raised are detailed within Attachment 2 - *Schedule No.2 - Assessment of Submission Issues*. A full copy of the submissions received during the advertising period is set out in the Schedule of Submissions (Attachment 1 to this Report).

The following summary outlines the key issues raised in submissions received:

1. Department of Education

- The subject site falls within the gazetted student enrolment intake area of Singleton Primary School. Preliminary analysis indicates Singleton Primary School has limited capacity to accommodate the student yield generated from the 600 dwellings proposed within the Structure Plan.
- Any changes to zoning, residential density coding and/or dwelling numbers, which may result in an increase to the student yield within the Structure Plan will require prior consultation with the Department.

2. Department of Fire and Emergency Services
 - DFES has identified a range of technical matters which require further attention and consideration by the applicant, which will result in modification to the BMP. The modifications relate:
 - (i) Vegetation classification;
 - (ii) Slope assessment;
 - (iii) Separation distances of sensitive land uses to bushfire threats;
 - (iv) Insufficient evidence provided to support various assumptions made within the BMP; and
 - (v) Adequate vehicular access arrangements.
3. Department of Health
 - The Structure Plan is in a location that regularly experiences issues with nuisance and disease-carrying mosquitos breeding in nearby wetlands. The Structure plan is required to be supported by a Mosquito Management Plan (MMP) if the risk is identified as being moderate to high risk.
 - The Department of Health also provided a list of matters which should be addressed as part of the preparation of the MMP which can be viewed in Schedule 2 of the attachments to this report.
4. Department of Transport
 - Future cycling provisions within the Structure Plan should be in accordance with the WA Cycle Network Hierarchy.
 - All future on-street cycling lanes within the Structure Plan should be protected from the traffic lane by positioning them between the kerb and on-street parking bays.
 - The City consult with DPLH's Strategy and Engagement team to ensure the requirements of Stakehill Road and Nairn Drive road reserves are accommodated.
5. Department of Water and Environmental Regulation
 - The Department of Water and Environmental Regulation principally does not object to the proposed Structure Plan, however identifies key issues, recommendations and advice relating to urban water management and acoustic assessment. Full details of the submission issues are provided in Schedule No.2 of the attachments to this report. Matters requiring modification are addressed in the Local Government report and Schedule of Modifications issued to the Western Australian Planning Commission for consideration.
6. Perth Transport Authority (PTA)
 - The Structure Plan is located a significant distance from established bus routes. Therefore it is unlikely that the developer of this Structure Plan will be sufficient to justify a bus route on its own.
7. Water Corporation
 - Suggested servicing arrangements will require further investigations and future significant headworks in place prior to any agreement being finalised on temporary/interim servicing outcomes and discharge points for sewer.
 - Servicing scenarios are to be driven and funded by the developer.
8. Western Power
 - Western Power will commence investigations into service arrangements, infrastructure requirements and constraints once the Developer submits for a Design Information Package.
 - Any costs required for any infrastructure upgrades will be determined through the project process and to be paid for by the Developer.

To address the issues raised in State agency submissions are outlined within the Comments Section of the Report.

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 the growing population, with consideration of future generations.*

d. Policy

Assessment of the Structure Plan has been informed by the following strategies and policies:

Regional Planning Framework

- Directions 2031 and Beyond: Metropolitan Planning Beyond the Horizon ('Directions 2031') (2010)
- South Metropolitan and Peel Sub-Regional Planning Framework (2018)
- Liveable Neighbourhoods (2009)
- SPP 2.5 - Rural Planning
- SPP 2.8 - Bushland Policy for the Perth Metropolitan Region
- SPP 3.0 - Urban Growth and Settlement
- SPP 3.7 - Planning in Bushfire Prone Areas
- SPP 4.1 - State Industrial Buffer Policy
- SPP 4.2 - Activity Centres for Perth and Peel
- SPP 4.2 - Activity Centres (Draft)
- SPP 5.4 - Road and Rail Noise
- SPP 7.0 - Design of the Built Environment
- SPP 7.2 - Precinct Design
- DC Policy 2.3 - Public Open Space in Residential Areas
- Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No. 3
- Lifting of urban deferment Guidelines (Nov 2019)

Local Planning Framework

- Planning Policy 3.1.2 - Local Commercial Strategy
- Planning Policy 3.4.1 - Public Open Space
- Planning Policy 3.4.3 - Urban Water Management

These Policies are stated where relevant to discussion of the key issues identified in Comment section of the Report. Further detailed technical comments will be included in the Local Government Report when submitted to the WAPC for determination.

e. Financial

Nil

f. Legal and Statutory

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

In accordance with Clause 19(1) of the Regulations, the local government:

- (a) must consider all submissions made to the local government within the period specified in a notice advertising the Structure Plan; and
- (b) may consider submissions made to the local government after that time; and
- (c) may request further information from a person who prepared the Structure Plan; and
- (d) may advertise any modifications proposed to the Structure Plan to address issues raised in submissions.

Determination of a Structure Plan ultimately rests with the WAPC. In accordance with Clause 20 of the Regulations, the local government must perform the following actions:

- (1) The local government must prepare a report on the proposed Structure Plan and provide it to the WAPC no later than 60 days after the day that is the latest of:
 - (a) the last day for making submissions specified in a notice given or published under clause 18(2); or
 - (b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or
 - (c) a day agreed by the Commission.
- (2) The report on the proposed Structure Plan must include the following:
 - (a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the Structure Plan advertised under clause 19(2);
 - (b) any comments by the local government in respect of those submissions;
 - (c) a schedule of any proposed modifications to address issues raised in the submissions;
 - (d) the local government's assessment of the proposal based on appropriate planning principles;
 - (e) a recommendation by the local government on whether the proposed Structure Plan should be approved by the WAPC, including a recommendation on any proposed modifications.

Note: In accordance with the Notice of Exemption to the Regulations signed by the Minister for Planning in response to the declared 'State of Emergency', resulting from the outbreak of COVID-19, the City opted to use 90 days to prepare a report for the proposed Structure Plan in lieu of 60 days specified within clause 20(1) of the Regulations.

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 Comments section provides the City's technical assessment in relation to key matters associated with the proposed Structure Plan.

1. Lifting of Urban Deferment

The Western Australian Planning Commission (WAPC) released guidelines for the lifting of urban deferred land in November 2019. The guidelines contain criteria required to be satisfied in order for deferred land to be lifted under the Metropolitan Region Scheme. They include evidence of the following matters:

- (i) *The land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services;*

As evidenced by the submission received from Water Corporation, the applicant has not obtained any service agreements from the Water Corporation with respect to the scenarios or temporary solutions suggested. Additionally, the applicant has not provided any evidence for how the servicing will be funded or even staged to permit the development to progress.

Likewise with the provision for power supply, the applicant has proposed a number of scenarios which have not been confirmed by Western Power. The advice received from Western Power suggested that it is unlikely a new zone substation will be required, but this can only be confirmed once an investigation has occurred following the submission of a Design information Package from the applicant.

1. Lifting of Urban Deferment (cont...)

- (ii) *Planning is sufficiently advanced to depict an acceptable overall design to guide future development;*

The Structure Plan is subject to a Negotiated Planning Solution (NPS) under the *Bush Forever* (2000) and *the Bush Forever Volume 1* Policy Documents for remnant vegetation retained under Bush Forever Site No.278 (b) to the south and south east of the site.

In advice provided to the WAPC in June 2020, the City recommended that the entire Bush Forever site be reserved for conservation, aside from land required for the 'Other regional Road' reserve for Nairn Drive. Until such time as the NPS is confirmed, the Structure Plan cannot appropriately be considered with the current proposal. This is addressed further in the Bush Forever section below.

- (iii) *The proposed urban development represents a logical progression of development;*

The site is completely isolated from any public transport, employment opportunities and essential services that are attributed to an urban context. The subject land also requires a significant extension to essential utility infrastructure to service the subject land. The applicant's submission stipulates that an extension of utility infrastructure would be required in advance of the Water Corporation's current infrastructure program.

As such, the City does not consider the proposal to represent a logical progression of urban development, particularly in advance of higher order planning for the locality.

- (iv) *Regional requirements (such as region roads, open space and public purposes) have been satisfied or provision made for them; and*

The Structure Plan is silent on the staging and provision for the part construction of the Nairn Drive road reservation, which is classified as an Other Regional Road. Nairn Drive abuts the eastern boundary of the Structure Plan. The City's expectation is that this shall be upgraded to an Integrator Standard and should be clearly stipulated within the Structure Plan.

The coordinated delivery for the upgrade of Stakehill Road has not been addressed at this stage, which is expected to be delivered through development of the adjacent Urban Deferred land.

- (v) *Any constraints to urban development, including in relation to environmental, hazard and risk issues, can be satisfactorily addressed.*

The City has previously expressed its opposition to the NPS, with reasons provided in the 'Bush Forever' section of the Report.

A public submission received from the operator of the Hazelmere Poultry Farm (egg producer) raised concern regarding the odour assessment conducted for the subject application.

The City has determined that the odour assessment has not adequately considered the impacts of the Hazelmere Poultry Farm, which are outlined further below.

The proposed Structure Plan Report states that the site can be serviced by necessary infrastructure (power, water and sewer) through various funding arrangements, however the City considered the information provided is speculative and does not provide any evidence from relevant service authorities, where appropriate.

In the case of Karnup Phase One (see Figures 2 and 9), the City and Department of Planning, Lands and Heritage determined the Structure Plan was capable of providing a self-contained development with essential services such as education and retail needs. Notably, advice received from the various servicing authorities provided support for the development at Karnup Phase One, confirming the design and engineering aspects were largely correct and capable of being facilitated, subject to the applicant (a State agency, DevelopmentWA) funding the extensions in the interim.

The subject site falls within the greater district of Karnup. The majority of Karnup is identified for 'urban expansion' in accordance with the WAPC's Perth and Peel @ 3.5 Million document. Land identified as urban expansion requires further detailed planning before future urban development can occur, including but not limited to investigations into significant environmental attributes, servicing, community and social infrastructure, movement networks and employment.

1. Lifting of Urban Deferment (cont...)

In order to determine the suitability of the proposal, it is appropriate for planning investigations to occur over the whole of the Karnup District to coordinate infrastructure and land use requirements for the greater precinct, including schools, sporting fields, activity centres, as well as for determining an integrated transport network designed to provide an efficient level of service for future residents within the Karnup Precinct. Broader planning studies are also required to identify the provision for major service infrastructure, including the location for sewer pump stations and zone substations for adequate power supply.

Given the matters stated above, the City does not support the proposed Structure Plan application because it has not demonstrated that the key planning and infrastructure requirements have been suitably addressed to support urban development within an isolated location.

It is considered the proposal does not demonstrate orderly and proper planning and the application is being proposed in advance of necessary higher order planning to inform land use and infrastructure requirements.

Recommendation 1:

The Structure Plan has not been prepared in accordance with orderly and proper planning based on the following grounds:

- 1. The land is zoned 'Urban Deferred' under the Metropolitan Region Scheme and the Structure Plan has not satisfied the requirements to lift 'Urban Deferment'.**
- 2. A Negotiated Planning Solution has not been determined over Bush Forever Site 278B.**
- 3. The proposal does not adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.**
- 4. The proposal does not address how the development will integrate with the greater Karnup district or surrounding land uses.**
- 5. The investigation into the odour impacts from the poultry farms is insufficient to determine the potential impact to sensitive urban land uses, with mitigation measures considered inadequate under the Environmental Protection Agency's Guidance Statement No.3: Separation Distances between Industrial and Sensitive Land Uses (2005).**

2. Bush Forever

The subject site contains 11.654ha designated for Bush Forever (site 278B) under the MRS.

The vegetation is characterised by Tuart (*Eucalyptus Gomphocephala*) Woodlands and Forests of the Swan Coastal Plain Ecological Community [Tuart Woodland Threatened Ecological Community (TEC)]. The Tuart Woodland TEC is listed as Critically Endangered under national environmental legislation and offers habitat to threatened Black Cockatoo species.

At the time of writing this Report, the applicant has not been granted approval under the *Environment Protection and Biodiversity Conservation Act 1999* to remove any vegetation proposed to be removed for development under the proposed Structure Plan.

The Bush Forever site is designated in the State Government's *Bush Forever Report (2000)* as an NPS, as it is located on private land. As part of the NPS, it is intended that a portion of the approximate 11ha Bush Forever site will be set aside as a Conservation Reserve at the rezoning stage, whilst the remainder of the Structure Plan area be rezoned to 'Urban' under the Metropolitan Region Scheme.

Nairn Drive is planned to run through the eastern boundary of the Bush Forever site.

As part of the Structure Plan design, the applicant proposes to retain 6.36ha of the 11.654ha Bush Forever site.

The framework governing the Bush Forever Policy area is contained in the WAPC's *Bush Forever (2000)* and the *Bush Forever Volume 1 Policy Documents*. The most relevant objectives and provisions of the documents applicable to the subject site are:

2. Bush Forever (cont...)

- *“All new planning and development strategies, development proposals and operational activities should seek to avoid, wherever possible, any adverse impacts on regionally significant bushland identified in Bush Forever consistent with the site implementation recommendation;*
- *There will be a general presumption against clearing bushland containing threatened ecological communities or representation of vegetation complexes of which less than 10% currently remains on the Swan Coastal Plain portion of the Perth Metropolitan Region (generally involving vegetation complexes on the eastern side of the Swan Coastal Plain).*
- *To enable the development of an area, developers will be encouraged to develop innovative design solutions that retain core conservation values and Threatened Ecological Communities and provide an appropriate development and bushland interface, with Bush Forever Sites being seen as part of the essential environmental infrastructure to enable an area to be developed;*
- *To maximise bushland retention for stand-alone Bush Forever sites through statutory planning processes and environmental approvals processes, where applicable, and to seek a balance between the needs of conservation and development and a reasonable outcome.*
- *Maximise the retention of vegetation by these means will involve some development trade-off.”*

Notably, no agreement has been accepted under the NPS by the WAPC, on advice of the City supporting the area proposed to be retained for conservation over Bush Forever site 278B.

Based on the governing policy framework for Bush Forever sites and the environmental characteristics of the site, the City recommends that the entire Bush Forever site 278B be reserved for conservation.

Recommendation 2:

The Structure Plan be modified to retain all of Bush Forever 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, the area proposed to be retained for conservation excludes land reserved as ‘Other Regional Road’ within the Metropolitan Region Scheme, for the future extension of Nairn Drive.

3. Servicing

Element 6 - Utilities of Liveable Neighbourhoods requires new urban lots to be provided with adequate services including sewerage, water, firefighting infrastructure, electricity, gas, street lighting and communication services in a timely, cost-effective, coordinated, efficient and aesthetically appropriate manner that supports sustainable development practices.

Water Supply

The Engineering Servicing Report, prepared by Development Engineering Consultants suggests that the Water Corporation has sufficient capacity to supply the initial development from its Tamworth Reservoir, 9.5km north of the site in Baldivis. A trunk main supply is likely to be extended from Baldivis south along Eighty Road to the site to enable development to proceed.

The report suggests that Water Corporation has not scheduled the works in its current program, requiring the developer to pre-fund the infrastructure installation.

Under the Sub-Regional Framework, the Karnup water distribution mains are identified for the medium term (2022-2031), which is proposed to be staged. Whereas the staged Karnup Tank is not identified until the long term (2031-2050). A notation within the Sub-Regional Framework states *“many items listed are yet to be subject to financial analysis and business case development as part of the annual budget process”*.

As confirmed in the advice provided by Water Corporation, the servicing scenarios and temporary solutions proposed in the application remain unclear, as no servicing arrangements have been agreed to by the Water Corporation.

Further investigations are required, prior to the determination of the proposed Structure Plan.

3. Servicing (cont...)

Sewer

The application contains a plan of the Water Corporation's Conceptual Planning for Wastewater long term scheme. The report suggests the development can be serviced by a major trunk sewer main extended south from its main Waste Water Pumping Station (WWPS) located in the 'Rivergums' estate (south east corner of Baldivis Road and Stillwater Drive, Baldivis), approximately 10km north of the subject site.

The developer will be required to pre-fund (subject to negotiations) several smaller WWPS along the network to connect into the major facility in state above.

The development proposes a temporary WWPS at the south west corner of the site. Notably, the provision for the WWPS site has not been identified on the Structure Plan Map nor on any of the landscape concept plans.

The Structure Plan does not provide details as to staging/timing and funding of the infrastructure. This is concerning as Water Corporation has not yet commenced construction of its Major Trunk Sewer Station in Rivergums estate to facilitate the wastewater generated from the proposed development.

The applicant has not demonstrated the land is capable of being developed within the Structure Plan timeframe. As stated above, the Water Corporation confirms that the servicing scenarios and temporary solutions have not been agreed to and require clarification.

Power

High and low voltage aerial power lines are located along Stakehill Road, north of the subject site. The nearest local zone substation is located in Meadow Springs located approximately 11km south from the site, between Mandjoogordap Drive and Mandurah Road.

Based on 600 residential lots, the total power load required for the development is in the order of 2.8MVA. Currently the Meadow Springs zone substation has a capacity of less than 5MVA and a load demand for approximately 3MVA. In order for the site to be capable of being serviced, the application suggests that upgrades to the Meadow Springs zone substation are required. Western Power has no expected upgrades planned within the next 5 years.

The upgrade works may require the development of a more localised sub-station to provide sufficient capacity to the development and surrounding locality.

Western Power has not provided any details as to whether a sub-station is required at this stage, however, under the Sub-Regional Framework a new 132kV infrastructure substation has been identified for Golden Bay in the long term (2031 – 2050).

Given the uncertainty of what may be required and the potential land use implications to provide a site for a sub-station, it is premature to determine the Structure Plan without confirmation on how the site can be serviced with power in the short to medium-term.

