

Rockingham

MINUTES

Planning and Engineering Services Committee Meeting

Held on Monday 14 June 2021 at 4:00pm City of Rockingham Chambers



where the coast comes to life

City of Rockingham Planning and Engineering Services Committee Minutes Monday 14 June 2021



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City of Rockingham Planning and Engineering Services Committee Minutes



Monday 14 June 2021 - Council Chambers

	Monday 14 June 2021 - Council Chambers				
1.	Declaration of Opening				
	The Chairperson declared the Planning and Engineering Services Committee meeting open at 4:02pm , welcomed all present, and referred to the Acknowledgement of Country.				
2.	Record	d of Attendance/Apologies/	Approved Leave of Absence		
	2.1	Councillors			
		Cr Mark Jones	Chairperson		
		Cr Hayley Edwards			
	Cr Barry Sammels				
		Cr Lorna Buchan			
		Cr Deb Hamblin (Deputy Mayor)			
	2.2	Executive			
		Mr Michael Parker	Chief Executive Officer		
		Mr Bob Jeans	Director Planning and Development Services		
		Mr Sam Assaad	Director Engineering and Parks Services		
		Mr Peter Ricci	Manager Major Planning Projects		
		Mr Brett Ashby	Manager Strategic Planning and Environment		
		Mr James Henson	Manager Land and Development Infrastructure		
		Mr Mike Ross	Manager Statutory Planning		
		Ms Erica King	Manager Health and Building Services		
		Mr David Caporn	Manager Compliance and Emergency Liaison		
		Mr Ian Daniels	Manager Infrastructure Project Delivery		
		Mr Manoj Barua	Manager Engineering Services		
		Mr Adam Johnston	Manager Parks Services		
		Mr Peter Varris	Manager Governance and Councillor Support		
		Ms Melinda Wardle	EA to Director Planning and Development Services		
		Ms Andrea Holman	EA to Director Engineering and Parks Services		
	2.3	Members of the Gallery:	8		
	2.4	Apologies:	Nil		
	2.5	Approved Leave of Absence:	Nil		
3.	Respo	nses to Previous Public Qu	estions Taken on Notice		
	3.1	Mr James Mumme, Shoalwater	r - Seagrass and Mosquitoes		
	At the Planning and Engineering Services Committee meeting held on 17 May 2021, Mr Mumme asked the following questions that were taken on notice and the Acting Director Planning and Development Services provided a response in a letter dated 26 May 2021 as follows:				

Question

Seagrass is well known to provide vital nurseries for many fish. In early 2014 the Commonwealth Department of Environment advertised proposals to declare seagrass beds at TEC. Did Council respond to seek protection for the seagrass beds in Cockburn Sound and Warnbro Sound? If not, does Council now see that seagrass and penguins are vitally connected and would Council lobby both State and Federal Governments to again consider this? If not, why not?

Response

The City has no record of providing a submission to the Commonwealth Government in relation to the proposal to list the Posidonia Seagrass Meadows as a Threatened Ecological Community.

Proposals seeking to clear aquatic vegetation are required to obtain a Permit to Clear Native Vegetation under the State Environmental Protection Act 1986 (the 'EP Act'). The Department of Water and Environment Regulation is responsible for issuing Clearing Permits and is obliged, under Schedule 5 of the EP Act, to have due regard to the following clearing principle when deciding to grant or refuse a permit.

"Native vegetation should not be cleared if:

(i) It comprises the whole or part of or is necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia."

The City is therefore of the view that the seagrass meadows are already appropriately protected under State environmental legislation and that seeking further levels of protection is not necessary.

Question

 Pesticides in use to control mosquitos. I am sure that Council is aware of the complexity of food webs and of ecosystem function and their implications for biodiversity. While mosquitos certainly carry diseases dangerous to humans, we need to be careful to avoid assuming that chemicals only target what we want them to target.

Will Council please undertake further inquiry into the impacts of both chemicals on other species than mosquitos and into 'knock-on effects on food webs and their ecosystem properties, including biodiversity and ecosystem functioning' and consider other ways to control mosquitos?

Response

The City of Rockingham is a member of the Peel Mosquito Management Group, along with the City of Mandurah, the Shire of Murray, the Shire of Waroona and the Department of Health.

The Peel Mosquito Management Group uses insecticides for mosquito larval control, with s-methoprene and BTI the two active ingredients used. It is important to delineate these are insecticides and not pesticides. There have been hundreds of scientific studies performed over the years to assess the impact of these active ingredients on non-target organisms with very little evidence to suggest they have a detrimental effect when used at label rate (which is a legal obligation in Australia) in the field (not increased dosages in the laboratory, which is a very different environment).

The Peel Mosquito Management Group agrees that it shouldn't be assumed the ingredients only target the intended species, which is why the program is based on significant scientific evidence.

The Peel Mosquito Management Group has an integrated management approach to mosquito control, with insecticide use one aspect to the program.

4. **Public Question Time** The Chairperson opened Public Question Time and invited members of the 4:01pm Public Gallery to ask questions. The Chairperson noted that this was the only opportunity in the meeting for the public to ask questions. 4.1 Mr Peter Schofield, Rockingham - PD-021-21 - Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility The Chairperson invited Mr Schofield to present his questions to the Planning and Engineering Services Committee. Mr Schofield asked the following questions: (Preamble to Questions) I have had the pleasure of being in contact with the City of Rockingham Officers and the State Premiers office over the past 6 months. From the City of Rockingham I have gained assurance that the planned CBH Ammonium Nitrate expansion at Rockingham Beach road site will likely go ahead and furthermore there is little that can be done to stop that development. From the written communications I have had with the State Premiers Office I have written statements denying any knowledge that any plan and written denial that development will go ahead with large volumes of Ammonium Nitrate at the Rockingham Beach road site and furthermore I should be satisfied with that answer. 1. Is the City aware that CBH has asked for and is planning for development of large volumes of Ammonium Nitrate storage in both Solid and Liquid form at the Rockingham Beach Site? The Chairperson advised it is an item on today's Agenda. May I have further clarification on why the City of Rockingham has so 2. little say in supporting local resident's opposition to the storage of large quantities of Ammonium Nitrate. 3. Given that Australia's Chief Expert in Ammonium Nitrate explosives has been consulted a few times over the Rockingham Beach road development, and he has made comments such as "the place will simply not exist" and "every government assures its people that what they have is safe yet there has been 5 major explosions such as the latest at Beirut Lebanon since the year 2000", why is it the evidence of 5 major explosions since the year 2000 is not sufficient evidence that large scale loss of life is not worth the commercial reward of selling fertilizer to farmers and explosives to the mining industry in a residential area? I reiterate the Needs of the Mining industry of Ammonium Nitrate for explosives is in a remote part of the state. The need for fertilizers is also utilised by famers in a remote area of the State. Why bring large quantities of it to Rockingham beach Road, a residential area and a Naval Dockyard and a Major port? Given that the explosive potential of the solid and liquid fertilizer is 4. around the equivalent of 7 Hiroshima Bombs and that does not include the explosive potential of the large Fuel depots adjacent to the site why is the Risk to Human life worth the Financial gain of others? Perth CBD and Fremantle Port and the Naval dockyard at Garden Island would essentially be rendered wasteland should a terrorist or other nation seek to render the Western side of Australia vanquished. Should we be considering this in the light of this information? 5. The Expert in Ammonium Nitrate explosives has said he even as an elderly person could with walking access through a gate or fence be able to create in under 15 minutes the largest Peacetime explosion in History. Knowing that security for the premises will be easy broached by any person at any time what security do we have?

	1				
		6. With Diesel Trucks conveying the Ammonium Nitrate, any small mechanical problem with a Truck can set fire to a truck, Diesel injector spraying fuel over a hot motor, or locked on brakes or an electrical fault. If the truck catches fire the diesel fuel tanks ignite, a repetition of Queensland in 2014 and a truck carrying Ammonium Nitrate caught fire and the resulting explosion sent metal parts of the truck up to 3km away.			
		In response to Questions 2 to 6, the Chairperson advised that it is an item contained in today's Agenda. The City is obliged to make recommendations to the Joint Development Assessment Panel on the application on its planning merits, should it be hazardous or not. The proponent will be providing a presentation on the application following public question time and answers to your questions may be provided following that presentation.			
	4.2 Mr Mark Skinner, Rockingham - PD-021-21 - Liquid Urea Ammonium Fertiliser and Solid Fertiliser Storage and Blending Facility				
		The Chairperson invited Mr Skinner to present his questions to the Planning and Engineering Services Committee.			
		Mr Skinner expressed his concern with respect to the ability to manufacture explosives using very small quantities of diesel and ammonium nitrate. He also questioned the current road structure of Rockingham Beach Road and its capacity to carry a large amount of trucks. Mr Skinner advised that he was happy to wait for the presentation from the proponent for answers to his questions.			
	4:15pm	There being no further questions the Chairperson closed Public Question Time.			
5.	Confirm	nation of Minutes of the Previous Meeting			
	Moved C	r Sammels, seconded Cr Hamblin:			
	That Committee CONFIRMS the Minutes of the Planning and Engineering Services Committee meeting held on 17 May 2021, as a true and accurate record.				
	Committee Voting (Carried) - 5				
6.	Matters Arising from the Previous Minutes				
	Nil				
7.	Announcement by the Presiding Person without Discussion				
	4:16pm	The Chairperson announced to all present that decisions made at Committees of Council are recommendations only and may be adopted in full, amended or deferred when presented for consideration at the next Council meeting.			
8.	Declarations of Members and Officers Interests				
	4:16pm	The Chairperson asked if there were any interests to declare. There were none.			
9.	Petitions/Deputations/Presentations/Submissions				
3.	Petition	is/Deputations/Presentations/Submissions			
3.	9.1	Deputations/Presentations/Submissions Deputation - PD-021-21 - Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility - Mr Peter Ranzenbacher (CBH), Mr Ross Underwood (Planning Solutions), Mr Farhad Master (CBH) and Ms Alysia Woodward (360 Environmental)			

Mr Underwood provided copies of a presentation to all Committee members (attached to these minutes).

Mr Underwood welcomed the City Officer's report recommendation to approve the proposal and advised they were considering the planning conditions. Mr Underwood explained the proposal in its liquid or solid form is not hazardous nor is it explosive.

Mr Ranzenbacher advised the proposal includes UAN - Liquid Urea Ammonium Nitrate fertiliser to be imported and piped from the existing Kwinana Grain Terminal jetty and the storage; and Dry (granular) fertiliser products being imported via the Kwinana Bulk jetty to the north. He referred to UAN as having 32% water and advised it is a product which is already imported by CBH via the Kwinana Bulk Jetty. Mr Ranzenbacher advised UAN is not flammable, not hazardous and is not explosive, while the solid granular fertiliser is sulphate and ammonium sulphate. The Department of Mines, Industry, Regulation and Safety (DMIRS) determined the proposal is not handling dangerous goods. He advised CBH already operate a solid blending facility in East Rockingham, which will be consolidated on the CBH site.

Mr Ranzenbacher responded to questions from Councillors that there could be an ammonium smell but no odour concerns are anticipated. He also advised on the mixing of solid granular based on either dust coating, herbicide and fungicide depending on farmer requirements. Mr Razenbacher also gave an overview of the CBH operations with respect to dust management, stormwater and groundwater management, traffic management and operations in response to questions from the Committee.