Recommendation 3:

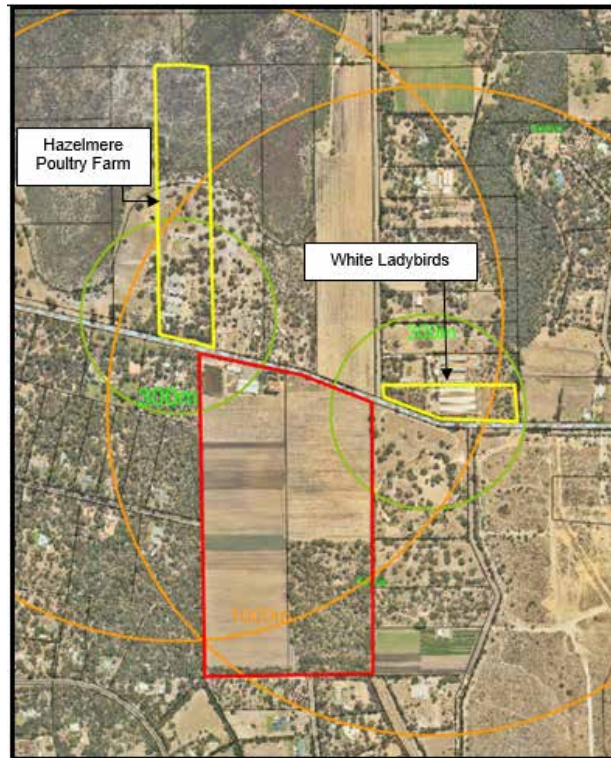
- 1. Amend the Structure Plan Report to outline information to adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.**
- 2. Amend the Structure Plan Map to outline public purpose reservations required to accommodate any service utility infrastructure required to service the development.**
- 3. Amend the Structure Plan to include a schedule containing evidence from relevant servicing authorities on the agreed funding and staging arrangements for utility services for the site.**

4. Environmental Health

Poultry Farm

The subject site is located within close proximity to two poultry farms:

1. Hazelmere Poultry Farm on Lot 820 Stakehill Road to the north west; and
2. White Ladybirds Pty Ltd on Lots 7 Eighty Road and Lot 8 Stakehill Road to the north east. Refer to Figure 10.



10. Location of Poultry Farms

The White Ladybirds Pty Ltd site is a bird hatchery where adult birds brood and rear hatchlings to chicks ready for delivery to commercial meat grower farms, whereas the Hazelmere Poultry Farm operates as an intensive commercial free-range egg producing farm.

As part of the investigations carried out by the applicant, the owner of White Ladybirds Pty Ltd was consulted confirming the extent of the operations, however, this was not completed for Hazelmere Poultry Farm operator. The Report was based upon on desktop studies and an inspection of the site from the boundary of Stakehill Road.

Under the Environmental Protection Agency's Guidance Statement No.3, *Separation Distances between Industrial and Sensitive Land Uses* (June 2005), it recommends a buffer distance of 300m – 1000m from the boundary of sites operating a poultry industry to the boundary of the area capable of being developed for a sensitive land use.

The odour field assessment prepared by Environmental & Air Quality Consulting Pty Ltd (EAQ) concluded that the White Ladybirds site had minimal, if any, impact on the subject lot due to the measures incorporated into the orientation, operation and design of the poultry farm:

Tunnel ventilation exhausts the air horizontally in an easterly direction away from the site.

- The access doorways into each of the tunnel ventilated sheds are at the eastern end of each shed.
- Observations of wind characteristics tend to promote mechanical friction (mixing) during easterly winds, as the odour is exhausted to the east and collides with the farm sheds in a westerly direction. This breaks up the odour plumes as they move toward the site.

4. Environmental Health (cont...)

Measures proposed to reduce any potential impact from the White Ladybirds farm is for the installation of 2 to 3 rows of trees and interspersed medium height shrubs (tree barrier) along the north-eastern boundary. It is expected the trees would contribute to further breaking up the odour plumes before reaching the sensitive land uses.

In relation to the Hazelmere Poultry Farm, the report assumes the site is being utilised as a barn layer and/or hatchery facility due to the negligible activity observed during the assessment, essentially downplaying its significance by applying a 120m buffer from the property boundary to any sensitive land uses.

A submission from the owner/operator of Hazelmere Poultry Farm confirms that the farm is designed to cater for a maximum capacity of 30,000 birds used in the production of eggs for human consumption.

The submission also suggests that during the original field observations and odour tests in April 2017, the farm was completely depopulated of any birds and manure due to supply arrangements terminating from March 2017, with birds reintroduced in October 2017, therefore no odours would have been measured from the site at the time of the field study. Notably the design of the sheds used on the Hazelmere Poultry Farm are convection sheds, which have no means of controlling the emission of odours, unlike those used at the White Ladybirds operation to the east.

The poultry farm is scheduled to increase its current population to 10,000 birds by September 2021, progressively increasing to its capacity of 30,000 birds, as it seeks to meet increased demand.

Section 5.3 of SPP 4.1 – Industrial Interface, states that where an applicant has not demonstrated to the satisfaction of the decision-maker, that a planning proposal adequately considers potential land use conflicts and will not expose existing or proposed sensitive land uses and/or zones to adverse impacts, the responsible decision-makers should apply the precautionary principle to all strategic planning proposals, this includes Structure Plans.

The Precautionary Principle is defined as *“the presumption against approving further strategic planning proposals, subdivision and development applications or intensification of land uses, where there is a lack of certainty that the potential for significant adverse impacts can be adequately reduced or managed in the opinion of the decision maker.”*

An *Environmental Code of Practice for Poultry Farms in Western Australia* (May 2004) was prepared by various State and local government agencies. The code of practice was prepared as a planning tool for the assessment of new poultry farms. Regardless, the Code of Practice states it is a reference for guidance, as it advocates for a minimum buffer distance of 500 metres be applied for any new poultry sheds from any existing or future residential zone.

Given the context of the Hazelmere Poultry Farm (convection sheds, capacity of 30,000 birds and processing of manure on site) and the comments received by the operator of the poultry farm, there is considerable doubt as to the validity of the odour assessment and impact on any future sensitive land uses with only a 120m buffer applied.

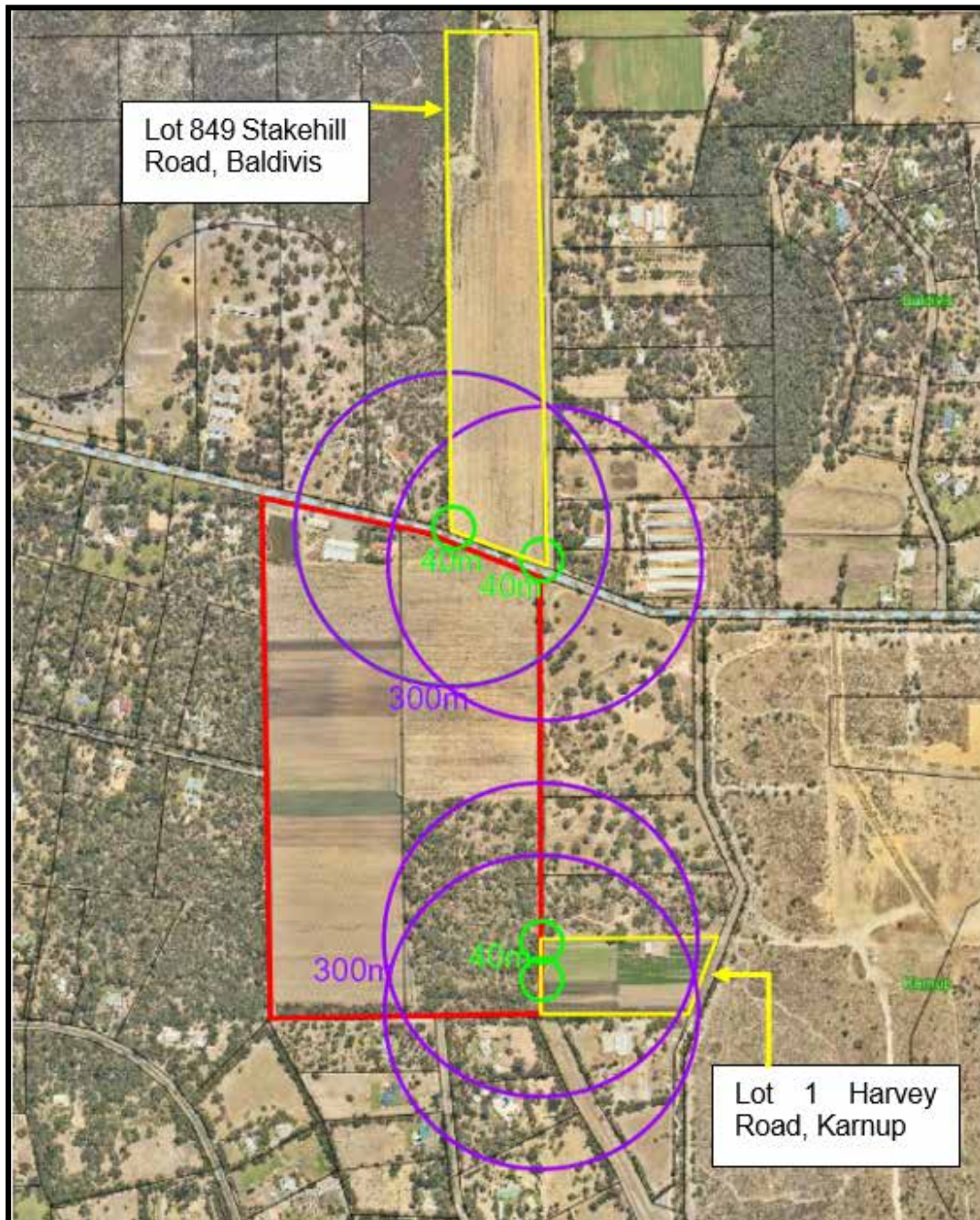
It is recommended an updated Odour Assessment be prepared addressing the context of the Hazelmere Poultry Farm.

Market Gardens

Two adjacent market gardens exist in proximity to the subject site:

1. Lot 849 Stakehill Road, Baldivis to the north; and
2. Lot 1 Harvey Road Karnup to the east of the subject site (see Figure 11).

4. Environmental Health (cont...)



11. Market Garden Locations

The Department of Health's *Guidelines on the Separation of Agricultural and Residential Land Uses* suggests the following minimum requirements be applied:

- A separation distance of 300m to control spray drift, dust, smoke and ash generated from a market garden;
- Alternatively, a 40m separation distance may be applied where a vegetative buffer is adequately designed, implemented and maintained in accordance with these guidelines (20m width for all vegetated buffers);
- Vegetative buffers will not be operational until trees reach the minimum effective height to control spray drift. Residential areas should not be developed within 300m until this time; and
- The vegetated buffer must have a mature tree height which is twice the height of the spray release height.

4. Environmental Health (cont...)

Recent site visit and aerial photographs confirm that Lot 849 Stakehill Road has not been in operation since May 2020, however, it is expected that the site is capable of recommencing agricultural pursuits in the future given the site will remain in the 'Rural' zone in perpetuity, as reflected under the WAPC's South Metropolitan and Peel Sub-regional Planning Framework.

The Structure Plan and Environmental Report are inconsistent with the proposal for a vegetated buffer requirements. The Environmental Report suggests the vegetation buffer to be within the proposed Planning Control Area, intended for the future widening of the Stakehill Road reservation. Additionally, the proposed vegetated buffer does not achieve the requirement of the Department of Health, proposing a width of 5m rather than 20m for vegetation screen, and a further 10m on either side for firebreaks and/or roads.

The Structure Plan provides no information as to how the vegetated buffer will be incorporated within the development. A cross-section should be provided confirming the extent of the vegetated buffer, including heights and separation of the trees.

Given the potential impacts occurring from the adjoining market gardens, the application should be supported by a spray drift model impact assessment to confirm suitable buffers between residential lots and the market garden on Lot 849 Stakehill Road.

In relation to Lot 1 Harvey Road, the site is identified for 'Urban Expansion' under the WAPC's South Metropolitan Peel Subregional Framework and is not expected to continue operations indefinitely.

Nonetheless, it is considered Bush Forever Site No.278 will provide sufficient separation between the future sensitive land uses and the market garden at Lot 1 Harvey Road, therefore no mitigations measures required.

Other impacts likely to be generated from the operations of the market gardens include noise and odour. Both of which have not been considered by the Environmental Report submitted by the applicant.

The EPA's guidelines recommend a buffer distance of 300-500m from market gardens, for consideration of impacts from noise and odour. With no evidence provided that noise and odour will not impact on future residents, no development should occur within 300m of both market garden locations until evidence has been provided supporting the reduction in setback.

Contaminated Site

As mentioned in the background, the subject site has historically been used as a market garden, which is a potentially land contaminating activity.

The Structure Plan has not carried out any site investigations (including sampling) to determine whether there is contamination of the soil that requires remediation.

It is recommended the Structure Plan be updated to require a site and soil investigation confirming the site is not contaminated prior to subdivision and/or development approval being granted over the site.

Mosquito Control

The subject site is located within 4km of known mosquito breeding areas around Lake Amarillo and the upper Peel Harvey Estuary.

The City receives notice from residents up to 5km of the breeding areas, effected by nuisance mosquitoes, increasing the risk of mosquito borne disease, such as Ross River Virus and Barmah Forest Virus.

Prospective purchasers will need to be informed by placing a notification on title advising of the proximity to a mosquito breeding location.

Service Station

The Structure Plan proposes to develop a service station within the neighbourhood activity centre. This City has identified that the location of the proposed service station is likely to conflict with the intended development of the site due to the EPA's guidelines for separation distances of service stations from sensitive land uses, including dwellings and child care centres.

This is explained further in the Report below, under the sub-heading 'Activity Centre' of the City's comments on 'Land Use'.

4. Environmental Health (cont...)

Conclusion

A revised Odour Assessment is required with respect to the Poultry Farm on Lot 820 Stakehill Road; this is outlined in Recommendation 6 (point 6).

Further recommendations are provided below to address the provision of appropriate buffers in relation to the Poultry Farm, and also the provision of Odour and Noise impact assessment in relation to adjacent Market Garden operations.

Further, additional detailed technical advice will also be outlined within the Local Government Report addressing these matters.

Recommendation 4:

- 1. Amend the Structure Plan Map to outline an appropriate buffer be applied from the Poultry Farm on Lot 820 Stakehill Road, determined by an updated Odour Assessment**
- 2. An Odour and Noise impact assessment be provided addressing the likely impacts from the adjoining Market Garden operations on Lots 1 Harvey Road, Karnup and Lot 849 Stakehill Road, Baldivis.**

5. Land Uses

Neighbourhood Activity Centre

The Structure Plan proposes a Neighbourhood Activity Centre with a Net Lettable Area (NLA) of 2,500m² of retail floorspace and 3,050m² of ancillary uses (total of 5,500m²), as outlined under the 'Details' section of the Report.

In the absence of a District Structure Plan and a Local Commercial Strategy detailing the provision of commercial floor space for the Karnup locality, the City engaged Macroplan, a specialist consultant in economics, to provide independent expert advice on the retail sustainability of the proposed Activity Centre.

The City's assessment determined the proposed Activity Centre is more akin to a specialised Neighbourhood Centre with the absence of a Supermarket anchor tenant to provide for daily and weekly needs to its catchment. The assessment confirms that the proposed Activity Centre is capable of support given that trade impacts from the proposed centre are acceptable, having no effect on the viability of any existing or proposed centres.

Notwithstanding this point, the proposed Structure Plan does not present a planning rationale for the provision of a specialised Neighbourhood Centre as it relates to its broader context. In this regard, the Neighbourhood Centre:

- is located to serve half its residential catchment;
- Provides for Service Commercial bulky goods land uses without justification;
- The Concept Plan provides for a car dominated centre and is not considered to encourage pedestrian activity reduce internal vehicle trips; and
- Does not propose land uses, namely a Supermarket, to provide for the daily and weekly grocery needs of its catchment population, requiring the population to travel significant distance by car to access essential goods and services.

Further, the Structure Plan does not address planning requirements contained within State Planning Policy 4.2 – Activity Centres for Perth or Peel, or the advertised replacement to this Policy draft State Planning Policy 4.2 – Activity Centres.

The principle of both SPP4.2 Policy documents is to provide for higher density housing to be incorporated within and immediately adjacent to activity centres to establish a sense of community and increase activity outside normal business hours.

The draft SPP4.2 Policy and associated implementation guidelines have been advertised for public comment by the WAPC and are considered to be seriously entertained planning proposals. Therefore the City has given due regard to the advertised Policy documents as part of its assessment of the Structure Plan amendment.

5. Land Uses (cont...)

Table 1: Density requirements within walkable catchment of an Activity Centre

	Walkable catchment for Neighbourhood Centre	Residential density target per gross hectare	
		Minimum	Desirable
SPP4.2 (2010)	200m	15	25
Draft SPP4.2 (2021)	200m	25+	NA
Liveable Neighbourhoods	400m	20 (per site hectare)	30 (per site hectare)

The Structure Plan states the Structure Plan area provides for 12 dwellings per gross hectare and 27 dwellings per site hectare. This density does not achieve the density target contained within the Framework and density targets specified in SPP 4.2 within proximity to the Activity Centre.

With respect to the density targets contained within Table 1 above, it should be noted that the targets contained within Liveable Neighbourhoods (2009) have been superseded by the more recent and higher status provisions contained within SPP 4.2 – Activity Centres for Perth and Peel (2010), which takes precedence over the earlier Liveable Neighbourhoods targets.

It should also be noted that the advertised replacement of SPP 4.2 seeks to make the current desirable density of 25 dwellings as the minimum requirement. This change in policy position further emphasizes both maintaining and increasing residential densities in proximity to activity centres.

The Structure Plan is recommended to be amended to address these State Policy requirements in an appropriate manner.

While the City supports the need for a centre to serve the Structure Plan area, the proposal does not demonstrate the provision of a specialised Neighbourhoods Centre is appropriate in the absence of higher order planning.