Ms Woodward briefly explained the Environmental Protection Authority (EPA) Report and Recommendations recommending conditional approval, and provided clarification with regards to the terminology used in the EPA report to describe the proposal.

4:40pm

The Chairperson thanked Mr Peter Ranzenbacher and Mr Ross Underwood for their deputation.

10. Matters for which the Meeting may be Closed

Nil

11. Bulletin Items

Planning and Development Services Information Bulletin - June 2021

Health Services

- 1. Health Services Team Overview
- 2. Human Resource Update
- Project Status Reports
 - 3.1 FoodSafe
 - 3.2 Industrial and Commercial Waste Monitoring
 - 3.3 Mosquito Control Program
 - 3.4 Environmental Waters Sampling
 - 3.5 Food Sampling
- 4. Information Items
 - 4.1 Food Recalls
 - 4.2 Food Premises Inspections
 - 4.3 Public Building Inspections
 - 4.4 Outdoor Event Approvals
 - 4.5 Permit Approvals
 - 4.6 Complaint Information



- 4.7 Noise Complaints Detailed Information
- 4.8 Health Approvals
- 4.9 Septic Tank Applications
- 4.10 Demolitions
- 4.11 Swimming Pool and Drinking Water Samples
- 4.12 Rabbit Processing
- 4.13 Hairdressing and Skin Penetration Premises
- 4.14 Bookings for Halls and Reserves
- 4.15 Food Prosecution

Building Services

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

Compliance and Emergency Liaison

- 1. Compliance and Emergency Liaison Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Ranger Services Action Reports
 - 4.2 Building and Development Compliance
 - 4.3 Emergency Management New Collateral "Emergency Ready Get Ready Rockingham" Fold Brochure
 - 4.4 Fire Prevention CRMs May 2021
 - 4.5 SmartWatch Key Result Areas

Strategic Planning and Environment

- 1. Strategic Planning and Environment Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Local Planning Strategy
 - 3.1.1 Sustainable Transport Strategy
 - 3.1.2 Environmental Planning Strategy
 - 3.2 Baldivis Tramway Environmental Assessment
 - 3.3 Lake Richmond Management Plan Implementation Thrombolite Study
 - 3.4 Coastal Hazard Risk Management and Adaptation Plan Implementation
 - 3.5 Karnup District Structure Plan
- 4. Information Items
 - 4.1 Structure Plan Assessment Status
 - 4.2 Notification of Structure Plan Advertised under Delegated Authority
 - 4.3 Notification of Determined Structure Plan
 - 4.3 Designation of Lark Hill Precinct within Sub-Regional Planning Framework
 - 4.4 Little Penguin Working Group

Land and Development Infrastructure

- 1. Land and Development Infrastructure Team Overview
- 2. Human Resource Update

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

Statutory Planning

- Statutory Planning Team Overview
- Human Resource Update
- 3. Project Status Reports
 - 3.1 Pedestrian Access Way Strategy Review
 - 3.2 Conservation Plan fmr Roads Board Museum
 - 3.3 Review of Planning Policy 3.3.1 Control of Advertisements
 - 3.4 Review of Planning Policy 3.3.21 Heritage Conservation and Development and Website Heritage Information Sheet
- Information Items
 - 4.1 Subdivision/Development Approval and Refusals by the WAPC
 - 4.2 Notifications and Gazettals
 - 4.3 Subdivision Clearances
 - 4.4 Subdivision Survey Approvals
 - 4.5 Subdivision Lot Production
 - 4.6 Delegated Development Approvals
 - 4.7 Delegated Development Refusals
 - 4.8 Delegated Building Envelope Variations
 - 4.9 Subdivision/Amalgamation Approved
 - 4.10 Strata Plans
 - 4.11 Subdivision/Amalgamation Refused
 - 4.12 Update Local Development Plan and Development Application Lot 1512 Lake Street and Lot 5000 Fisher Street, Rockingham Proposed Mixed Use Development

Planning and Development Directorate

- 1. Planning and Development Directorate Team Overview
- Human Resource Update
- 3. Project Status Reports
 - 3.1 Rockingham Strategic Metropolitan Centre Local Planning Framework Review (LUP/2134)
 - 3.2 Design Review Panel (LUP/2094)
- 4. Information Items

Advisory Committee Minutes

Committee Recommendation

Moved Cr Buchan, seconded Cr Hamblin:

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

Committee Voting (Carried) - 5/0

Engineering and Parks Services Information Bulletin - June 2021

Engineering and Parks Services Directorate

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

Asset Services

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

Infrastructure Project Delivery

- 1. Infrastructure Project Delivery Team Overview
- 2. Human Resource Update
- Project Status Reports
- 4. Information Items
 - 4.1 Animal Pound Refurbishment Ventilation Improvement Increased Cat Accommodation
 - 4.2 Bus Shelter Replacement 8 Replacements, 1 Refurbishment
 - 4.3 Eighty Road (Safety Bay Road to Oak Way (North), Baldivis Install Kerbing, Drainage and Footpath
 - 4.4 Ennis Avenue (Patterson Road to Dixon Road), Rockingham Construct Red Asphalt Shared Path
 - 4.5 Gnangara Drive (Read Street to Santa Monica Drive), Waikiki Install Traffic Treatments
 - 4.6 Griggs Way (Safety Bay Road to Bell Street), Rockingham Footpath Construction
 - 4.7 Hourglass Reserve Clubrooms-Internal/External refurbishment
 - 4.8 Lark Hill Sporting Complex Rugby Club Building Refurbishments, Port Kennedy
 - 4.9 Lark Hill Sporting Complex Hockey Turf Replacement, Port Kennedy
 - 4.10 Mike Barnett Sports Complex Replace floodlighting and install shelters
 - 4.11 Palomino Reserve, Baldivis Replace light poles and luminaires
 - 4.12 Playground Replacements 2020-2021
 - 4.13 Point Peron Boat Launching Facility, Peron Construct Carpark Extension
 - 4.14 Replacement of public toilets various locations
 - 4.15 Refurbishment of public toilets various locations
 - 4.16 Rockingham Council Administration Building Disability Compliance Upgrades and Refurbishments to Toilets