The location of the Centre also serves half a population catchment, as the Framework does not provide for future urban development north of Stakehill Road. In light of the strategic intent to urbanise land east of the site, it is more appropriate to provide a centre in a location that has the potential to serve a wider population catchment. In this regard, the Centre should be relocated to maximise its catchment abutting Nairn Drive.

It is also recommended that the Neighbourhood Centre be reduced in size and area to provide for a Local Centre, focusing on serving local convenience and daily needs of the Structure Plan area and its surrounding catchment. The provision of a Local Centre will not impact higher order planning of commercial floorspace for the District Structure Plan area.

The Environmental Protection Authority's (EPA) Guidance Statement No.3 – Separation Distances Between Industrial and Sensitive Land uses provides advice on the minimum requirements for environmental management for particular development proposals. In particular, it identifies generic separation distances for sensitive land uses (Child Care Premises, Residential development etc.) from industrial uses (Service Station).

In this case, the EPA recommends a 200m separation distance to all 24 hour Service Stations operation from sensitive land uses due to the gaseous, noise, odour and risk associated implications, however, the separation distance is reduced significantly to 50m for operations limited to normal business hours (i.e. Monday to Saturday from 0700-1900 hours).

Based on the City's assessment, it is considered the Service Station proposal appears to not comply with either the 50m or 200m generic EPA separation distance to the Child Care Premises and Residential development, when measured from the lot boundary, as is required under the *Guidance Statement*.

5. Land Uses (cont...)

It is considered that land use implication associated with possible land uses should be considered in more detail through a Local Development Plan and subsequent Development Application, although, in the absence of a District Structure Plan, the City is not supportive of an activity centre of this scale without understanding the broader impacts on the Karnup locality.

The Local Development Plan is recommended to address the following:

- Built form in respect of bulk, height, scale and architectural expression;
- Building orientation, interface with the public realm;
- Implementation of CPTED Principles for passive surveillance between residential development and the Local Centre
- Landscaping;
- Location of commercial and residential buildings;
- Movement Network Design;
- Pedestrian circulation;
- Provision of appropriate separation distances between any proposed Service Station and sensitive land uses; and
- Preparation of an Acoustic Report addressing the noise generated from the Child Care Centre and noise associated with service vehicles to residential development.

It is recommended the proposed activity centre be reduced in scale by removing the 'Service Commercial' zone and has a shop retail floorspace under 1,500m² NLA, in accordance with State Planning Policy 4.2

Density

The Structure Plan proposes a density range of R25 (average 350m² lot area) to R40 (average 220m² lot area), with the R25 coded lots applied as the base density across the site. The higher density coded lots up to R40 are proposed to apply to:

- Lots with a boundary directly opposite or abutting Public Open Space and/or Bush Forever;
- Lots with rear access from a laneway; or
- Lots within 400m of service commercial or commercial zone.

To the west of the subject site is 'Special Rural' zoned lots ranging in area between 20,000m² to 53,000m². The land is designated for Rural Residential development under Perth & Peel @ 3.5million and contains Bush Forever Site No.278A, preventing it from urbanising in the future.

The proposed Structure Plan proposes a road interface between the Special Rural zoned lots with R25 residential land fronting the proposed road reserve. The areas to the north and south provide for a POS interface.

In assessing the Structure Plan layout in the context of the density distribution, the City believes the design has had no consideration for the interface or edge treatment between the existing 'Special Rural' land to the west and the proposed residential lots within the Structure Plan.

Although stated in the context of mixed use compatibility, the principle remains the same, whereby Liveable Neighbourhoods recommends that similar forms of development should front each other across a street to provide compatibility and legible streetscapes. The requirement states that 'where non-residential land uses are provided, the change of use should occur along the rear boundary line of lots, rather than the street frontage, to provide a compatible use transition'.

Compatible use transition is defined as locating the interface between incompatible uses at the rear boundary of the lots, where the impact is minimal, compared to locating the incompatible use interface along the street which has a greater effect on the streetscape and building fronts.

The City recommends that the Structure Plan be modified to provide appropriate densities to progressively transition from the rural edge to urban development.

5. Land Uses (cont...)

Public Open Space

The Structure Plan is supported by Landscape Concept Plans, detailing the intended design of the proposed Public Open Space (POS) reserves. The Structure Plan proposes to provide 10.1% of the development site towards POS. The Structure Plan provides inconsistent information regarding the number of POS sites proposed with inconsistencies between the Landscape Concept Plans and the Structure Plan Map and associated schedules.

Despite the inconsistencies, the City's assessment of the concept plans determined that the POS proposed is poorly configured/distributed resulting in the reserves having limited flexibility and usability.

The City recommends a centralised Local POS reserve (sized between 0.4 – 1ha) be provided, capable of accommodating a large flat open grass area to provide flexible recreation opportunities that serve changing need of the community over time.

The Structure Plan should also be updated to provide a Street Tree Masterplan, which identifies the species and location of trees within the road reserve, prior to the acceptance of a revised Structure Plan.

In the context of the Landscape Master Plan, the City has identified a number of design considerations applicable to the submitted landscape plans which need to be address. These comments will be provided to the WAPC within the Schedule of Modifications for its consideration.

Recommendation 5:

1. **Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to a maximum NLA of 1,500m² to provide for a Local Centre.**
2. **Relocate the Local Centre adjacent to Nairn Drive in order to maximise is future population catchment.**
3. **Update Section 5 Local Development Plans of Part 1 of the Structure Plan Report by including a requirement to prepare a Local Development Plan for land zoned 'Commercial' and address the following matters:**
 - **Built form in respect of bulk, height, scale and architectural expression;**
 - **Building orientation, interface with the public realm;**
 - **Implementation of Crime Prevention Through Environmental Design Principles for passive surveillance between residential development and the Local Centre**
 - **Landscaping;**
 - **Location of commercial and residential buildings;**
 - **Movement Network Design;**
 - **Pedestrian circulation;**
 - **Provision of appropriate separation distances between any proposed Service Station and sensitive land uses; and**
 - **Preparation of an Acoustic Report addressing the noise generated from the Child Care Centre and noise associated with service vehicles to residential development.**
4. **The Structure Plan should be amended to provide an appropriate transition of densities, designed in a sympathetic manner to the Special Rural zoned lots to the west of the structure plan boundary.**
5. **Amend the Structure Plan to provide a centralised Local POS reserve (sized between 0.4 - 1ha) be provided, capable of accommodating a large flat open grass area to provide flexible recreation opportunities that serve changing need of the community over time.**

6. Matters Raised in Submissions

The public and State agency submissions identified wide range of issues with the advertised Structure Plan.

A key matter raised within public submissions was that broader planning was not sufficiently advanced to guide the preparation and design of the Structure Plan area. This issues is addressed in detail under the heading of Lifting of Urban Deferment earlier in the Comments Section. The consideration of how the Structure Plan will relate to its surrounding context is not appropriately addressed within the proposal and requires higher order planning to guide key land use considerations. The City considers the changes to the Structure Plan to address submission issues will necessitate the Structure Plan being readvertised following the resolution of significant outstanding matters being resolved.

The changes required to the Structure Plan Report to address matters raised within State Agency submissions are outlined throughout the Comments section in the Report. The direct response to each matter raised within submissions received from State agencies can be found in Attachment No.2 to this Report.

Further, additional detailed technical advice will be outlined within the Local Government Report addressing detailed matters raised by the Department of Health with respect to mosquito management and DWER with respect to urban water management.

In response to the key matters raised in public submissions received, Recommendation 6 outlines the changes required to the Structure Plan.

Additional detailed technical advice will be outlined within the Local Government Report addressing detailed matters with respect to State Planning Policy requirements, provision of street trees, notifications with respect to mosquito breeding, and bushfire management.

Recommendation 6:

Amend the Structure Plan to address the issues raised in public submissions as specified within the Local Government Report.

- 1. The proposal is premature approval of the Structure Plan in its current form will undermine future district level planning for the Karnup locality.**
- 2. Bush Forever Site 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, excluding land reserved 'Other Regional Road' within the Metropolitan Region Scheme for the future extension of Nairn Drive.**
- 3. Amend Part One – Implementation, Section 3 – Staging to confirm the funding and staging agreements required to service the site, with evidence provided from the relevant Service Authorities.**
- 4. Amend the Structure Plan Map and Report to provide a Local Public Open Space area, capable of accommodating a large flat open grassed area for flexible passive recreation opportunities.**
- 5. Amend the Structure Plan Map to provide a revised interface between the 'Rural Residential' land uses to the west and the proposed Structure Plan development by providing R5 transitional lots on the western interface of 'Special Rural' zoned land.**
- 6. Submit a revised Odour Assessment to address the operations and infrastructure of the Poultry Farm located on Lot 820 Stakehill Road, Karnup, and applying any buffer required based on the outcomes of the assessment to the Structure Plan Map.**
- 7. Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to provide for a Local Centre accommodating a maximum Net Lettable Area of 1,500m².**
- 8. Amend the Structure Plan Map to provide future road connections to Nairn Drive.**
- 9. Amend Part Two of the Structure Plan Report to provide an assessment of the educational requirements and capacity of surrounding school sites for both primary and high school education levels.**

7. Transport

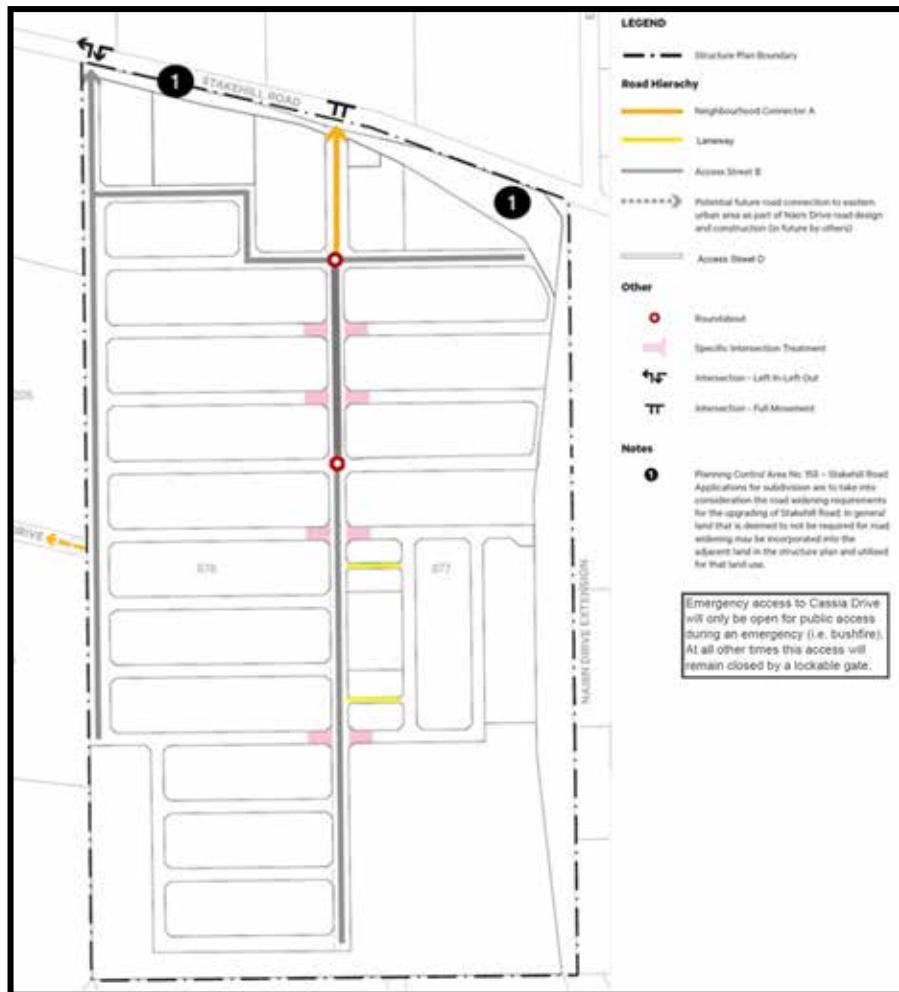
Movement Network

The Structure Plan is currently serviced by Stakehill Road to the north, a planned RAV 4 network (Restricted Access Vehicle corridor, accommodating a maximum vehicle length of 37.5m).

To the east, an Other Regional Road Reserve has been gazetted under the MRS as an extension of Nairn Drive from the north (currently Eighty Road). The future Nairn Drive reserve has yet to be determined in terms of its serviceability (RAV network) as the City is yet to commence its strategic planning investigations for Karnup.

The development is proposed to be serviced by two access points onto Stakehill Road; a centrally located Neighbourhood Connector A servicing the proposed neighbourhood centre, then continuing as an Access Street B; and a western Access Street B (refer Figure 8 below)

An emergency access is proposed to the west via Cassia Drive, which proposes to have the gate locked to the public except during a bushfire event.



8. Road Hierarchy

The City's assessment has identified a number of inconsistencies between the Structure Plan Report, Traffic Impact Assessment and Bushfire Management Plan in terms of proposed road reserve widths.

The Structure Plan has been designed in a way which has not considered any future road connections from the development of 'Urban Expansion' land to the south and 'Development' zoned land to the east.

7. Transport (cont...)

SPP 3.7 Planning in Bushfire Prone Areas requires two different vehicle access routes which connect to the public road network. In order for the Structure Plan to comply, an emergency access is proposed onto Cassia Drive to the west, although this contemplates a locked gate to control traffic during non-emergency periods. This is not compliant with SPP3.7, as it requires gates to be unlocked at all times. The Structure Plan does not assess the impact of an unrestricted access on Cassia Drive and how this may affect the landowners along Cassia Drive-west.

Access from Stakehill Road into the future activity centre is proposed via a future roundabout, with provision for an interim full-movement intersection, proposing the roundabout be a condition of development approval for the commercial centre. This is not supported by the City as it will create an unfair impact on a single development, rather than shared across the whole of the activity centre.

The Traffic Impact Assessment (TIA) does not provide any supporting details as to how the transport model was developed to verify the future traffic projections on key district roads, nor does it provide a breakdown of the approach taken in determining the intersection analysis for the purpose of the City's assessment, preventing the model from being replicated independently.

It is also noted that the TIA report underestimates forecast traffic volumes, particularly, Stakehill Road, an Integrator A road, which is assessed as carrying between 10,000 – 11,000 vehicles per day (vpd) in 2031. This volume is considerably less for the volume of traffic capable of being accommodated by an Integrator A road, which is between 15,000 and 35,000 vpd.

Issues relating to intersection treatments, spacing and access arrangements for the neighbourhood centre have also been identified by the City, which indicate the Structure Plan is fatally flawed without the proper planning investigations occurring for the greater region.

This is of particular concern when considering whether road connections should be considered to Nairn Drive to facilitate east-west connections between developments. It is appropriate that access to the site be provided onto Nairn Drive.

Liveable Neighbourhoods requires developments to provide for access generally by way of an interconnected network of streets which facilitate safe, efficient and pleasant walking, cycling and driving.

This has not been demonstrated and should provide for alternative opportunities to encourage walking and cycling.

Transport Noise

The subject site is adjacent two major regional transport roads; Stakehill Road and Nairn Drive. Both roads are planned to carry regional traffic, at volumes that have the potential to generate transport noise.

Acoustic treatments include the provision for a 2.2m high acoustic wall and quiet house design for those premises located along the future Nairn Drive, however, the Acoustic Report reflects plans that are inconsistent with the proposed Structure Plan. As such, the outcomes of the assessment are inconclusive as to the extent of the amelioration measures (i.e. noise wall and blocks requiring quiet house design).

An updated noise assessment will be required to indicate the required location and length for the acoustic noise wall to ensure the lots exceeding the noise target levels within SPP 5.4 are identified and appropriate notifications are added on the Certificate of Title, when the Structure Plan has been updated addressing all other matters of the design.

Conclusion

Access should be provided from the Structure Plan directly to Nairn Drive; this is outlined in recommendation 6 (Point 8) earlier in the Report.

Additional recommendations are provided below to address additional information required with respect to the Transport Impact Assessment, the provision of a roundabout at the intersection of Stakehill Road through the central entry.

Further, additional detailed technical advice will also be outlined within the Local Government Report addressing implications of road planning on bushfire management and updates to the Acoustic Assessment.

7. Transport (cont...)

Recommendation 7:

1. **Update the Transport Impact Assessment by providing justification for how the Transport model was developed, verifying future traffic projections.**
2. **Update the Part 1 Implementation Section – Section 4 Subdivision and Development Requirements, to require the construction of a roundabout at the intersection of Stakehill Road through the central entry.**

8. Schools

The Structure Plan suggests that the development will be serviced by existing school within the Karnup catchment.

The nearest primary school site, planned or existing, is approximately 3.5km's located in Parkland Heights in Baldivis to the north. The next closest is located approximately 5km to the west in Secret Harbour.

Two high schools are located within approximately 5.5km to 6.4km in Baldivis and Secret Harbour, respectively.

Liveable Neighbourhoods requires one primary schools site for an average of 1,500 dwellings and a high school for every 4 to 5 primary schools established.

The Structure Plan has provided no assessment or evidence of the capacity of existing and planned school sites within the various primary school catchments surrounding the Karnup development.

Coupled with the lack of public transport services, the proposed development will be inadequately serviced by community services for it to be sustainable, with no foreseeable timeframe for a locally developed school site.

The Department of Education has raised no objection to the Structure Plan, however has confirmed that the surrounding school catchments are already operating on limited accommodation capacity and in some cases, exceeding the dwelling yield threshold of 1500 dwellings per catchment areas.

Providing there are no changes are proposed to densities, the DoE suggests the development would be serviced by Singleton Primary School and other surrounding school catchments, all of which are approximately 5 to 10km away, by the existing and planned road network. Given the extent of matters to be addressed, the Structure Plan will require substantial modification, the applicant should explore further assessment addressing an interim solution.

Conclusion

Recommendation 6 (Point 9) earlier in this report addresses the need for further assessment with respect to the capacity of surround school sites.

9. Bushfire Management Plan

The subject site is located within a Bushfire Prone Area as designed by the Fire and Emergency Services Commissioner.

A Bushfire Management Plan (BMP) has been prepared in support of the Structure Plan, however, in comments received by DFES and through the City's assessment, the following matters must be appropriately addressed within a revised Report:

1. The BMP has been prepared ahead of the NPS being finalised and accepted by the WAPC for Bush Forever Site 278B.
2. The vegetation classifications have not appropriately been labelled:
 - (i) Bush Forever Site 278B is required to undergo revegetation within the conservation reserve, once the extent of area is determined, which will result in a Class A Forest classification.
 - (ii) The vegetation classification of Grassland under an Open Woodland is not a legitimate classifications under the Australian Standards. Instead, they should assessed as Class B – Woodland.
3. Inconsistencies between the Structure Plan design and plans assessed within the BMP.

9. Bushfire Management Plan (cont...)

4. Address submission comments raised by DFES to update the Bushfire Management Plan to address numerous matters relating to key elements outlined as follows:
- (i) Vegetation classification;
 - (ii) Slope assessment;
 - (iii) Separation distances of sensitive land uses to bushfire threats;
 - (iv) Insufficient evidence provided to support various assumptions made within the BMP; and
 - (v) Adequate vehicular access arrangements.

If the City's position is supported for the NPS, to retain Bush Forever Site 278B in its entirety, the BMP will require major modifications and will likely result in changes to the Structure Plan design to mitigate any potential bushfire threats, including BAL ratings and setbacks to the Bush Forever site from future residential development.

Given the above, the City recommends the BAL assessment be updated to address the correct vegetation classifications following acceptance of the NPS and any changes required to the Structure Plan layout, as a result of the NPS outcome, in order for a valid assessment to be undertaken.

Recommendation 8:

Amend the Structure Plan to address the issues raised in State agency submissions as specified within the Local Government Report.

1. **The Bushfire Management Plan be updated to address:**
- (i) Vegetation classification;**
 - (ii) Slope assessment;**
 - (iii) Separation distances of sensitive land uses to bushfire threats;**
 - (iv) Insufficient evidence provided to support various assumptions made within the BMP; and**
 - (v) Adequate vehicular access arrangements.**

10. Stormwater Management

The applicant has submitted both a District Water Management Strategy (DWMS) and Local Water Management Strategy (LWMS).

The City supports the comments provided by the Department of Water and Environmental Regulation, as stated in the Submissions Section, however, given the significant matters identified in its assessment of the Structure Plan, the LWMS is likely required to be modified to address the changes stipulated within the Report.

Any updated LWMS report should address the following:

- Include Urban Nutrient Decision Outcomes modelling to permit the City to assess the appropriateness of the proposed stormwater quality treatment elements.
- Pre-development groundwater modelling is required using the groundwater bores across the site, as the surface water sample taken from the dam is not a clear representation of groundwater quality across the site, therefore inappropriate to be used as a baseline record of site conditions.
- Demonstrate how road side swales will manage all events up to the 1% AEP (1:100yr event) for both Stakehill Road and Nairn Drive.

A full list of the required modifications will be provided in a schedule to the WAPC.

10. Stormwater Management (cont...)

Recommendation 9:

The Local Water Management Strategy be updated as follows:

1. Reflect the changes required to the Structure Plan Map to align with the City's recommendations on other matters.
2. Include Urban Nutrient Decision Outcomes modelling within an Appendix of Local Water management Strategy.
3. Include further pre-development monitoring, using the groundwater bores across the site.
4. Demonstrate how road side swales will manage all events up to the 1% AEP (1:100yr event) for both Stakehill Road and Nairn Drive.
5. Address technical matters raised by the City in a Schedule provided to the WAPC.

11. Development Contributions

Given the fragmented nature of land within the Karnup area, it is highly likely that development contribution plans will be required in order to facilitate the sharing of costs for subdivision infrastructure and the provision of community infrastructure.

Development Contribution Plan No.2 (DCP2) applies to the subject area, however, specific infrastructure to service the Karnup Sub-Area has yet to be identified. This will be considered as part of development of the Karnup District Structure Plan, at which stage revisions to DCP2, or the preparation of a new Development Contribution Plan will be required.

State Planning Policy 3.6 – Infrastructure Contributions, states that a DCP should be drafted at the earliest opportunity and advertised within 6 months following the approval of a Structure Plan. This is not feasible in this instance given development is not likely to occur in the shorter term, given servicing constraints, and planning for the balance of the Karnup precinct is yet to occur. In the circumstances, it is recommended that agreement be sought from the WAPC to defer preparation of a DCP for the area, as the preparation of such is premature.

Recommendation 10:

Request agreement from the WAPC to defer the preparation of a Development Contribution Plan for the area pending resolution of servicing, likely timing of development, and planning for the wider Karnup area.

Conclusion

The proposed Structure Plan prepared over Lots 877 and 878 Stakehill Road, Karnup seeks to develop approximately 600 residential lots/dwellings ranging in densities of R25 (Average 300m²) to R40 (Average 220m²); a Neighbourhood Activity Centre comprising a floor area of 5,500m² Net Lettable Area across Commercial and Service Commercial land uses; and the provision for 3.54ha of POS in addition to 6.36ha of land proposed to be retained for Conservation purposes.

The City's assessment of the proposal and consideration of matters raised in the submissions received during the advertising period has determined that the proposed Structure Plan should not be supported.

In this regard, the Structure Plan does not demonstrate that planning for the site should proceed in advance of the preparation of the Karnup District Structure Plan, which is due to commence within the 2021/2022 financial year.

Further, it is recommended the Structure Plan be amended to address matters raised within the City's technical assessment and within submissions received during the advertising period.

The City also considers the changes to the Structure Plan to address technical and submission issues will necessitate the Structure Plan being readvertised following the resolution of significant outstanding matters being resolved.

The City recommendations contained throughout this Report are outlined as follows:

Recommendation 1:

The Structure Plan has not been prepared in accordance with orderly and proper planning based on the following grounds:

1. The land is zoned 'Urban Deferred' under the Metropolitan Region Scheme and the Structure Plan has not satisfied the requirements to lift 'Urban Deferment'.
2. A Negotiated Planning Solution has not been determined over Bush Forever Site 278B.
3. The proposal does not adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
4. The proposal does not address how the development will integrate with the greater Karnup district or surrounding land uses.
5. The investigation into the odour impacts from the poultry farms is insufficient to determine the potential impact to sensitive urban land uses, with mitigation measures considered inadequate under the Environmental Protection Agency's Guidance Statement No.3: Separation Distances between Industrial and Sensitive Land Uses (2005).

Recommendation 2:

The Structure Plan be modified to retain all of Bush Forever 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, the area proposed to be retained for conservation excludes land reserved as 'Other Regional Road' within the Metropolitan Region Scheme, for the future extension of Nairn Drive.

Recommendation 3:

1. Amend the Structure Plan Report to outline information to adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
2. Amend the Structure Plan Map to outline public purpose reservations required to accommodate any service utility infrastructure required to service the development.
3. Amend the Structure Plan to include a schedule containing evidence from relevant servicing authorities on the agreed funding and staging arrangements for utility services for the site.

Recommendation 4:

1. Amend the Structure Plan Map to outline an appropriate buffer be applied from the Poultry Farm on Lot 820 Stakehill Road, determined by an updated Odour Assessment
2. An Odour and Noise impact assessment be provided addressing the likely impacts from the adjoining Market Garden operations on Lots 1 Harvey Road, Karnup and Lot 849 Stakehill Road, Baldivis.

Recommendation 5:

1. Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to a maximum NLA of 1,500m² to provide for a Local Centre.
2. Relocate the Local Centre adjacent to Nairn Drive in order to maximise its future population catchment.
3. Update Section 5 Local Development Plans of Part 1 of the Structure Plan Report by including a requirement to prepare a Local Development Plan for land zoned 'Commercial' and address the following matters:
 - Built form in respect of bulk, height, scale and architectural expression;
 - Building orientation, interface with the public realm;
 - Implementation of Crime Prevention Through Environmental Design Principles for passive surveillance between residential development and the Local Centre;
 - Landscaping;

- Location of commercial and residential buildings;
 - Movement Network Design;
 - Pedestrian circulation;
 - Provision of appropriate separation distances between any proposed Service Station and sensitive land uses; and
 - Preparation of an Acoustic Report addressing the noise generated from the Child Care Centre and noise associated with service vehicles to residential development.
4. The Structure Plan should be amended to provide an appropriate transition of densities, designed in a sympathetic manner to the Special Rural zoned lots to the west of the Structure Plan boundary.
 5. Amend the Structure Plan to provide a centralised Local POS reserve (sized between 0.4 - 1ha) be provided, capable of accommodating a large flat open grass area to provide flexible recreation opportunities that serve changing need of the community over time.

Recommendation 6:

Amend the Structure Plan to address the issues raised in public submissions as specified within the Local Government Report.

1. The proposal is premature approval of the Structure Plan in its current form will undermine future district level planning for the Karnup locality.
2. Bush Forever Site 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, excluding land reserved 'Other Regional Road' within the Metropolitan Region Scheme for the future extension of Nairn Drive.
3. Amend Part One - Implementation, Section 3 - Staging to confirm the funding and staging agreements required to service the site, with evidence provided from the relevant Service Authorities.
4. Amend the Structure Plan Map and Report to provide a Local Public Open Space area, capable of accommodating a large flat open grassed area for flexible passive recreation opportunities.
5. Amend the Structure Plan Map to provide a revised interface between the 'Rural Residential' land uses to the west and the proposed Structure Plan development by providing R5 transitional lots on the western interface of 'Special Rural' zoned land.
6. Submit a revised Odour Assessment to address the operations and infrastructure of the Poultry Farm located on Lot 820 Stakehill Road, Karnup, and applying any buffer required based on the outcomes of the assessment to the Structure Plan Map.
7. Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to provide for a Local Centre accommodating a maximum Net Lettable Area of 1,500m².
8. Amend the Structure Plan Map to provide future road connections to Nairn Drive.
9. Amend Part Two of the Structure Plan Report to provide an assessment of the educational requirements and capacity of surrounding school sites for both primary and high school education levels.

Recommendation 7:

1. Update the Transport Impact Assessment by providing justification for how the Transport model was developed, verifying future traffic projections.
2. Update the Part 1 Implementation Section – Section 4 Subdivision and Development Requirements, to require the construction of a roundabout at the intersection of Stakehill Road through the central entry.

Recommendation 8:

Amend the Structure Plan to address the issues raised in State agency submissions and the City's assessment as specified within the Local Government Report.

1. The Bushfire Management Plan be updated to address:
 - (i) Vegetation classification;
 - (ii) Slope assessment;
 - (iii) Separation distances of sensitive land uses to bushfire threats;
 - (iv) Insufficient evidence provided to support various assumptions made within the BMP; and
 - (v) Adequate vehicular access arrangements.

Recommendation 9:

The Local Water Management Strategy be updated as follows:

1. Reflect the changes required to the Structure Plan Map to align with the City's recommendations on other matters.
2. Include Urban Nutrient Decision Outcomes modelling within an Appendix of Local Water management Strategy.
3. Include further pre-development monitoring, using the groundwater bores across the site.
4. Demonstrate how road side swales will manage all events up to the 1% AEP (1:100yr event) for both Stakehill Road and Nairn Drive.
5. Address technical matters raised by the City in a Schedule provided to the WAPC.

Recommendation 10:

Request agreement from the WAPC to defer the preparation of a Development Contribution Plan for the area pending resolution of servicing, likely timing of development, and planning for the wider Karnup area.

Voting Requirements

Simple Majority

Officer Recommendation

That Council:

1. **APPROVES** the lodgement of a Local Government Report to the Western Australian Planning Commission, with respect to the proposed Standard Structure Plan prepared over Lots 877 and 878 Stakehill Road, Karnup, which recommends as follows:
 - (i) The advertised Structure Plan should not be approved on the following grounds:
 - (a) The proposal is premature, as approval of the Structure Plan in its current form will undermine future district level planning for the Karnup locality.
 - (b) The land is zoned 'Urban Deferred' under the Metropolitan Region Scheme and has not satisfied the requirements to lift 'Urban Deferment'.
 - (c) A Negotiated Planning Solution has not been determined over Bush Forever Site 278B.
 - (d) The proposal does not adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
 - (e) The proposal does not address how the development will integrate with the greater Karnup district or surrounding land uses.

- (f) The investigation into the odour impacts from the poultry farms is insufficient to determine the potential impact to sensitive urban land uses, with mitigation measures considered inadequate under the Environmental Protection Agency's Guidance Statement No.3: Separation Distances between Industrial and Sensitive Land Uses (2005).
- (ii) The City is not prepared to further consider the application before points (a) and (b) above have been satisfactorily addressed. In the event that these matters are satisfactorily resolved, the following modifications are also required to be addressed within any revised proposal:
- (a) Amend the Structure Plan to address the issues raised in public submissions as specified within the Local Government Report.
 - (b) Amend the Structure Plan to address the issues raised in State agency submissions as specified within the Local Government Report.
 - (c) The Structure Plan be modified to retain all of Bush Forever Site 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, the area proposed to be retained for conservation excludes land reserved as 'Other Regional Road' within the Metropolitan Region Scheme, for the future extension of Nairn Drive.
 - (d) Amend the Structure Plan Report to outline information to adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
 - (e) Amend the Structure Plan to include a schedule containing evidence from relevant servicing authorities on the agreed funding and staging arrangements for utility services for the site.
 - (f) Amend the Structure Plan Map to outline an appropriate buffer be applied from the Poultry Farm on Lot 820 Stakehill Road, determined by an updated Odour Assessment.
 - (g) An Odour and Noise impact assessment be provided addressing the likely impacts from the adjoining Market Garden operations on Lots 1 Harvey Road, Karnup and Lot 849 Stakehill Road, Baldivis.
 - (h) Update the Transport Impact Assessment by providing justification for how the Transport model was developed, verifying future traffic projections.
 - (i) Update the Part 1 Implementation Section - Section 4 Subdivision and Development Requirements, to require the construction of a roundabout at the intersection of Stakehill Road through the central entry.
 - (j) The Local Water Management Strategy be updated as follows:
 - Reflect the changes required to the Structure Plan Map to align with the City's recommendations on other matters.
 - Include Urban Nutrient Decision Outcomes modelling within an Appendix of Local Water Management Strategy.
 - Include further pre-development monitoring, using the groundwater bores across the site.
 - Demonstrate how road side swales will manage all events up to the 1% AEP (1:100yr event) for both Stakehill Road and Nairn Drive.
 - Address technical matters raised by the City in a Schedule provided to the WAPC.
 - (k) Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to a maximum NLA of 1,500m² to provide for a Local Centre.
 - (l) Relocate the Local Centre adjacent to Nairn Drive in order to maximise its future population catchment.

- (m) Update Section 5 Local Development Plans of Part 1 of the Structure Plan Report by including a requirement to prepare a Local Development Plan for land zoned 'Commercial' and address the following matters:
 - Built form in respect of bulk, height, scale and architectural expression;
 - Building orientation, interface with the public realm;
 - Implementation of CPTED Principles for passive surveillance between residential development and the Local Centre
 - Landscaping;
 - Location of commercial and residential buildings;
 - Movement Network Design;
 - Pedestrian circulation;
 - Provision of appropriate separation distances between any proposed Service Station and sensitive land uses; and
 - Preparation of an Acoustic Report addressing the noise generated from the Child Care Centre and noise associated with service vehicles to residential development.
 - (n) The Structure Plan should be amended to provide an appropriate transition of densities, designed in a sympathetic manner to the Special Rural zoned lots to the west of the Structure Plan boundary.
 - (o) Amend the Structure Plan to provide a centralised Local POS reserve (sized between 0.4 - 1ha) be provided, capable of accommodating a large flat open grass area to provide flexible recreation opportunities that serve changing need of the community over time.
 - (p) Amend the Bushfire Management Plan to address the issues raised in State agency submissions and the City's assessment as specified within the Local Government Report.
 - (q) Request agreement from the WAPC to defer the preparation of a Development Contribution Plan for the area pending resolution of servicing, likely timing of development, and planning for the wider Karnup area.
 - (r) Amend the Structure Plan Report and Technical Appendices to address technical matters documented within the Local Government Report, and minor technical comments identified within the City's assessment contained within the Schedule of Modifications.
- (iii) If the Standard Structure Plan is modified in accordance within point (ii) above, the Council recommends the Commission direct the City to readvertise the revised application pursuant to Clause 22(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, in a manner specified by the Commission.
2. **ENDORSES** a recommendation to the Western Australian Planning Commission that all of Bush Forever Site No.278B located on Lots 877 and 878 Stakehill Road, Karnup be retained for conservation purposes through the determination of the Negotiated Planning Solution.
- The area proposed to be retained for conservation excludes land reserved as 'Other Regional Road' within the Metropolitan Region Scheme, for the future extension of Nairn Drive, and is subject to:
- (i) The reasons detailed within the Local Government Report for the proposed Standard Structure Plan; and
 - (ii) Further detailed planning being undertaken to review the adequacy of a potential local road connection into Cassia Drive located south of the site.