- 4.17 Rockingham Council Depot, Rockingham Minor Refurbishment Works & Shed Replacements
- 4.18 Rockingham Gem Club, Rockingham Refurbishment Works
- 4.19 Safety Bay Bowling Club, Safety Bay Structural repairs
- 4.20 Safety Bay Bowling Club, Safety Bay Shed replacement
- 4.21 Safety Bay Road / Nairn Drive, Baldivis Construct Pre-deflections
- 4.22 Safety Bay Tennis Club Replace picnic settings/shelters including concrete hardstands
- 4.23 Secret Harbour Street lighting upgrade
- 4.24 Singleton Volunteer Fire Brigade, Golden Bay meeting room extension
- 4.25 Shoalwater Reserve Construction of Activity Node
- 4.26 Yuin Street (Dampier Drive to Tangadee Road), Golden Bay Footpath Construction

Parks Services

- Parks Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
 - 4.1 Delegated Public Open Space Handovers
 - 4.2 Footpath, Kerb Line and Hardstand Herbicide Programme
 - 4.3 Lake Richmond post bushfire clean-up
 - 4.4 Warnbro Foreshore dune stabilisation
 - 4.5 Mitigation Activity Fund Bushfire Mitigation Projects
 - 4.6 Warnbro Recreation Oval drainage basin landscape improvements
 - 4.7 Greening Plan progress report

Engineering Services

- 1. Engineering Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
 - 3.1 Coastal Facilities Strategy
- 4. Information Items
 - 4.1 Delegated Authority for Temporary Thoroughfare Closure
 - 4.2 Delegated Authority for approval of Directional Signage
 - 4.3 Delegated Authority for approval of Heavy Haulage
 - 4.4 Authorised Traffic Management Plans for Works on City Controlled Roads
 - 4.5 Civil Works Program 2020/2021
 - 4.6 Civil Maintenance Program 2020/2021
 - 4.7 Road Rehabilitation & Renewal Programs 2020/2021
 - 4.8 Local Roads and Community Infrastructure Program (LRCI)
 - 4.9 Drainage Renewal Program Municipal Works 2020/2021
 - 4.10 Footpath Renewal Program Municipal Works 2020/2021
 - 4.11 Carpark Renewal Program Municipal Works 2020/2021
 - 4.12 Litter and Street Sweeping Program 2020/2021
 - 4.13 Graffiti Program 2020/2021
 - 4.14 Delegated Authority for the payment of crossover subsidies
 - 4.15 Third Party Works within the City
 - 4.16 Asset Inspections

- 4.17 Verge Treatment Applications
- 4.18 Verge Issues
- 4.19 Coastal Capital Projects
- 4.20 Coastal Infrastructure Management

Advisory Committee Minutes

Committee Recommendation

Moved Cr Buchan, seconded Cr Hamblin:

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

Committee Voting (Carried) - 5/0

12. Agenda Items

Planning and Development Services

Planning and Development Services Statutory Planning Services



Reference No & Subject:	PD-019/21	Reconsideration	of	Holiday	House
		Refusal Decision -	SAT	Appeal	

File No: DD20.2020.00000109.001

Applicant: Urbanista for Ms Jane Chambers

Owner: Mr M R and Mrs D M Lawrence

Author: Mr Kevin Keyes, Planning Officer

Other Contributors: Mr David Waller, Coordinator Statutory Planning

Mr Mike Ross, Manager Statutory Planning

Date of Committee Meeting: | 14 June 2021

Previously before Council: July 2020 (PD-037/20)

Disclosure of Interest:

Nature of Council's Role in this Matter:

Tribunal

Site: Lot 413 (No.193) Rockingham Beach Road, Rockingham

Lot Area: 2,021m²

LA Zoning: Residential R40

MRS Zoning: Urban

Attachments: 1. Applicant's Town Planning Report

2. Updated House Management Plan

3. Code of Conduct

4 Complaints Register

Maps/Diagrams: 1. Locality Plan

2. Aerial Photograph

3. Summary Table of Non-Compliance with Conditions

4. 2021 Proposed Holiday Home (revised)

5. Proposed Site and Floor Plan

6. View from Rockingham Beach Road

7. View from Kent Street

Purpose of Report

To reconsider a revised development proposal for a Holiday House and for consent to advertise, following State Administrative Tribunal (SAT) mediation on a Development Application, which was previously refused by Council in July 2020.



1. Locality Plan



2. Aerial Photograph

Background

2018 Development Approval

In November 2018, the City granted conditional Development Approval for Short-Stay Accommodation (Air BnB) at the subject site.

The conditions of approval included:

- "2. Temporary approval that is valid for only 12 months from the date of this approval. If the applicant wishes to continue the accommodation they must lodge a fresh application prior to the expiry date of this initial approval. The initial approval expires on the 5th November 2019:
- 3. No more than twelve (12) persons are permitted to occupy the Short Stay Accommodation, at any one time;
- 5. No guest parking is permitted on the street or grassed verge;
- 6. No clients are to check in after 7:00pm and check out prior to 7:00am;
- 7. The accommodation must comply with the Environmental Protection (Noise) Regulations 1997 at all times:
- 8. The operation of the Short Stay Accommodation is to be carried out in accordance with a revised House Management Plan that must be approved by the City, prior to the commencement of the use, which must address the following matters:
 - (i) Providing clients with 24 hour contact details of the owner or a nominated property manager;
 - (ii) Establishing a complaints resolution procedure, this shall include maintaining a complaints register/ visitor log book;
 - (iii) Property maintenance and waste management;
 - (iv) Privacy screens to be erected on all major openings, including balconies and habitable rooms, that overlook adjoining properties, as stated in State Planning policy 3.1 Residential Design Codes (R-Codes);
 - (v) House rules, including the application of 'Quiet Hours';
 - (vi) Arrival and departure times consistent with condition 6; and
 - (vii) On-site vehicle parking.

The revised House Management Plan must be implemented for the duration of the development.

- 9. The landowner must:
 - (i) Provide visitors a copy of the information referred to in the House Management Plan;
 - (ii) Ensure that the house rules referred to in the House Management Plan are observed by the visitors; and
 - (iii) Provide a copy of the House Management Plan and emergency contact number to each adjoining household for use in the event of client non-compliance, in accordance with the attached consultation plan.
- 10. A Visitor Log Book must be maintained by the landowner recording who has stayed on the premises, client arrival and departure dates, and client length of stay.
- 11. By 30 June 2019, a report must be provided to the City which provides details of the operations of the development including, but not limited to:
 - (i) The length of stay of clients;
 - (ii) Arrival and departure times of clients; and
 - (iii) The number and type of complaints received from the public and responses to those complaints.



- 12. The procedure for managing public complaints must comply with the following:
 - (i) A telephone number or numbers and an email address or addresses must be maintained through which a complaint concerning the development may be made to the operator, at any time;
 - (ii) The owners and occupiers of properties, in accordance with the attached consultation plan, must be advised in writing of the telephone number or numbers and the email address or addresses through which a complaint may be made, prior to the use commencing;
 - (iii) A complaints log must be kept as part of the Visitor Log Book in which the following is to be recorded:
 - (a) The date and time of each complaint made and received;
 - (b) the means (telephone or email) by which the complaint was made;
 - (c) any personal details of the complainant that were provided or, if no details were provided a note to that effect;
 - (d) the nature of the complaint;
 - (e) the steps or actions taken in response to each complaint (and when those steps or actions were taken), including any follow-up contact with the complainant; and
 - (f) if no actions or steps were taken in relation to the complaint or enquiry, the reasons why no action or steps were taken.
 - (iv) A written response to how the complaint was resolved must be recorded within the complaints log no later than within 3 working days of receipt of the complaint by the operator; and
 - (v) The complaints log must be provided to the City of Rockingham within 3 working days from the date of receipt of the complaint to the operator".

2019 Complaints

In April 2019, the City received two complaints relating to the operation of the Short Stay Accommodation on the subject site:

- ▼ One complaint related to the accommodation not having Development Approval, which was not correct at the time.
- **Y** The other complaint related to:
 - Use of the accommodation over the weekend of 16 March 2019 by youths creating a noise disturbance and that the maximum number of 12 permitted guests was likely to have been breached.
 - Unauthorised use of the rear garden to park two caravans, two camper trailers and toilet/ shower cabins over the weekend on 29 March 2019.

These complaints were investigated. There was insufficient evidence of a breach of the Development Approval in relation to the activities that occurred on 16 March 2019. In relation to the second event, it was understood to be a family gathering and no action was taken at that time.

Scheme Amendment No.173

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

2020 Complaints

In April 2020, the City received another complaint from the above complainant regarding the operations of the accommodation. It was stated that the property was being used as a youth 'Party House', generating excessive noise into the early hours of the morning.

The complaint stated that:

- Police were contacted regarding the incident;
- They never received the contact details of the operator of the accommodation and this was a condition of Development Approval; and
- Noise from the activities was having a serious impact on the enjoyment of their residential property.

Investigations conducted by the City led to the applicant to submit the 2020 application. Notwithstanding, the use continued to operate without Development Approval at the time.

Non-compliance with 2018 Development Approval

The Applicant had failed to comply with the following monitoring conditions of the Development Approval granted on 5 November 2018, as summarised in the Table below:

Condition No.	Condition Summary	Non-Compliance Summary
No.2	12 month Temporary Approval must be renewed	Applicant did not re-apply for Development Approval within the initial 12 month approval term and continued to operate unauthorised.
No.8	Providing the City with a revised House Management Plan which addresses providing contact details to neighbours, establishing a complaints procedure, making the dwelling R- Code complaint, revisiting house rules and check-in/ check-out times.	Not received by the City during the time period of this approval.
No.11	By 30 June 2019, a report by the operator to be provided to the City regarding complaints received by the public and responses to those complaints	Not received by the City during the time period of this approval.
No.12	Identifies procedure for complying with complaints and the procedure for communication between applicant and the complainant.	Not received by the City for any registered complaints during the time period of this approval.

3. Summary Table of Non-Compliance with Conditions

2020 Council Refusal

In July 2020, Council reconsidered a Development Application to renew the Holiday House. Following review of the public submissions, which included 14 submissions, of which 12 submissions objected to the proposal and 2 submissions in support, the Council resolved to refuse the application for the following reasons:

- "1. The proposed scale and intensity of use as a Holiday House has the potential to adversely impact on the amenity of the surrounding residential area, as evidenced by previous noise complaints received by the City.
- 2. The Holiday House in this location is not compatible with its setting nor its relationship with other adjoining land in the locality.
- 3. The Applicant has a history of non-compliance with conditions of Development Approval. The City is not confident the Applicant can effectively manage or will adhere to conditions of Development Approval or Noise Management Plan, due to its ineffective attempt of managing this property over the past year and six months. Any renewal of this previous approval is likely to continue to adversely impact on the residential amenity of the locality.
- 4. The application is not in accordance with the requirements of orderly and proper planning."