Committee Recommendation

That Council:

1. **APPROVES** the lodgement of a Local Government Report to the Western Australian Planning Commission, with respect to the proposed Standard Structure Plan prepared over Lots 877 and 878 Stakehill Road, Karnup, which recommends as follows:
 - (i) The advertised Structure Plan should not be approved on the following grounds:
 - (a) The proposal is premature, as approval of the Structure Plan in its current form will undermine future district level planning for the Karnup locality.
 - (b) The land is zoned 'Urban Deferred' under the Metropolitan Region Scheme and has not satisfied the requirements to lift 'Urban Deferment'.
 - (c) A Negotiated Planning Solution has not been determined over Bush Forever Site 278B.
 - (d) The proposal does not adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
 - (e) The proposal does not address how the development will integrate with the greater Karnup district or surrounding land uses.
 - (f) The investigation into the odour impacts from the poultry farms is insufficient to determine the potential impact to sensitive urban land uses, with mitigation measures considered inadequate under the Environmental Protection Agency's Guidance Statement No.3: Separation Distances between Industrial and Sensitive Land Uses (2005).
 - (ii) The City is not prepared to further consider the application before points (a) and (b) above have been satisfactorily addressed. In the event that these matters are satisfactorily resolved, the following modifications are also required to be addressed within any revised proposal:
 - (a) Amend the Structure Plan to address the issues raised in public submissions as specified within the Local Government Report.
 - (b) Amend the Structure Plan to address the issues raised in State agency submissions as specified within the Local Government Report.
 - (c) The Structure Plan be modified to retain all of Bush Forever Site 278B be retained for conservation purposes through the determination of the Negotiated Planning Solution, the area proposed to be retained for conservation excludes land reserved as 'Other Regional Road' within the Metropolitan Region Scheme, for the future extension of Nairn Drive.
 - (d) Amend the Structure Plan Report to outline information to adequately address funding requirements for service infrastructure. Further investigations are required to determine servicing capability, funding and timeframe for when the service infrastructure will be constructed.
 - (e) Amend the Structure Plan to include a schedule containing evidence from relevant servicing authorities on the agreed funding and staging arrangements for utility services for the site.
 - (f) Amend the Structure Plan Map to outline an appropriate buffer be applied from the Poultry Farm on Lot 820 Stakehill Road, determined by an updated Odour Assessment.
 - (g) An Odour and Noise impact assessment be provided addressing the likely impacts from the adjoining Market Garden operations on Lots 1 Harvey Road, Karnup and Lot 849 Stakehill Road, Baldivis.
 - (h) Update the Transport Impact Assessment by providing justification for how the Transport model was developed, verifying future traffic projections.

- (i) Update the Part 1 Implementation Section - Section 4 Subdivision and Development Requirements, to require the construction of a roundabout at the intersection of Stakehill Road through the central entry.
- (j) The Local Water Management Strategy be updated as follows:
 - Reflect the changes required to the Structure Plan Map to align with the City's recommendations on other matters.
 - Include Urban Nutrient Decision Outcomes modelling within an Appendix of Local Water Management Strategy.
 - Include further pre-development monitoring, using the groundwater bores across the site.
 - Demonstrate how road side swales will manage all events up to the 1% AEP (1:100yr event) for both Stakehill Road and Nairn Drive.
 - Address technical matters raised by the City in a Schedule provided to the WAPC.
- (k) Amend the Structure Plan to remove the 'Service Commercial' zone and reduce the shop-retail floorspace to a maximum NLA of 1,500m² to provide for a Local Centre.
- (l) Relocate the Local Centre adjacent to Nairn Drive in order to maximise is future population catchment.
- (m) Update Section 5 Local Development Plans of Part 1 of the Structure Plan Report by including a requirement to prepare a Local Development Plan for land zoned 'Commercial' and address the following matters:
 - Built form in respect of bulk, height, scale and architectural expression;
 - Building orientation, interface with the public realm;
 - Implementation of CPTED Principles for passive surveillance between residential development and the Local Centre
 - Landscaping;
 - Location of commercial and residential buildings;
 - Movement Network Design;
 - Pedestrian circulation;
 - Provision of appropriate separation distances between any proposed Service Station and sensitive land uses; and
 - Preparation of an Acoustic Report addressing the noise generated from the Child Care Centre and noise associated with service vehicles to residential development.
- (n) The Structure Plan should be amended to provide an appropriate transition of densities, designed in a sympathetic manner to the Special Rural zoned lots to the west of the Structure Plan boundary.
- (o) Amend the Structure Plan to provide a centralised Local POS reserve (sized between 0.4 - 1 ha) be provided, capable of accommodating a large flat open grass area to provide flexible recreation opportunities that serve changing need of the community over time.
- (p) Amend the Bushfire Management Plan to address the issues raised in State agency submissions and the City's assessment as specified within the Local Government Report.
- (q) Request agreement from the WAPC to defer the preparation of a Development Contribution Plan for the area pending resolution of servicing, likely timing of development, and planning for the wider Karnup area.

- (r) Amend the Structure Plan Report and Technical Appendices to address technical matters documented within the Local Government Report, and minor technical comments identified within the City's assessment contained within the Schedule of Modifications.
 - (iii) If the Standard Structure Plan is modified in accordance within point (ii) above, the Council recommends the Commission direct the City to readvertise the revised application pursuant to Clause 22(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, in a manner specified by the Commission.
2. **ENDORSES** a recommendation to the Western Australian Planning Commission that all of Bush Forever Site No.278B located on Lots 877 and 878 Stakehill Road, Karnup be retained for conservation purposes through the determination of the Negotiated Planning Solution.

The area proposed to be retained for conservation excludes land reserved as 'Other Regional Road' within the Metropolitan Region Scheme, for the future extension of Nairn Drive, and is subject to:

- (i) The reasons detailed within the Local Government Report for the proposed Standard Structure Plan; and
- (ii) Further detailed planning being undertaken to review the adequacy of a potential local road connection into Cassia Drive located south of 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

Engineering and Parks Services
Engineering Services
RoadWise Advisory Committee



Reference No & Subject:	EP-015/21	Membership Appointment - RoadWise Advisory Committee (Absolute Majority)
File No:	RDS/15	
Proponent/s:		
Author:	Mr Manoj Barua, Manager Engineering Services	
Other Contributors:		
Date of Committee Meeting:	16 August 2021	
Previously before Council:		
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	
Site:		
Lot Area:		
LA Zoning:		
MRS Zoning:		
Attachments:	Minutes of RoadWise Advisory Committee meeting held on 26 July 2021	
Maps/Diagrams:		

Purpose of Report

To consider the appointment of a representative member of the Western Australian Police as a Committee member to the RoadWise Advisory Committee.

Background

Sergeant Bob Batemen, the previous representative of the Western Australian Police (WAPOL) was transferred from Rockingham Police Station to another district and therefore resigned from his role on the RoadWise Advisory Committee. The Rockingham Police Station has recently undergone many staff movements which resulted in the position being vacant for some time.

Details

Senior Constable Adam Rigoir has been nominated as the next representative for WAPOL. Senior Constable Rigoir is a long servicing Officer of the WAPOL. He is now serving the local City of Rockingham area.

During his service he has been involved in enforcing and educating members of the public with road rules and has been involved in numerous traffic campaigns in the country involving multiple agencies. He has also spent many years in regional Western Australia with a focus on road traffic management and safety.

Implications to Consider

a. Consultation with the Community

Nil

b. Consultation with Government Agencies

WA Police

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 4: *Deliver Quality Leadership and Business Expertise*

Strategic Objective: *Effective Governance - Apply systems of governance which empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant environment.*

d. Policy

The Governance and Meeting Framework Council Policy underpins the review and appointment of memberships on advisory committees.

e. Financial

Nil

f. Legal and Statutory

Section 5.8, 5.9 and 5.10 of the Local Government Act 1995 (the Act) specify requirements in respect to establishment of committees, type of committees that a local government can create and appointments of committee members.

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

Senior Constable Adam Rigoir has the required knowledge and experience to continue to add value to the Committee on behalf of WAPOL and therefore recommended for appointment in the committee.

Voting Requirements

Absolute Majority

Advisory Committee Recommendation

That Council **APPOINTS** Senior Constable Adam Rigoir as the representative of the Western Australian Police to the RoadWise Advisory Committee.

Officer Recommendation if Different to Advisory Committee Recommendation

Not Applicable

The Officer's Reason for Varying the Advisory Committee Recommendation

Not Applicable

Committee Recommendation

That Council **APPOINTS** Senior Constable Adam Rigoir as the representative of the Western Australian Police to the RoadWise Advisory Committee.

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 Engineering Services



Reference No & Subject:	EP-016/21 Coastal Facilities Strategy 2021-2025
File No:	EVM/162-02
Applicant:	
Owner:	
Author:	Mr Michael Wilson, Senior Projects Officer
Other Contributors:	Ms Jacqui Doran, Coastal Engineering Officer Mr Matthew Donaldson, Coastal Engineering Officer Mr Manoj Barua, Manager Engineering Services
Date of Committee Meeting:	16 August 2021
Previously before Council:	25 May 2021 (EP-008/21)
Disclosure of Interest:	
Nature of Council's Role in this Matter:	Executive
Site:	
Lot Area:	
LA Zoning:	
MRS Zoning:	
Attachments:	1. Community Plan Strategy - Coastal Facilities Strategy 2021-2025 2. Community Feedback on Draft Coastal Facilities Strategy
Maps/Diagrams:	

Purpose of Report

To consider adoption of the draft Coastal Facilities Strategy 2021-2025 following the public comment period.

Background

The need for a Coastal Facilities Strategy was identified and formalised in the Strategic Community Plan 2019-2029.

The draft Coastal Facilities Strategy was developed on the basis of extensive community consultation, and the Coastal Management Study. At the Ordinary Council meeting held 25 May 2021 it was resolved:

"That Council ENDORSES the draft Coastal Facilities Strategy 2021 - 2025 for the purpose of public comment."

Details

The Coastal Facilities Strategy was advertised for public comment through Rockport and Share your thoughts on the City website from 28 May 2021 to 28 June 2021. During this period, hardcopy feedback forms, along with copies of the strategy, were made available in the City libraries and at the Main City Administration Office.

Facebook posts were published on 31 May and 9 June 2021 and the public comment period was advertised in the Sound Telegraph newspaper on 9 June 2021.

Stakeholder groups were emailed directly about the public comment period.

Implications to Consider

a. Consultation with the Community

The City received 16 community submissions and one submission from the State Government. One additional community submission arrived after the cut-off date, however, was still considered.

Several submissions went outside the scope of the strategy. Where this occurred, the feedback was passed onto the relevant department within the City for consideration.

All specific feedback received is in the attachment to this report.

Feedback received is summarised under the five key issues identified within the strategy:

Key Issue:

Provision and management of boating infrastructure is becoming increasingly costly in economic, social and environmental terms due to increased demand; increased boat draughts; heightened threats to the local little penguin colony; dispersed maintenance requirements across a number of boat ramp locations and needing to maintain access to open water.

Community Feedback

Several requests were made to improve or expand facilities, for instance by increasing car parking at smaller boat ramps; installing boat launching aprons for smaller vessels; installing floating jetties; building protective groynes; adding and improving fish cleaning stations and boat wash down facilities; and increasing parking availability.

There was also a call to recognise the contribution to boating facilities of not-for-profit organisations, and to support non-City development of boating infrastructure.

A couple of submissions noted a need to create safe pedestrian and cyclist crossing points at boat ramps.

One submission advocated introducing parking fees at boat ramps.

One submission objected to dredging of the Bent Street boating channel as a waste of money, and one other supported continuation of the excavation.

One submission wanted to allow boats to dock at Palm Beach Jetty, and to introduce fenders at Val Street Jetty (instead of tyres).

City's comments

The Coastal Facilities Strategy already contains actions regarding Port Kennedy and Palm Beach West boat ramps where some of the improvements mentioned can be considered. For all boat ramps, such improvements can be addressed through the action to develop a strategic position for the provision of boat ramps.

Although the comments regarding pedestrians and cyclists traversing boat ramp areas is noted, the City reiterates that the only safe location to traverse these areas are on the designated footpaths.

The question of parking fees at boat ramps is considered outside the scope of this strategy.

The City notes the comments regarding use of the jetties. The Palm Beach Jetty has not been designed and built to withstand the loads of berthed boats, hence not allowing boats to dock here.

Val Street Jetty does allow recreational boats to berth, however, it is primarily designed for commercial vessels and there would be significant cost involved in changing and maintaining an alternative fender system, and therefore, this is not supported.

Amendments to the Strategy

A small amendment was made to the following action by adding the italic wordings - 'Support development of a Marina *“and consider any other private infrastructure that will support the City's boating community within the City”* subject to detailed assessment and environmental and planning requirements being met'.

Key Issue:

Beach access isn't adequate for all users and is an inhibitor to diversifying recreation along the coast.

Community Feedback

Request made for sea wall to support diving, snorkelling and fishing in Safety Bay, along with a café.

Several submissions identified areas where beach access has been degraded or needs to be created. These areas include between Hymus Street and the Esplanade, and from St Ives Cove to Capella Pass.

A couple of submissions praised the use of beach matting by the City.

City's comments

Installation of a sea wall in Safety Bay is problematic due to the dynamic nature of this coast, and is also not included within the Safety Bay Shoalwater Master Plan.

The Coastal Facilities Strategy includes an action to develop a beach access plan, which will address the identified areas where access is an issue.

Amendments to the Strategy

Nil required

Key Issue:

Sand movement is impacting negatively on recreation, leading to shallow boat channels and eroded beaches.

Community Feedback

The community identified the areas of erosion concern. These included Palm Beach between the boat ramps and Hymus Street; Alexandra Street beach area

City's comments

The area around Hymus Street is identified in the strategy for monitoring and construction of a sea wall when appropriate.

The area at Alexandra Street is known to the City and believed to be due to drainage issues, which are currently being addressed operationally.

Amendments to the Strategy

Nil required

Key Issue:

Coastal protection infrastructure isn't fully captured in the asset register, exacerbating issues in responding to coastal vulnerability.

Community Feedback

Nil

City's comments

Not Applicable due to no community feedback

Amendments to the Strategy

Not Applicable due to no community feedback

Key Issue:

Coastal infrastructure will become increasingly vulnerable to damage or loss as climate change impacts develop.

Community Feedback

One respondent queried the tense used - present vs. future in describing the impacts of climate change, and also questioned if the coastal monitoring overlaps that specified in CHRMAP.

One respondent placed a greater priority on coastal infrastructure protection than marina development.

City's comments

The proposed coastal monitoring is complementary to that specified and being undertaken for CHRMAP. There are many different types of coastal monitoring, each providing information that is relevant for different types of decision making. Current decision making is occurring using the best available information.

Coastal protection and retreat decisions are already well catered for within Coastal Hazard Risk Management and Adaptation Planning (CHRMAP).

Amendments to the Strategy

Text updated to reflect future tense.

b. Consultation with Government Agencies

The following state government agencies were contacted for feedback:

- Department of Transport (DoT);
- Department of Biodiversity, Conservation and Attractions (DBCA);
- Water Corporation;
- Department of Primary Industries and Rural Development;
- Department of Water & Environmental Regulation (DWER).

DBCA and DoT, provided feedback previously in developing the draft strategy and did not have any further comment during the public comment period. No other department responded.

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	<i>Actively Pursue Tourism and Economic Development</i>
Strategic Objective:	<i>Coastal Destination - Promote the City as the premier metropolitan coastal tourism destination.</i>
Aspiration 2	<i>Grow and Nurture Community Connectedness and Wellbeing</i>
Strategic Objective:	<i>Accessibility - Ensure that the City's infrastructure and services are accessible to seniors and to people with a disability.</i>
Strategic Objective:	<i>Services and Facilities - Provide cost effective services and facilities which meet community needs.</i>
Aspiration 3	<i>Plan for Future Generations</i>
Strategic Objective:	<i>Infrastructure Planning - Plan and develop sustainable and safe infrastructure which meet the current and future needs of the City's growing population.</i>
Strategic Objective:	<i>Climate Change Adaptation - Acknowledge and understand the impacts of climate change, and identify actions to mitigate and adapt to those impacts.</i>
Strategic Objective:	<i>Preservation and Management of Bushland and Coastal Reserves - Encourage the sustainable management and use of the City's bushland and coastal reserves.</i>
Aspiration 4	<i>Deliver Quality Leadership and Business Expertise</i>
Strategic Objective:	<i>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.</i>

d. Policy

The draft CFS has been developed according to the requirements of the Strategic Development Framework Policy.

e. Financial

The costs associated with the implementation of actions outlined in the Coastal Facilities Strategy 2021-2025 will be incorporated in the relevant Team Plans and Business Plans over the Strategy timeframe.

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

The feedback received has been generally positive with suggestions for minor enhancements, and no feedback opposing the Coastal Facilities Strategy.

Amendment of actions and text have been made to the Coastal Facilities Strategy to reflect the community feedback received.

Adopting this strategy will facilitate the City continuing to provide coastal recreational and coastal adaptation facilities for the benefit of the community, as well as undertaking research to inform further evidence based decision making in future iterations of the Coastal Facilities Strategy.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADOPTS** the 'Community Plan Strategy - Coastal Facilities Strategy 2021-2025'.

Committee Recommendation

That Council **ADOPTS** the 'Community Plan Strategy - Coastal Facilities Strategy 2021-2025'.

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

Corporate and Community Development Committee

General Management Services Governance and Councillor Support Governance Review Committee



Reference No & Subject:	GM-024/21	Draft Council Policy – Attendance at Events
File No:	CPM/3	
Proponent/s:		
Author:	Mr Peter Varris, Manager Governance and Councillor Support	
Other Contributors:		
Date of Committee Meeting:	17 August 2021	
Previously before Council:		
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	
Site:		
Lot Area:		
Attachments:	Minutes of the Governance Review Committee meeting held on 30 March 2021	
Maps/Diagrams:		

Purpose of Report

To consider a draft Council Policy, *Attendance at Events*, to meet the requirements of section 5.90A of the Local Government Act 1995.

Background

Changes to the Local Government Act 1995 (the Act) resulted in a new requirement for Council to adopt a policy in relation to the attendance of council members and the CEO at events. While Council has a policy provision in the *Community Grants Program* policy it does not meet the current legislative requirements.

As a consequence a draft policy has been developed which meets the requirements of the Act.