State Administrative Tribunal (SAT) Appeal

In November 2020, the applicant lodged an appeal on the City's decision to refuse the Holiday House to SAT. The applicant requested SAT review the matter and order a Section 31; Invitation for Reconsideration, following mediation between both parties.

The appeal was not lodged within 90 days of the Council's refusal of the application, however, the applicant requested SAT to grant leave to allow for this review to occur outside of the 90 day timeframe. The justification given for lodgement outside of the 90 days was that the owners were not aware of the appeal process and had then engaged a Town Planning Consultancy (Urbanista) to manage the appeal process.

Subsequently, City Officers attended two SAT mediations on 17 March 2021 and 26 May 2021. Upon conclusion of the second mediation, SAT made the following Orders dated 27 April 2021;

- "The applicant is to provide additional information as discussed at mediation to the respondent by 21 May 2021;
- Pursuant to Section 31 (1) of the Sate Administrative Tribunal Act 2004, the respondents is invited to reconsider the decision on or before 27 July 2021; and
- The matter is adjourned to a directions hearing, to commence at 9.30am on 6 August 2021."

In accordance with Order 1, the applicant revised the Holiday Home proposal for Council's reconsideration of the matter ordered on or before 27 July 2021. Beyond this date, the City will seek a further SAT Directions Hearing.

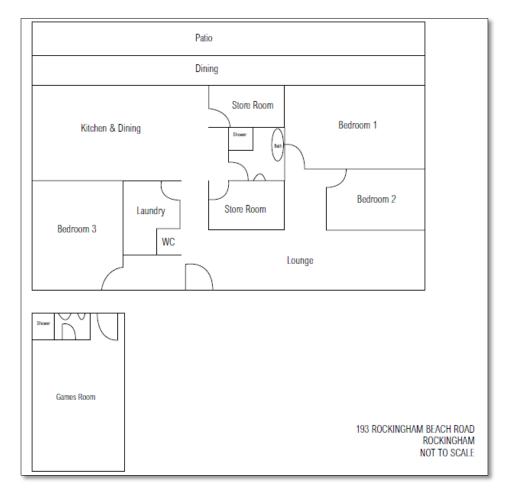
Details

On 21 May 2021, the applicant submitted the following revised Holiday Home proposal following SAT mediation:

	2020 Development Refusal - Holiday Home	2021 Revised Holiday Home
Management Plan	Not provided	Provided
Code of Conduct	Not provided	Provided
Complaint Register	Not provided	Provided
Maximum Number of People	12 guests	Four (4) adults or one (1) family with maximum of five (5) people.
Bond	\$350	\$400
Minimum Night Stay	Nil	Two (2) nights
Property Manager	Owner	Airbnb Homes (an Air BnB management company)
Complaints Person	Owner	Manager of Airbnb Homes who lives in Warnbro
Updated Plans	6 bedrooms	3 bedrooms
Use of Games Room	Nil	Only permitted to be used between 10:00am to 7:00pm.

4. 2021 Proposed Holiday Home (revised)





5. Proposed Site and Floor Plan



6. View from Rockingham Beach Road



7. View from Kent Street

Implications to Consider

a. Consultation with the Community

It is considered that the applicant has substantially amended the application and it now warrants being re-advertised for public comment for a period of 14 days, in accordance with clause 64 of the deemed provisions of Town Planning Scheme No.2 (TPS2).

b. Consultation with Government Agencies

Nil

c. Strategic

Community Plan

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

Aspiration 3: Plan for Future Generations:

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

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

consideration of future generations.

d. Policy

State Government Policies

No current State Government Policies apply.

In 2019, the Western Australian Legislative Assembly Economics and Industry Standing Committee, following an enquiry into the regulation of Short-Stay Accommodation in Western Australia, released a report containing 10 recommendations.

In February 2020, the Western Australian Government (Government) issued its response to the enquiry which generally agreed with the report and indicated it will consider developing and/or adopting policy to give effect to the intent of the recommendations, including forming an interdepartmental working group to address some of the recommendations.

The recommendations included introducing a state-wide registration scheme for Short-Term Rentals, coupled with data provision requirements for on-line platforms. The City is awaiting the outcome of the State Government's response which could affect the WA planning framework.

Local Planning Policies

Nil

mark for

e. Financial

Nil

f. Legal and Statutory

State Administrative Tribunal (SAT)

The SAT is an independent body that makes and reviews a range of administrative decisions, including town planning matters.

SAT receives its power to hear matters from a number of different legislation such as the State Administrative Tribunal Act 2004 and for planning appeals triggered by the Planning and Development Act 2005. SAT was established to make the legal process more efficient, flexible, and informal for parties. SAT's approach is informal, flexible and transparent and encourages the resolution of disputes through mediation.

The main objectives of SAT in dealing with matters within its jurisdiction are:

- To achieve the resolution of questions, complaints or disputes, and make or review decisions, fairly and according to the substantial merits of the case;
- To act as speedily and with as little formality and technicality as is practicable, and minimise the costs to parties; and
- To make appropriate use of the knowledge and experience of SAT 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

The main reasons for the Council's 2020 refusal of the Holiday House related to the proposed scale and intensity of use which was adversely affecting the amenity of the surrounding area, based on past noise complaints and the applicant's history of non-compliance with conditions of Development Approval.

As an outcome of two mediation sessions attended by City Officer's with the appellant and her Planning Consultant, SAT issued Orders inviting the Council to reconsider the Holiday House application in accordance with section 31(1) of the State Administrative Tribunal Act 2004.

The appellant made the following changes in response to the 2020 Holiday House reasons for refusal and previous complaints alleging the property was being uses as a "party house".