Details

Section 5.90A of the Act states –

“(2) A local government must prepare and adopt (by absolute majority) a policy that deals with matters relating to the attendance of council members and the CEO at events, including —

- (a) the provision of tickets to events; and
- (b) payments in respect of attendance; and

- (c) approval of attendance by the local government and criteria for approval; and
(d) any prescribed matter.”

For the purpose of section 5.90A **event** includes the following –

- (a) a concert;
- (b) a conference;
- (c) a function;
- (d) a sporting event;
- (e) an occasion of a kind prescribed for the purposes of this definition.

In researching and developing this draft policy the City has considered guidance from the Department of Local Government Sport and Cultural Industries, and similar policies in other local governments, including Stirling, Wanneroo, and Fremantle.

The draft policy endeavours to address all those events that council members and the CEO would reasonably be expected to be invited and attend. Such events would be too numerous to individually identify therefore the policy seeks to identify and categorise these events.

The draft identifies events that can be attended without referral to Council, those that will require referral to Council and matters in respect to the payment of any fees, charges or other cost associated with such events.

The Governance Review Committee considered the draft policy at its meeting 30 March 2021 and recommended that subject to suitable redrafting and clarification in respect to –

- Council Policy Scope – gift declaration requirements (redraft)
- Attendance of Councillor Partners as guests to pre-approved events
- Addition of ‘Award ceremonies’ in pre-approved events
- Clarification of clause 2.2 to delegate to CEO (in consultation with the Mayor)
- Clarification of invitations to events ‘addressed to the City of Rockingham’

that Council approves the draft policy.

Implications to Consider

a. Consultation with the Community

The policy will be subject to community consultation.

b. Consultation with Government Agencies

Guidance from the Department of Local Government Sport and Cultural Industries has been considered in the development of the draft policy.

c. Strategic

Community Plan

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

Aspiration 4: *Deliver Quality Leadership and Business Expertise*

Strategic Objective: *Effective Governance – Apply systems of governance which empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant environment.*

d. Policy

The draft policy – *Attendance at Events* is a Legislative Policy’ in accordance with the Policy Framework. The Framework states – “*Legislative Policy is policy required by the City under law. These Policies do not necessarily require rigour through a public consultation period. However the City will ensure a consistent approach to policy by applying the same minimum public consultation period as Statutory Policy.*” Therefore a 14 day public consultation process is recommended.

Should Council adopt this policy an amendment may be required to the Community Grants Program policy with a clause eg – *“The acceptance or otherwise of complimentary tickets for City of Rockingham funded events shall be in accordance with the Council’s Attendance at Events policy.”*

e. Financial

The cost implication for policy adoption purposes is limited to advertising and in-house administrative arrangements. These are captured in the Governance and Councillor Support advertising budget. Advertising is expect to be approximately \$500.00.

f. Legal and Statutory

Section 5.90A *Policy for attendance at events* of the Act states –

(2) A local government must prepare and adopt a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*

(a) the provision of tickets to events; and

(b) payments in respect of attendance; and

(c) approval of attendance by the local government and criteria for approval; and

*(d) any prescribed matter. * Absolute majority required.*

(3) A local government may amend the policy. * Absolute majority required.*

(4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(5) The CEO must publish an up-to-date version of the policy on the local government’s official website.

There are no current regulatory requirements at present in relation to (4) above.

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

In addressing the conditioned support of the Governance Review Committee, and subsequent queries from Council members and decisions of Council, the following changes have been made -

Council Policy Scope – gift declaration requirements (redraft)

The Local Government Act 1995 provides that a Council Member and/or the CEO must declare gifts under certain circumstances when considering matters before Council in which the gift donor is involved. The Act further provides that a gift is excluded from this declaration requirement should the gift consist of a ticket to an event approved by the local government’s Attendance at Events policy.

The legislative provision relating to the above has been incorporated into the ‘Legislation’ section of the policy. An additional section has been incorporated in a new section – ‘4. Requirement to declare an interest’.

The requirement to declare receipt of a gift under legislations (form inclusion on the gift register) remains.

Attendance of Councillor partners as guests to pre-approved events

Following from the policy parameters set by Council in its recent decision in relation to the Council Members Professional Development Policy, i.e. all cost for an accompanying partner should be borne by the Council Member, any cost of attendance by an accompanying partner to an event (where a member of the public is required to pay to attend) is to be borne by the Council Member.

An accompanying partner of a Council Member may attend an event where they have been invited (as a guest), where the event is not a (priced) event and where there is no cost to the City.

This policy precedent has been incorporated in the revised policy.

Addition of 'Award ceremonies' in pre-approved events

Award ceremonies added to 1.3(p) - Recognition of Service events / **Award ceremonies**

Clarification of clause 2.2 to delegate to CEO (in consultation with the Mayor)

Clause 2.2 has been clarified to provide that any delegation to the CEO to determine a request to attend an event not pre-approved by Council should be in consultation with the Mayor.

Should Council wish to delegate the above authority to the CEO, it could be done once Council considers the Policy after public consultation.

Clarification of invitation to events 'addressed to the City of Rockingham'

An additional clause has been included requiring a Council Member or the CEO to inform the City should an invitation or offer of tickets have been received but not addressed to the City. This will ensure appropriate records are kept to ensure compliance with the Policy.

"1.2 Where an invitation or offer of tickets is received by a Council Member or the CEO to attend an event, and such invitation or offer has not been addressed to the City, the Council Member or the CEO will inform the City of the receipt of the invitation or offer."

Attendance to an event to which the City of Rockingham has provided sponsorship

Any event that has been sponsored by the City or has received grant funding through the Community Grants Program is subject to this policy. An invitation to a Council member or the CEO to a 'priced' event would be paid for by the City. Where a sponsorship arrangement conditions that a number of tickets to the event are provided to the City, these are essentially tickets paid for by the City and attendance would be subject to this policy. This is captured under clause 1.3(i).

Additional information in respect to the legislation underpinning the declaration of gifts has been included under the 'legislation' section of the revised policy to assist clarity.

The revised draft is commended to Council.

Voting Requirements

Simple Majority (Absolute Majority for final adoption after public consultation)

Advisory Committee Recommendation

That Council **APPROVES** the following draft Council Policy – *Attendance at Events* for the purpose of public consultation –

Attendance at Events

Council Policy Objective

To provide guidance and transparency to the attendance at any event, whether free of charge, part of a sponsorship agreement, or paid by the local government and meet the requirements of section 5.90A of the Local Government Act 1995.

Council Policy Scope

This policy applies to Council Members and the CEO in attending any event in their official capacity.

~~Attendance at an event in accordance with this policy will exclude a gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before Council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required to be declared under the gift register provisions.~~

~~Any invitation or offer of tickets not addressed to the City of Rockingham is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.~~

Council Policy Statement

Section 5.90A of the Local Government Act 1995 provides that a local government must prepare and adopt (by absolute majority) an Attendance at Events policy. This policy is made in accordance with those provisions.

Certain gifts received by a Council member and the CEO are specifically excluded from the conflict of interest provisions, including a gift that is received in accordance with an 'Attendance at Events Policy' ([section 5.62\(1B\)](#)).

Provision of tickets to events

1. Invitations

- 1.1 All invitations or offers of tickets for a Council Member or the CEO to attend an event should be in writing and addressed to the City of Rockingham.
- 1.2 **Where an invitation or offer of tickets is received by a Council Member or the CEO to attend an event, and such invitation or offer has not been addressed to the City, the Council Member or the CEO will inform the City of the receipt of the invitation or offer.**
- 1.3 A list of events and attendees approved by the local government in advance of the event is listed below:
 - (a) Advocacy lobbying or Ministerial briefings
 - (b) Meetings of clubs or organisations within the City of Rockingham, including where the council member or CEO is patron
 - (c) Any free event within the City of Rockingham
 - (d) Australian or West Australian local government events
 - (e) Events hosted by clubs or not for profit organisations within the City of Rockingham to which the Mayor, Council Member or Chief Executive Officer has been officially invited
 - (f) City hosted ceremonies and functions
 - (g) City hosted events with employees
 - (h) City run tournaments or events
 - (i) City sponsored functions or events
 - (j) Community art exhibitions
 - (k) Cultural events/festivals
 - (l) Events run by a Local, State or Federal Government
 - (m) Events run by schools and universities within the City
 - (n) Events run by major professional bodies associated with local government at a local, state and federal level
 - (o) Opening or launch of an event or facility within the City of Rockingham
 - (p) Recognition of Service events / **Award ceremonies**
 - (q) Where Mayoral or CEO representation has been formally requested
 - (r) Conferences, training and professional development in accordance with Council Policy – Council Member Professional Development or the CEO's employment contract.
- 1.4 All Council members and the CEO are able to attend the pre-approved events in clause 1.3. If there is a fee associated with a pre-approved event, this will be paid for out of the City's budget subject availability of funds.

2. Events not pre-approved

- 2.1 In making a decision on attendance at an event that is not pre-approved in clause 1.3, the Council will consider:
 - (a) who is providing the invitation or ticket to the event,
 - (b) the location of the event in relation to the local government (within the district or out of the district),
 - (c) the role of the Council member or the CEO when attending the event (participant, observer, presenter) and the value of their contribution,
 - (d) the benefit of local government representation at the event,
 - (e) the number of invitations / tickets received, and

- (f) the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.
- 2.2 Decisions to attend events in accordance with clause 2.1 will be made by simple majority, or should Council delegate the decision making power to the CEO, in consultation with the Mayor and in accordance with any other conditions of delegation.

3. Payments in respect of attendance

- 3.1 Where an invitation or ticket to an event is provided free of charge, the local government may contribute to appropriate expenses for attendance, such as travel and accommodation, for events outside the district if it is Council determined in accordance with clause 2.2.
- 3.2 For any events where a member of the public is required to pay, unless pre-approved in accordance with this policy, the Council will determine whether it is in the best interests of the local government for a Council member or the CEO to attend on behalf of the Council.
- 3.3 If it is determined in accordance with this policy that a Council member or CEO may attend a paid event, the City will pay the cost of attendance and reasonable expenses, such as travel and accommodation.

3.4 With the exception where an accompanying partner of a Council Member or the CEO is -

- (a) invited to attend an event specified in Council Policy – Functions Hosted by Council, or
(b) invited to attend an event (as a guest), where the event is not a (priced) event and where there is no cost to the City;

the cost of attendance by the accompanying partner is to be borne by the Council Member or CEO accordingly.

Where an accompanying partner of a Council Member or the CEO attends an event, any (priced) tickets for that person, if paid for by the local government, must be reimbursed by the representative unless expressly authorised by the Council.

~~With the exception where an accompanying partner of a Council Member or the CEO is invited to attend an event specified in Council Policy – Functions Hosted by Council, where partners of a Council Member or the CEO attend an event, any tickets for that person, if paid for by the local government and subject to the requirements of the Council Policy – Council Member Professional Development, must be reimbursed by the representative unless expressly authorised by the Council.~~

~~For the purpose of this policy the provisions for accompanying partners under the Council Policy – Council Member Professional Development applies to the CEO.~~

4. Requirement to declare an interest

In accordance with legislation, attendance at an event in accordance with this policy will exclude a Council Member or the CEO from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before Council.

Receipt of the gift will still be required to be declared under the gift register provisions.

Definitions

CEO – Chief Executive Officer

Event – has the same meaning as that provided in section 5.90A of the Local Government Act 1995

Legislation

Local Government Act 1995 – 5.62(1B)

A gift is an excluded gift –

- (a) If –
- (i) The gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and
- (ii) The local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event.

Local Government Act 1995 – 5.87A Council members to disclose gifts;

- (1) A council member must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the council member.

Local Government Act 1995 – 5.87B CEOs to disclose gifts;

- (1) A CEO must disclose, in accordance with subsection (2) and section 5.87C, a gift received by the CEO.

Local Government Act 1995 – 5.87C Provisions about disclosures;

- (2) The disclosure must be made within 10 days after receipt of the gift.
- (3) The disclosure must include the following —
 - (a) a description of the gift;
 - (b) the name and address of the person who made the gift;
 - (c) the date on which the gift was received;
 - (d) the estimated value of the gift at the time it was made;
 - (e) the nature of the relationship between the person who made the gift and the person who received the gift;

Local Government Act 1995 – 5.89 Register of gifts

- (1) A CEO is to keep a register of gifts.
- (2) The register is to contain a record of the disclosures made under sections 5.87A and 5.87B.
- (2A) The CEO must record a disclosure made under section 5.87A or 5.87B in the register within 10 days after the disclosure is made.
- (2B) If a gift disclosed under section 5.87A or 5.87B is an excluded gift under section 5.62(1B)(a), the CEO must record in the register —
 - (a) the date of the approval referred to in section 5.62(1B)(a)(ii); and
 - (b) the reasons for that approval; and
 - (c) any prescribed information.

Local Government Act 1995 – section 5.90A Policy for attendance at events:

- (1) In this section —

event includes the following —

 - (a) a concert;
 - (b) a conference;
 - (c) a function;
 - (d) a sporting event;
 - (e) an occasion of a kind prescribed for the purposes of this definition.
- (2) A local government must prepare and adopt* a policy that deals with matters relating to the attendance of Council members and the CEO at events, including —
 - (a) the provision of tickets to events; and
 - (b) payments in respect of attendance; and
 - (c) approval of attendance by the local government and criteria for approval; and
 - (d) any prescribed matter.

* *Absolute majority required.*
- (3) A local government may amend* the policy.

* *Absolute majority required.*
- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (5) The CEO must publish an up-to-date version of the policy on the local government's official website.

Other Relevant Policies/ Key Documents

Council Policy – Council Member Professional Development

Council Policy – Functions Hosted by Council

Responsible Division

General Management Services

Review Date

xxx

Officer Recommendation if Different to Advisory Committee Recommendation

Not Applicable

The Officer's Reason for Varying the Advisory Committee Recommendation

Not Applicable

Committee Recommendation

That Council **APPROVES** the following draft Council Policy – *Attendance at Events* for the purpose of public consultation –

Attendance at Events

Council Policy Objective

To provide guidance and transparency to the attendance at any event, whether free of charge, part of a sponsorship agreement, or paid by the local government and meet the requirements of section 5.90A of the Local Government Act 1995.

Council Policy Scope

This policy applies to Council Members and the CEO in attending any event in their official capacity.

~~Attendance at an event in accordance with this policy will exclude a gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before Council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required to be declared under the gift register provisions.~~

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Council Policy Statement

Section 5.90A of the Local Government Act 1995 provides that a local government must prepare and adopt (by absolute majority) an Attendance at Events policy. This policy is made in accordance with those provisions.

Certain gifts received by a Council member and the CEO are specifically excluded from the conflict of interest provisions, including a gift that is received in accordance with an 'Attendance at Events Policy' (section 5.62(1B)).

Provision of tickets to events

1. Invitations

- 1.1 All invitations or offers of tickets for a Council Member or the CEO to attend an event should be in writing and addressed to the City of Rockingham.
- 1.2 ~~Where an invitation or offer of tickets is received by a Council Member or the CEO to attend an event, and such invitation or offer has not been addressed to the City, the Council Member or the CEO will inform the City of the receipt of the invitation or offer.~~
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- 2.1 In making a decision on attendance at an event that is not pre-approved in clause 1.3, the Council will consider:
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 - (a) a concert;
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- (2) A local government must prepare and adopt* a policy that deals with matters relating to the attendance of Council members and the CEO at events, including —
 - (a) the provision of tickets to events; and
 - (b) payments in respect of attendance; and
 - (c) approval of attendance by the local government and criteria for approval; and
 - (d) any prescribed matter.

* *Absolute majority required.*
- (3) A local government may amend* the policy.

* *Absolute majority required.*
- (4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (5) The CEO must publish an up-to-date version of the policy on the local government’s official website.

Other Relevant Policies/ Key Documents

Council Policy – Council Member Professional Development

Council Policy – Functions Hosted by Council

Responsible Division

General Management 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

General Management Services Governance and Councillor Support



Reference No & Subject:	GM-025/21 Delegation of Authority – Local Government to Chief Executive Officer and Other Employees (Absolute Majority)
File No:	CPM/130
Proponent/s:	
Author:	Ms Jelette Edwards, Governance Coordinator
Other Contributors:	
Date of Committee Meeting:	17 August 2021
Previously before Council:	27 July 2010 (CES126/70), 28 September 2010 (CES161/9/10), 28 June 2011 (ES-020/11), 24 July 2012 (GCS-009/12), 27 August 2013 (GCS-007/13), 22 July 2014 (GMS-011/14) and 24 November 2015 (GMS-026/15), 27 September 2016 (GMS-018/16), 25 July 2017 (GMS-013/17), 29 August 2018 (GM-026/19), 27 August 2019 (GM-018/19), 28 July 2020 (GM-017/20)
Disclosure of Interest:	
Nature of Council's Role in this Matter:	
Site:	
Lot Area:	
Attachments:	City of Rockingham Delegated Authority – Local Government to Chief Executive Officer and Other Employees dated August 2021
Maps/Diagrams:	

Purpose of Report

For Council to consider a review of delegations to the Chief Executive Officer (CEO) and other relevant employees in accordance with section 5.46(2) of the Local Government Act 1995 (the Act).

Background

Section 5.42 of the Act states that the local government by absolute majority may delegate to the CEO to exercise any of its powers or the discharge of any of its duties other than those referred to in section 5.43 or the Planning and Development Act 2005 section 214(2), (3) or (5).

Section 5.45(2) requires that delegations are to be reviewed at least once every financial year.

Details

A review of the delegations was undertaken to verify head of power, update legislation and other information. All delegations created by resolution in the forthcoming year will be added to the register as they are made to ensure they are captured and exercised/actioned.

Implications to Consider

a. Consultation with the Community

Not Applicable

b. Consultation with Government Agencies

Not Applicable

c. Strategic

Community Plan

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

Aspiration 4: *Deliver Quality Leadership and Business Expertise*

Strategic Objective: *Effective Governance – Apply systems of governance which empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant environment.*

d. Policy

Not Applicable

e. Financial

Not Applicable

f. Legal and Statutory

In accordance with section 5.46 of the Local Government Act 1995 the Chief Executive Officer is to keep as register of any delegations made to the Chief Executive Officer and employees. At least once every financial

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

A review of the delegations are listed below with the amendments that have been made. There have been typographical and formatting corrections made that will not be specified in detail.

Some delegations have been established and / or modified to reflect existing Council Policy. These have been changed to remove any doubt as to the authority provided to the CEO through adopted policy.

No.	Delegation Name	Amendments
1.3	Appoint Authorised Persons	Amend relevant legislation as there are now direct appointments for various legislation.
1.5	Expression of Interest and Tenders – For Supply of Goods and Services	Add and amend references to relevant legislation.
1.6	Acceptance/Rejection of Tenders – For Supply if Goods or Services	Add and amend references to relevant legislation.
1.15	Rockingham Renaissance Technopole Inc. Underwrite Operating Deficits	Remove delegation as it was resolved at the Council Meeting on 23 March 2021 not to support the request from Rockingham Renaissance Technopole to provide an upfront financial contribution of \$250,000 to fund their operating expenses.

No.	Delegation Name	Amendments
1.16	Sublease for Rockingham Central Library	Remove delegation as it only in relation to negotiation of sublease. The sublease for Rockingham Central Library which has been completed and the sublease is in place until 2029.
1.23	Award Tender for Construction of the Shoalwater Reserve Activity Node	Remove delegation as the tender has been awarded.
3.2	Warnbro Community Library Agreement	Remove delegation as there is an agreement in place until 31 December 2025.
3.3	Annual Management Plans	Remove delegation as these facilities (Mike Barnett Sports Complex, Aqua Jetty and Warnbro Community Recreation Centre) are no longer externally managed.
4.5	Dog Act 1976 – Section 10AA	Removed reference to authorised persons as changes to Local Government Act 1995 section 9.10 has been made and no longer needs delegation to appoint authorised person under Dog Act 1976.
5.7	Fencing	Amend legislation references to reflect Fencing Local Law 2020.
7.1	Town Planning Scheme	Amend the following sections and renumbering to reflect amendments in the Planning Regulations Amendment Regulations 2020 <ul style="list-style-type: none"> - Amend 1. Grant of Development Approval - Amend 2. Discretion to Modify Development Standards - Remove 4(2) Activity Centre Structure Plans - Amend 4(7) Advertising Applications - Add in new 4(7) Request Applicant to provide information - Amend 4(8) Referral of Applications to Government Departments - Amend 4(14) Special Rural Zones – Schedule No.4 - Amend 4(15) Special Residential Zones – Schedule No.5 - Amend 4(17) Development Contribution Areas - Amend 4(19) Heritage Protection - Amend 5. Implementation

Voting Requirements

Absolute Majority

Officer Recommendation

That Council **APPROVES** the reviewed delegations under the Local Government Act 1995 and other Acts and Regulations as per the attachment 'City of Rockingham Delegated Authority – Local Government to Chief Executive Officer and Other Employees dated August 2021'.

Committee Recommendation

That Council **APPROVES** the reviewed delegations under the Local Government Act 1995 and other Acts and Regulations as per the attachment 'City of Rockingham Delegated Authority – Local Government to Chief Executive Officer and Other Employees dated August 2021'.

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

General Management Services Legal Services



Reference No & Subject:	GM-026/21	Council Policy - Legal Representation for Council Members and Employees
File No:	CPM/3	
Proponent/s:		
Author:	Mr Peter Doherty, Director Legal Services and General Counsel	
Other Contributors:		
Date of Committee Meeting:	17 August 2021	
Previously before Council:		
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	
Site:		
Lot Area:		
Attachments:	Modified Model Policy showing departures from the Model Policy	
Maps/Diagrams:		

Purpose of Report

To describe the circumstances in which the City may fund legal representation for Council members and employees.

Background

The Council's Policy on Legal Representation and Costs Identification was adopted on 27 February 2001 (**Existing Policy**).

Since then the following (**Developments**) have occurred:

- the *Defamation Act 2005* (WA) has been enacted
- the use of social media has proliferated – Facebook (2006) and Twitter (2006)
- the Local Governments Standards Panel (**Panel**) has been established (2007)
- mobile (instant) communication has become the norm
- the ability make anonymous comments to a wide audience has been enhanced
- comments may impact negatively on the psychological wellbeing of the target
- work health and safety obligations have become more onerous
- it has been put beyond doubt that City is obliged to preserve the physical and psychological health and safety of its workers
- significant penalties (and imprisonment in the near future) may be imposed if this obligation is not satisfied
- this exposure cannot be insured against

- during 2020 the Department of Local Government (Department) revised its Operational Guideline on Legal Representation for Council Members and Employees and proposed a Model Policy (**Model Policy**).

Against this backdrop, it is appropriate that Council reconsider the Existing Policy.

Details

The Existing Policy was developed in February 2001, but the Developments have altered the landscape in which it may be applied.

It is proposed that the City adopt a modified form of the Model Policy (**Modified Model Policy**). The rationale for the modifications are explained below and have been highlighted during the 8 June 2021 Councillor Engagement Session. The Draft Modified Policy (showing changes made to the Model Policy) appears at the end of this report.

Defamation

A publication (e.g. a statement in writing, by word or via social media) defames a person if an ordinary reasonable person would think less of them because of what was said about them in the publication. If a person is defamed, they may ignore it, demand an apology, or commence proceedings in the Supreme Court of Western Australia seeking damages for the damage done to their reputation.

If the City does not fund legal representation, “ignoring it” will often be the default position because individuals may not be able to afford to take it any further. Given that “it takes 20 years to build a reputation and five minutes to ruin it”¹, “ignoring it” has the potential to harm the psychological health of the defamed person, thereby exposing the City and its officers (particularly the CEO) to being prosecuted under the *Occupational Safety and Health Act 1984 (WA)* and the *Work Health and Safety Act 2020 (WA)* once the relevant provisions of the latter are proclaimed. This risk cannot be mitigated by insurance. These issues may ultimately diminish the City’s ability to recruit and retain employees and Councillors.

Commencing a Supreme Court defamation action is a step that should not be taken lightly. They are expensive and time-consuming, and success cannot be guaranteed. It all depends on the facts of each particular case. If proceedings fail, the loser will invariably have to pay a significant amount of the winner’s costs.

This leaves a letter of demand – or as is now allowed under the *Defamation Act 2005* – a “concerns notice”. A concerns notice is a formal document which outlines exactly what defamatory statements are alleged to have been made, when the statements were made, who they were published to, what defamatory imputations can be drawn from the publication, and what remedies are requested. The recipient of such a notice may then make an “offer of amends” which, if accepted, will conclude the matter.

The use of the “concerns notice” provides a quick and relatively inexpensive way of determining whether the damage caused by a defamatory statement might be addressed, by agreement, without the need to resort to costly and time-consuming Supreme Court proceedings.

The Existing Policy provides:

“The Local government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded, however, from taking their own private action.”

The Model Code provides:

“If the criteria in clause 1 of this policy are satisfied, the city/town/shire may approve the payment of legal representation costs: ... where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

¹ Per Warren Buffett.

...

“The City/Town/Shire will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee.”

Although the Model Code makes no reference to a concerns notice, such a notice would likely be issued before Supreme Court proceedings are launched.

The Modified Model Policy proposes that:

- the CEO, in consultation with General Counsel, will decide whether to instruct legal representatives to endeavour to reach an agreed settlement via the “concerns notice” and “offer of amends” procedure, because this may produce a quick result, at a cost of no more than \$10,000; and
- Council will decide whether to fund the commencement of the more expensive Supreme Court proceedings, and the terms upon which that funding (if approved) will be offered.

In each case it is proposed that any funds advanced pursuant to the policy will be recovered from any monies recovered by the person defamed (whether by way of damage to their reputation or legal costs).

Other Local Governments

Other local governments have a variety of policies in place to address the issues covered in the Model Policy. The table below summarises the key elements of the following selection of local government policies:

Local government	Policy	Defamation funding – initiation of action	Exceptional circumstances Lessening confidence	Limits	Determining entity
Cambridge July 2020	Legal Representation for Elected Members and Employees Policy ²	May support defamation action: 2.3	Not mentioned	Unspecified	Council: 3.1 CEO: (if urgent) up to \$5,000: 3.5
Canning April 2016	Legal Representation for Members and Employees ³	Not mentioned	Yes: 4(4)	Unspecified	Council: 6(1) CEO: (if urgent) up to \$10,000: 5(4) Mayor (if relates to CEO (and is urgent) up to \$10,000: 5(4)
Cockburn March 2021	Legal Representation & Costs Indemnification – Elected Members & Employees ⁴	No: 2(3)	Not mentioned		Council: 3(1) CEO: (if urgent) up to \$10,000: (3)5 Council (if CEO seeks urgent funding): 3(6)

²<https://www.cambridge.wa.gov.au/files/assets/public/documents-and-files/aaa-corporate-documents-and-plans/policies/new-council-policies-update-october-2020/policy-054-legal-representation-for-elected-members-and-employees-policy.pdf>

³<https://www.canning.wa.gov.au/getmedia/b2889286-8c9f-4b9c-a6f5-34b69c851505/Legal-Representation-for-Council-Members-and-Employees-CM192>

⁴https://www.cockburn.wa.gov.au/getattachment/a989fabe-81ea-4341-8939-4afdcbdb089d/ECM_4133527_v7_Legal-Representation-Costs-Indemnification-Elected-Members-Employees-Policy-docx.aspx

Local government	Policy	Defamation funding – initiation of action	Exceptional circumstances Lessening confidence	Limits	Determining entity
Gosnells September 2020	Legal Representation – Councillors and Employees ⁵	No, if suing another councillor or employee: 4.2	Yes 4.1(c)	\$15,000 unless increased: 6.1	Council: 7.1 CEO: (if urgent) up to \$5,000: 8.1 Mayor if CEO is applicant: 8.2
Joondalup July 2014	Legal Representation for Elected Members and Employees Policy ⁶	No: 4.2.2	Yes:4.2.1.d	\$6,000 unless increased: 4.4.1	Council: 4.5.1 CEO: (if urgent) up to \$6,000: 4.6.1 Director, Corporate Services if CEO is applicant: 4.6.2
Mandurah June 2020	Legal Representation for Elected Members, Committee Members and Employees ⁷	No, unless exceptional circumstances: 2.2	Yes:2.1(c)	Unspecified: 4.1	Council: 5 CEO: (if urgent) up to \$10,000: 6.1 Council if CEO is applicant: 6.4
Melville April 2018	Legal Representation Policy Elected Members and Employees ⁸	No, unless exceptional circumstances: 1(c)	Yes, 1 c)	\$10,000 unless increased: 3.a)	Council: 2 CEO: (if urgent) up to \$3,000): 2(e) Director, Corporate Services: if CEO is applicant: 2(f)
Stirling May 2020	Legal Representation for Elected Members and Employees Policy ⁹	No, unless exceptional circumstances: 2.2	Yes, 2.1 c)	Council to set: 4.1	Council: 5.1 CEO: (if urgent) up to \$10,000: 6.1 Director, Corporate Services: if CEO is applicant: 6.2
Subiaco December 2017	2.7 Legal Representation: Costs Indemnification ¹⁰	No, but CEO make seek advice			Council CEO: (if urgent) up to \$5,000 Council: if CEO is the applicant

⁵[https://www.gosnells.wa.gov.au/files/sharedassets/public/website/governance/policy/council_policy_5.4-\[1377888\].pdf](https://www.gosnells.wa.gov.au/files/sharedassets/public/website/governance/policy/council_policy_5.4-[1377888].pdf)

⁶<https://www.joondalup.wa.gov.au/wp-content/uploads/2018/03/2014-06-POLICY-Legal-Representation-for-Elected-Members-and-Employees-Policy.pdf>

⁷<https://www.mandurah.wa.gov.au/-/media/files/com/downloads/council/governance/policies/governance/legal-representation-for-elected-members-committee-members-and-employees.pdf>

⁸<https://www.melvillecity.com.au/our-city/our-council/agendas-and-minutes/ordinary-meeting-of-the-council/2020/august/minutes-ordinary-meeting-of-council-18-august-202/5759-cp-017-legal-representation-policy>

⁹<https://www.stirling.wa.gov.au/your-city/documents-and-publications/your-city/about-council/governance-and-transparency/policies/legal-representation-of-elected-members-and-employ>

¹⁰<https://www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Your-council/Local-laws-and-policies/City-of-Subiaco-Policy-Manual.PDF>

Local government	Policy	Defamation funding – initiation of action	Exceptional circumstances Lessening confidence	Limits	Determining entity
Swan February 2021	Access to Legal Services for Elected Members and Employees ¹¹	Only with approval of CEO: 2 iv	Yes: 2.2 b)	\$25,000 unless increased: 2.4 b)	CEO: 2.4 a)
Vincent April 2018	Legal Representation for Council Members and Employees ¹²	No, unless exceptional circumstances: 2.2	Yes: 2.1(c)	Council to set: 4.1	Council: 5.1 CEO: (if urgent): 6.1 Council: if CEO is the applicant: 6.2
Wanneroo May 2016	Legal Representation and Costs Indemnification Policy ¹³	No, unless covered by 2.1(b) or (c): 2.2	Yes, 2.1(c)	Council to set: 4.1	Council: 5.1 CEO: (if urgent) up to \$10,000: 6.1

Implications to Consider

a. Consultation with the Community

Nil at this stage. Community feedback will be sought should Council adopt the officer recommendation

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(s) contained in the Strategic Community Plan 2019-2029:

Aspiration 4 *Deliver quality leadership and business expertise*

Strategic Objective: *Effective governance: Apply systems of governance which empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant environment*

d. Policy

The Modified Model Policy is a "General Council Policy" in accordance with the Policy Framework. A new or substantially amended policy is subject to a 14 day consultation process.

e. Financial

The cost implications for policy adoption purposes is limited to advertising and in-house administrative arrangements. These are captured in the Governance and Councillor Support advertising budget. Advertising costs are expected to be approximately \$500.

¹¹<https://www.swan.wa.gov.au/files/assets/public/document-resources/documents-amp-publications/corporate-publications/policies-procedures-and-standards/city-policies/pol-c-044-legal-representation-costs-indemnification.pdf>

¹²<https://www.vincent.wa.gov.au/documents/594/4201-legal-representation-for-council-members-and-employees>

¹³https://www.wanneroo.wa.gov.au/downloads/file/22/legal_representation_and_costs_indemnification_policy

f. Legal and Statutory

Section 3.1 of the *Local Government Act 1995* provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions a council can expend funds to provide legal representation for council members and employees as long as it believes that the expenditure falls within the scope of the local government's function¹⁴.

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 Existing Policy was developed in 2001. The Developments have occurred since then. The Model Policy accommodates some of the Developments.

The Modified Model Policy aims to refine the Model Policy to further promote the resolution of disputes relating to defamation, without recourse to Supreme Court proceedings.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADOPTS** the draft Council Policy – Legal Representation for Council Members and Employees for the purpose of public consultation –

Council Policy - Legal representation for council members and employees

Council Policy Objective

To provide for legal representation and cost indemnification to assist council members and employees in specified situations.

Council Policy Scope

This policy applies to council members and employees of the City of Rockingham.

This policy does not apply to legal services obtained by the City in relation to the day-to-day management of the City's affairs or to legal services that the CEO considers necessary to comply with a written law.

Council Policy Statement

Explanation of key terms

- **approved lawyer** is to be:
 - (a) an 'Australian legal practitioner' under the *Legal Profession Act 2008*;

¹⁴ See Local Government Operational Guidelines – Legal Representation for Council Members and Employees, p2, available form:
<https://www.dlgsc.wa.gov.au/department/publications/publication/legal-representation-for-council-members-and-employees>

- (b) from a law firm on the Western Australian Local Government Association's panel of preferred legal services providers, unless the council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the council, the CEO or the Director, Corporate Services, under delegated authority.
- **concerns notice** means a notice under section 14(2) of the *Defamation Act 2005* (WA);
- **council member or employee** means a current or former commissioner, council member, non-elected member of a council committee or employee of the City.
- **legal proceedings** may be civil, criminal or investigative.
- **legal representation** is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of:
 - (a) a matter or matters arising from the performance of the functions of the council member or employee; and
 - (b) legal proceedings involving the council member or employee that have been, or may be, commenced.
- **legal representation costs** are the costs, including fees and disbursements, properly incurred in providing legal representation.
- **legal services** includes advice, representation or documentation that is provided by an approved lawyer.
- **offer to make amends** means a notice under section 15 of the *Defamation Act 2005* (WA);
- **payment** by the City of legal representation costs may be either by:
 - (a) a direct payment to the approved lawyer (or the relevant firm); or
 - (b) a reimbursement to the council member or employee.
- **written law** has the meaning given in section 5 of the *Interpretation Act 1984* (WA).

1. Payment criteria

There are four major criteria for determining whether the City will pay the legal representation costs of a council member or employee.

These are:

- (a) the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2. Examples of legal representation costs that may be approved

2.1 If the criteria in clause 1 of this policy are satisfied, the City may approve the payment of legal representation costs:

- (a) where proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or

- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
 - (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.
- 2.2 The City will not approve, unless under exceptional circumstances:
- (a) the payment of legal representation costs for a defamation action, or a negligence action, instituted by a council member or employee;
 - (b) the payment of legal representation costs for claims against the City; or
 - (c) the reimbursement of any award of legal costs made against a council member or employee if those costs were unreasonably or unnecessarily incurred.
- 3. Application for payment**
- 3.1 A council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the CEO.
- 3.2. The written application for payment of legal representation costs is to give details of:
- (a) the matter for which legal representation is sought;
 - (b) how that matter relates to the functions of the council member or employee making the application;
 - (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
 - (d) the nature of legal representation to be sought (such as advice, representation in court and the preparation of a document);
 - (e) an estimated cost of the legal representation;
 - (f) why it is in the interests of the City for payment to be made; and
 - (g) if the matter relates to comments alleged to be defamatory:
 - (i) details of the comments;
 - (ii) when, by whom and the manner in which the comments were made;
 - (iii) whether the person making the request has given a concerns statement to the person alleged to have made the comments; and
 - (iv) whether the person alleged to have made the comment has made an offer to make amends.
- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.
- 3.5. The application is to be accompanied by a signed written statement by the applicant that he or she:
- (a) has read, and understands, the terms of this policy;
 - (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject;
 - (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 7.