The revised House Management Plan is summarised below:

- A comprehensive management plan;
- A Code of Conduct;
- Reducing the number of guests from 12 to 4 adults or a family of 5 people;
- Fewer bedrooms from 6 bedrooms to 3;
- Increasing the Bond from \$350 to \$400;
- A minimum of 2 night stay;
- A Complaints Register; and
- Monitoring by a local Property Manager of Airbnb homes who lives in Warnbro.

The City considers that the revised Holiday House proposal warrants re-advertising, having regard to the Council's previous reasons for refusal in 2020. This would allow adjacent owners and occupiers the opportunity to review the proposal and lodge submissions prior to the Council's decision and before the matter is reconsidered by SAT.

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Voting Requirements

Simple Majority

Officer Recommendation

That Council **SUPPORTS** advertising the revised Holiday House application at Lot 413 (No.193) Rockingham Beach Road, Rockingham, for public comment.

Committee Recommendation

Moved Cr Buchan, seconded Cr Hamblin:

That Council **SUPPORTS** advertising the revised Holiday House application at Lot 413 (No.193) Rockingham Beach Road, Rockingham, for public comment.

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

Planning and Development Services Statutory Planning Services



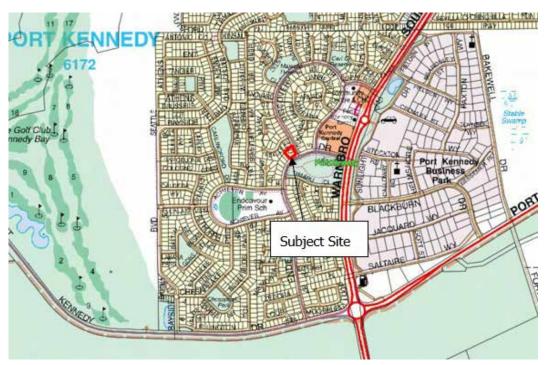
Statutory Flaming Services			
Reference No & Subject:	PD-020/21	Proposed Scheme American Rezoning from Common (Child Minding Centre) to	nunity Purpose
File No:	LUP/2186		
Applicant:	Ms Lorraine Elliot		
Owner:	Mrs Liz Mainard		
Author:	Mr Eric Anderson,	Planning Officer	
Other Contributors:	Mr David Waller, Coordinator Statutory Planning Mr Mike Ross, Manager Statutory Planning		
Date of Committee Meeting:	14 June 2021		
Previously before Council:			
Disclosure of Interest:			
Nature of Council's Role in this Matter:	Legislative		
Site:	Lot 111 (No.22) E	ndeavour Drive, Port Kenne	dy
Lot Area:	1,777m²		
LA Zoning:	Community Purposes - CM (Child Minding Centre)		
MRS Zoning:	Urban		
Attachments:			
Maps/Diagrams:	 1995 Caretak Current Zonir Subject Lot 1 Proposed Zon 	raph are Premises Planning Appr er's Dwelling Planning Appr ng 11 (No.22) Endeavour Drive	oval

Purpose of Report

To consider an amendment to Town Planning Scheme No.2 (TPS2) to rezone the Caretaker's Dwelling on Lot 111 (No.22) Endeavour Drive, Port Kennedy from Community Purposes - Child Minding Centre to Residential (R20).

Photograph Caretaker's Dwelling





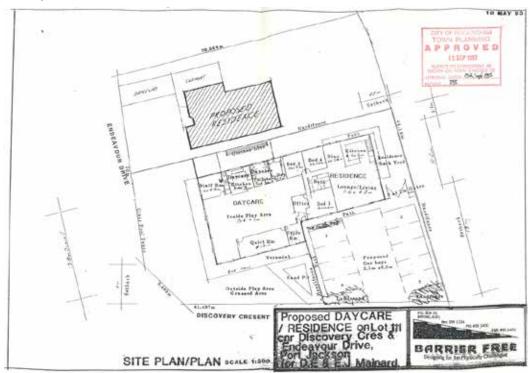
1. Location Plan



2. Aerial Photograph

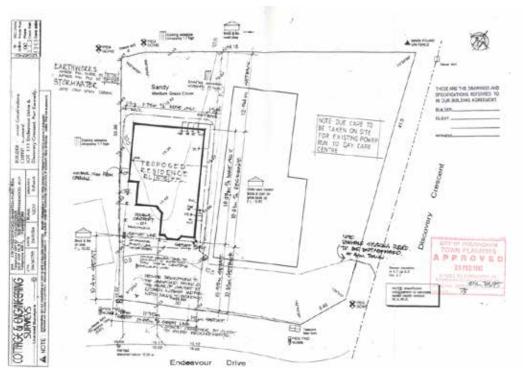
Background

In September 1993, Council granted Planning Approval for a Child Care Premises for 30 children; and Ancillary Residence.



3. 1993 Child Care Premises Planning Approval

In February 1995, Council granted Planning Approval for a Caretaker's Dwelling on the southern portion of the subject site.



4. 1995 Caretaker's Dwelling Planning Approval



In March 1995, Council granted Planning Approval to increase the capacity to 45 children by expanding into the Caretaker's Dwelling vacated when the new Caretaker's Dwelling was built.

In October 2020, the City received an enquiry relating to the possible subdivision of the land to assist in the sale of the Child Care Centre and a potential Development Application to change the Caretaker's Dwelling to a Single Dwelling. As a Single Dwelling is not permitted ('X') within the Community Purposes zoning, a rezoning of land to Residential R20 is required, to separate the Caretaker's Dwelling from the Child Care Premises.