3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

3.7 Subject to paragraph 4, an application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by the Director, Corporate Services.

4. Defamation – Concern's notice

4.1 Subject to clause 4.5, if:

- (a) an application relates to comments alleged to be defamatory of a council member or employee other than the CEO;
- (b) the CEO is satisfied, on reasonable grounds, that the comments were made;
- (b) the CEO, after consultation with the City's General Counsel and Director Legal Services, considers that the comments may be defamatory of the council member or employee; and
- (c) the comments may reasonably result in a lessening of the community's confidence in the City,

the CEO may instruct an approved lawyer, at the City's cost, to provide the following legal services:

- (d) advise whether the comments alleged to have been made are defamatory;
- (e) advise whether the circumstances warrant the giving of a concerns notice;
- (f) if the circumstances warrant the giving of a concerns notice:
 - (i) to prepare and serve a concerns notice on the maker of the comments;
 - (ii) to review any offer to make amends from the maker of the comments; and
 - (iii) to conclude the matter if this can be done without commencing legal proceedings.

4.2 Where the CEO instructs an approved lawyer in accordance with clause 4.1:

- (a) the costs payable to the approved lawyer must not, without Council's approval, exceed \$10,000 in respect of any application; and
- (b) the approval is to be reported, as a confidential item, to the next ordinary meeting of the Council.

4.3 Subject to clause 4.5, if:

- (a) an application relates to comments alleged to be defamatory of the CEO;
- (b) the Director, Corporate Services is satisfied, on reasonable grounds, that the comments were made;
- (b) the Director, Corporate Services, after consultation with the City's General Counsel and Director Legal Services, considers that the comments may be defamatory of the council member or employee; and
- (c) the comments may reasonably result in a lessening of the community's confidence in the City,

the Director, Corporate Services may instruct an approved lawyer, at the City's cost, to provide the following legal services:

- (d) advise whether the comments alleged to have been made are defamatory;
- (e) advise whether the circumstances warrant the giving of a concerns notice;
- (f) if the circumstances warrant the giving of a concerns notice:
 - (i) to prepare and serve a concerns notice on the maker of the comments;
 - (ii) to review any offer to make amends from the maker of the comments; and

- (iii) to conclude the matter if this can be done without commencing legal proceedings.
- 4.4 Where the Director, Corporate Services instructs an approved lawyer in accordance with clause 4.3:
 - (a) the costs payable to the approved lawyer must not, without Council's approval, exceed \$10,000 in respect of any application; and
 - (b) the approval is to be reported, as a confidential item, to the next ordinary meeting of the Council.
- 4.5 If an application relates to comments made by a councillor or employee that are alleged to be defamatory of another councillor or employee, the CEO (or the Director, Corporate Services if the CEO is the applicant) shall remit the application to council for determination in accordance with clause 6.
- 5. Legal representation costs – limit**
- 5.1 The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.
- 5.2 A council member or employee may make a further application to the council in respect of the same matter.
- 6. Council's powers**
- 6.1 The council may:
 - (a) refuse;
 - (b) grant; or
 - (c) grant subject to conditions,an application for payment of legal representation costs.
- 6.2 Conditions under clause 6.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.
- 6.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the City's council members or employees insurance policy or its equivalent.
- 6.4 The council may at any time:
 - (a) require the provision of a report outlining the status of the legal representation and the likely outcome; and
 - (b) revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 6.5 The council may, subject to clause 6.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –
 - (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
 - (b) given false or misleading information in respect of the application.
- 6.6 A determination under clause 6.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.
- 6.7 Where the council makes a determination under clause 6.5, the legal representation costs paid by the City are to be repaid by the council member or employee in accordance with clause 7.

7. Repayment of legal representation costs

- 7.1 A council member or employee whose legal representation costs have been paid by the City is to repay the City:
- (a) all or part of those costs – in accordance with a determination by the council under clause 6.7;
 - (b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the legal representation costs.
- 7.2. The City may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

Legislation

Local Government Act 1995 (WA), s 3.1

Occupational Safety and Health Act 1984 (WA), Part III, Division 2

Work Health and Safety Act 2020 (WA) [once Proclaimed]

Other Relevant Policies/ Key Documents

Department of Local Government, Sport and Cultural Industries revised Operational Guideline on Legal Representation for Council Members and Employees and the Model Policy.

Responsible Division

Legal Services

Review Date

1 August 2024

Committee Recommendation

That Council **ADOPTS** the draft Council Policy – Legal Representation for Council Members and Employees for the purpose of public consultation –

Council Policy - Legal representation for council members and employees

Council Policy Objective

To provide for legal representation and cost indemnification to assist council members and employees in specified situations.

Council Policy Scope

This policy applies to council members and employees of the City of Rockingham.

This policy does not apply to legal services obtained by the City in relation to the day-to-day management of the City's affairs or to legal services that the CEO considers necessary to comply with a written law.

Council Policy Statement

Explanation of key terms

- **approved lawyer** is to be:
 - (a) an 'Australian legal practitioner' under the *Legal Profession Act 2008*;
 - (b) from a law firm on the Western Australian Local Government Association's panel of preferred legal services providers, unless the council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and

- (c) approved in writing by the council, the CEO or the Director, Corporate Services, under delegated authority.
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- **legal proceedings** may be civil, criminal or investigative.
- **legal representation** is the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that are in respect of:
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- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions – for example, where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or

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 - (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
 - (d) the nature of legal representation to be sought (such as advice, representation in court and the preparation of a document);
 - (e) an estimated cost of the legal representation;
 - (f) why it is in the interests of the City for payment to be made; and
 - (g) if the matter relates to comments alleged to be defamatory:
 - (i) details of the comments;
 - (ii) when, by whom and the manner in which the comments were made;
 - (iii) whether the person making the request has given a concerns statement to the person alleged to have made the comments; and
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- 3.3 The application is to contain a declaration by the applicant that he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.4 As far as possible, the application is to be made before commencement of the legal representation to which the application relates.
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- (a) has read, and understands, the terms of this policy;
 - (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject;
 - (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 7.
- 3.6 In relation to clause 3.5(c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.
- 3.7 Subject to paragraph 4, an application is also to be accompanied by a report prepared by the CEO or, where the CEO is the applicant, by the Director, Corporate Services.

4. Defamation – Concern’s notice

4.1 Subject to clause 4.5, if:

- (a) an application relates to comments alleged to be defamatory of a council member or employee other than the CEO;
- (b) the CEO is satisfied, on reasonable grounds, that the comments were made;
- (b) the CEO, after consultation with the City’s General Counsel and Director Legal Services, considers that the comments may be defamatory of the council member or employee; and
- (c) the comments may reasonably result in a lessening of the community’s confidence in the City,

the CEO may instruct an approved lawyer, at the City’s cost, to provide the following legal services:

- (d) advise whether the comments alleged to have been made are defamatory;
- (e) advise whether the circumstances warrant the giving of a concerns notice;
- (f) if the circumstances warrant the giving of a concerns notice:
 - (i) to prepare and serve a concerns notice on the maker of the comments;
 - (ii) to review any offer to make amends from the maker of the comments; and
 - (iii) to conclude the matter if this can be done without commencing legal proceedings.

4.2 Where the CEO instructs an approved lawyer in accordance with clause 4.1:

- (a) the costs payable to the approved lawyer must not, without Council’s approval, exceed \$10,000 in respect of any application; and
- (b) the approval is to be reported, as a confidential item, to the next ordinary meeting of the Council.

4.3 Subject to clause 4.5, if:

- (a) an application relates to comments alleged to be defamatory of the CEO;
- (b) the Director, Corporate Services is satisfied, on reasonable grounds, that the comments were made;
- (b) the Director, Corporate Services, after consultation with the City’s General Counsel and Director Legal Services, considers that the comments may be defamatory of the council member or employee; and
- (c) the comments may reasonably result in a lessening of the community’s confidence in the City,

the Director, Corporate Services may instruct an approved lawyer, at the City’s cost, to provide the following legal services:

- (d) advise whether the comments alleged to have been made are defamatory;
- (e) advise whether the circumstances warrant the giving of a concerns notice;
- (f) if the circumstances warrant the giving of a concerns notice:
 - (i) to prepare and serve a concerns notice on the maker of the comments;
 - (ii) to review any offer to make amends from the maker of the comments; and
 - (iii) to conclude the matter if this can be done without commencing legal proceedings.

4.4 Where the Director, Corporate Services instructs an approved lawyer in accordance with clause 4.3:

- (a) the costs payable to the approved lawyer must not, without Council’s approval, exceed \$10,000 in respect of any application; and

- (b) the approval is to be reported, as a confidential item, to the next ordinary meeting of the Council.

4.5 If an application relates to comments made by a councillor or employee that are alleged to be defamatory of another councillor or employee, the CEO (or the Director, Corporate Services if the CEO is the applicant) shall remit the application to council for determination in accordance with clause 6.

5. Legal representation costs – limit

5.1 The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application.

5.2 A council member or employee may make a further application to the council in respect of the same matter.

6. Council's powers

6.1 The council may:

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions,

an application for payment of legal representation costs.

6.2 Conditions under clause 6.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

6.3 In assessing an application, the council may have regard to any insurance benefits that may be available to the applicant under the City's council members or employees insurance policy or its equivalent.

6.4 The council may at any time:

- (a) require the provision of a report outlining the status of the legal representation and the likely outcome; and
- (b) revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

6.5 The council may, subject to clause 6.6, determine that a council member or employee whose application for legal representation costs has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application.

6.6 A determination under clause 6.5 may be made by the council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

6.7 Where the council makes a determination under clause 6.5, the legal representation costs paid by the City are to be repaid by the council member or employee in accordance with clause 7.

7. Repayment of legal representation costs

7.1 A council member or employee whose legal representation costs have been paid by the City is to repay the City:

- (a) all or part of those costs – in accordance with a determination by the council under clause 6.7;
- (b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the legal representation costs.

- 7.2. The City may take action in a court of competent jurisdiction to recover any monies due to it under this policy.

Legislation

Local Government Act 1995 (WA), s 3.1

Occupational Safety and Health Act 1984 (WA), Part III, Division 2

Work Health and Safety Act 2020 (WA) [once Proclaimed]

Other Relevant Policies/ Key Documents

Department of Local Government, Sport and Cultural Industries revised Operational Guideline on Legal Representation for Council Members and Employees and the Model Policy.

Responsible Division

Legal Services

Review Date

1 August 2024

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

15. Report of Mayor

**City of Rockingham
 Mayor's Report**



Reference No & Subject:	MR-008/21	Meetings and Functions Attended by the Mayor and Deputy Mayor
File No:	GOV/85	
Proponent/s:	City of Rockingham	
Author:	Cr Barry Sammels, Mayor	
Other Contributors:	Cr Deb Hamblin, Deputy Mayor	
Date of Council Meeting:	24 August 2021	
Previously before Council:		
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Executive	

Purpose of Report

To advise on the meetings and functions attended by the Mayor and Deputy Mayor during the period 28 July 2021 to 24 August 2021.

Background

Nil

Details

Date	Meeting/Function
28 July 2021	Filming of Sister City Ako 70 th Anniversary speech <i>Rockingham Regional Arts meeting - attended by Deputy Mayor Deb Hamblin</i>
29 July 2021	Rockingham Kwinana Chamber of Commerce Business Awards Promotion
2 August 2021	Australian Citizenship Ceremony
3 August 2021	75 th Anniversary of CWA of WA Safety Bay
5 August 2021	South West Group Advocacy Review and Presentation <i>Warnbro Swans meeting – attended by Deputy Mayor Deb Hamblin</i>
6 August 2021	<i>Stakehill Road meeting with residents – attended by Deputy Mayor Deb Hamblin</i>
9 August 2021	CEO Performance Review Committee
10 August 2021	Councillor Engagement Session
12 August 2021	Sports Star Awards Judging Panel meeting City Safe Advisory Committee
13 August 2021	Shacks Motor Group – combined GMSV and Volkswagen Opening <i>Rockingham Rugby meeting – attended by Deputy Mayor Deb Hamblin</i>
16 August 2021	Planning and Engineering Services Committee
17 August 2021	<i>Interview with Radio Inspire – attended by Deputy Mayor Deb Hamblin</i>

Date	Meeting/Function
18 August 2021	TPDWWA Vietnam Veterans' Day Memorial Service CEO Performance Review Committee Safety Bay Ex-Services & Community Club Annual Vietnam Veterans' Service <i>RSL Vietnam Veterans' Day Service – attended by Deputy Mayor Deb Hamblin</i>
19 August 2021	Global Friendship Committee <i>Opening of Sydney Lost and Found Theatre – attended by Deputy Mayor Deb Hamblin</i>
20 August 2021	Lost Submariners Memorial <i>WA Grants Commission meeting – attended by Deputy Mayor Deb Hamblin</i>
21 August 2021	RKCC Mineral Resources Regional Business Awards – attended by Mayor and Deputy Mayor
23 August 2021	Australian Citizenship Ceremony <i>South Metropolitan Zone meeting – attended by Deputy Mayor Deb Hamblin</i>
24 August 2021	Council meeting

Implications to Consider

a. Consultation with the Community

Nil

b. Consultation with Government Agencies

Nil

c. Strategic

Nil

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

Nil

Voting Requirements

Simple Majority

Officer Recommendation

That Council **RECEIVES** the Mayor's Report for the period 28 July 2021 to 24 August 2021.

19. Motions of which Previous Notice has been given

Planning and Engineering Services

**Engineering and Parks Services
Engineering Services**



Reference No & Subject:	EP-017/21	Notice of Motion - Speed Limit Reduction of Stakehill Road, Baldivis
File No:	CPM/113-05	
Proponent/s:	Cr Sally Davies	
Author:	Mr Manoj Barua, Manager Engineering Services	
Other Contributors:		
Date of Committee Meeting:	16 August 2021	
Previously before Council:		
Disclosure of Interest:		
Nature of Council's Role in this Matter:	Advocacy	
Site:		
Lot Area:		
LA Zoning:		
MRS Zoning:		
Attachments:		
Maps/Diagrams:		

Purpose of Report

To respond to the following Notice of Motion from Cr Davies:

*“That Council **DIRECTS** the CEO to make an application to Main Roads WA to reduce the speed limit on Stakehill Road, Baldivis, and that such application be treated as a matter of utmost urgency, given the local residents' concerns regarding traffic safety.”*

Background

Notice of Cr Davies's proposed motion was given at the 27 July 2021 Council meeting.

Details

Stakehill Road is an east-west running District Distributor Road in Baldivis connecting two major north-south running roads, Mandurah Road and Baldivis Road. Stakehill Road between Mandurah Road and Fletcher Road is operating under the posted speed limit of 70km/hr and the remaining section of the road between Fletcher Road and Baldivis Road is operating under the posted speed limit of 80km/hr. There are a number of horizontal and vertical curves (bends and crests) present along the full length of the road.

There has been a total of 20 recorded crashes between 2016 and 2020 in the section that is operating under 80km/hr. The crashes included three hospital admissions, five occasions of medical assistance and 12 assets damaged without personal injury.

There has also been 15 recorded crashes over the same period in the section operating under 70km/hr, despite having more significant horizontal curves (bends) on the road. The crash composition had no hospital admissions, four medical assistances and 11 assets damaged without personal injury. Residents have reported more recent crashes in the 80km/hr section, which are yet to be recorded through Main Roads WA's database, as these are only updated annually.

The City has also received notification of a number of safety concerns from the residents. Based on the residents' concerns and the safety history, the City arranged an independent Road Safety Inspection (RSI) for the road. The RSI recommended a number of measures, including the review of speed limits of the road. The City has actioned all of the recommendations, such as improvements in signs and linemarking and improvement of sight distances by tree pruning, however, the speed limit reduction required the completion of a road geometry assessment. The road geometry assessment is now complete.

Although Stakehill Road is under the care and control of the City, all speed limits on WA roads are set by Main Roads WA (MRWA).

Implications to Consider

a. Consultation with the Community

The City has been in communication with residents for some years and has arranged a meeting with the residents of Stakehill Road in August 2021.

b. Consultation with Government Agencies

Following the completion of a detail assessment of the road geometry, the City +made a request on 2 August 2021 to Main Roads WA for a speed limit reduction on Stakehill Road, Baldivis (between Fletcher Road and Baldivis Road) from 80km/hr to 70km/hr.

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: *Community Safety and Support - Provide support to residents and visitors so they feel safe and secure at home and outdoors.*

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

If the speed limit reduction is supported by Main Roads WA it will organise the replacement of signs with no cost to the City.

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

In the period since the Notice of Motion was received, the City has continued to progress this matter and the submission to Main Roads WA to consider this speed reduction was made on 2 August 2021. Considering the urgency of the matter, the written request was followed up by a phone call with MRWA who has agreed to review the request at the earliest possible time.

The Notice of Motion from Councillor Davies is supported and Officers will provide an update in the Engineering Services Bulletin once MRWA has notified the City of its decision.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADVOCATES** for reducing the speed limit of Stakehill Road, Baldivis between Baldivis Road and Fletcher Road from 80km/hr to 70km/hr.

Notice of Motion from Cr Davies

That Council **DIRECTS** the CEO to make an application to Main Roads WA to reduce the speed limit on Stakehill Road, Baldivis, and that such application be treated as a matter of utmost urgency, given the local residents' concerns regarding traffic safety.