Details

The applicant seeks Council consent to initiate a TPS2 Amendment to rezone a portion of the subject site from 'Community Purpose (Child Minding Centre)' to 'Residential (R20)' refer to Figure 6

The applicant has provided the following information in support of the proposal:

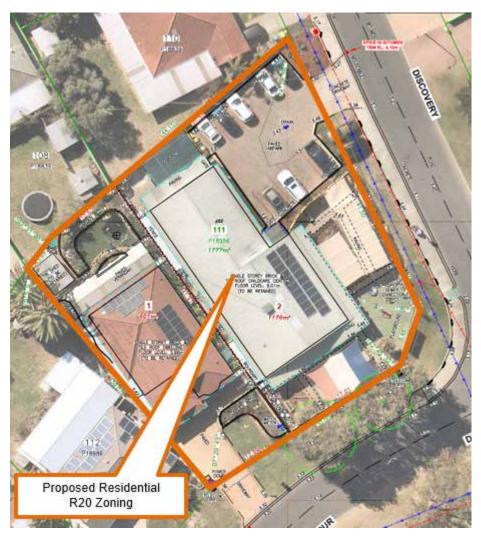
- "The proposal is consistent with the surrounding Residential zoning and due to the existing built form, it will have no impact on surrounding owners and residents and the Scheme;
- The existing built form is consistent with the objectives of the Residential zone and the surrounding residential built environment;
- Both a single house and child care premises are permissible uses (i.e. "P" and "A" uses, respectively) in the Residential zone and therefore consistent with the Scheme.
- The dwelling mainly functions as a single house as there is an existing fence separating it from the child care premises. Also, a caretaker's residence is not normally required for child care premises. Also, a caretaker's residence is not normally required for child care premises so the rezoning and subsequent subdivision will have no impact on the ongoing operation of the child care premises.
- The proposed subdivision plan demonstrates compliance with the R-Codes, in particular the minimum lot area and frontage for both proposed lots and the setback of the single house from the proposed common boundary complies with Tables 1 and 2b, respectively.
- The proposed subdivision is logical and there are no changes to the existing situation as the proposed common boundary runs along the existing fence line and both buildings are individually connected to infrastructure services.
- The car parking layout and access will remain the same.
- The future subdivision complies with DC Policy 2.2 Residential Subdivision."



5. Current Zoning



6. Subject Lot 111 (No.22) Endeavour Drive



7. Proposed Zoning¹



8. Photograph Caretaker's Dwelling (Endeavour Drive)

¹ Correction to image



9. Photograph Car Parking Area (Discovery Crescent)

Implications to Consider

a. Consultation with the Community

If the Scheme Amendment is initiated by Council, it is required to be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations* 2015 (the Regulations) for a minimum period of 42 days from the date of publication, as follows:

- Publish on the City's website the Scheme Amendment document;
- Make available a copy of the Scheme Amendment for public inspection at the City's Administration Offices; and
- Publish a notice of the Scheme Amendment in the newspaper circulating in the locality.

b. Consultation with Government Agencies

Consultation with relevant Government Agencies will only occur if the Scheme Amendment is initiated by the Council in accordance with the Regulations.

c. Strategic

Community Plan

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

Aspiration 3: Plan for Future Generations

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

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

consideration of future generations.

d. Policy

Residential Design Codes (R-Codes)

The portion of the lot that the Caretaker's Dwelling occupies is $601m^2$, and is compliant with the site area requirements of the R-Codes. The Caretaker's Dwelling also complies with the front, rear and side boundary setback requirements of the R-Codes.

Planning Policy No.3.3.5 – Child Care Premises

The minimum site area for a Child Care Premises within a Residential zone is 1,000m². The removal of the land dedicated to the Caretaker's Dwelling will still leave a balance land area of 1,176m² for the Child Care Premises, which is Policy compliant.

e. Financial

Advertising costs for the Scheme Amendment are borne by the applicant.

f. Legal and Statutory

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

The procedures for dealing with a proposal to amend TPS2, as per the *Planning and Development Act 2005* are set out in the Regulations. Regulation 35 (1) allows the Council to adopt an amendment to TPS2 proposed by all the owners of land within the scheme area.

Under Regulation 35(2) a Council resolution must:

- "(a) specify whether, in the opinion of the local government, the amendment is a complex amendment, a standard amendment or a basic amendment; and
- (b) include an explanation of the reasons for the local government forming that opinion".

The proposal is considered to be a Standard Amendment, given it is an amendment to a zone that is consistent with the Scheme objectives, Metropolitan Region Scheme, has minimal impact on land in the Scheme Area or neighbouring properties, based on the concept design and has no significant environmental, social, economic or governance impacts.

Town Planning Scheme No.2 (TPS2)

The proposed rezoning is consistent with the adjacent Residential R20 zoning and as such, it is considered by the City to be a proposal which is consistent with orderly and proper planning.

A Single House is a prohibited land use (X) in a Community Purposes Zone and is a Permitted (P) use in the proposed Residential zone, hence the rezoning proposal the subject of this report.

A Caretaker's Dwelling is an incidental land use (IP) to the predominant use in the Community Purposes Zone and Residential Zone.

Building Code of Australia (BCA)

The City's Building Services has advised there are fire separation requirements for the existing Child Care Premises to the future proposed lot boundary, which need to be considered by a Private Building Surveyor. This matter, however, can be assessed further and addressed as part of a future Subdivision Application and may require fire treatment to eaves and other works. Fire separation to the allotment boundary must comply with the requirements of Section C-Fire resistance, NCC 2019 Building Code of Australia. The existing Caretaker's Dwelling change to a Single Dwelling will, however, comply with BCA fire separation requirements with a 1.5m boundary setback.

Environmental Protection (Noise) Regulations 1997 (EP Regulations)

The City's Health Services has advised there are noise requirements associated with the Caretaker's Dwelling changing to a Single Dwelling, which require assessment under the EP Regulations. The existing Caretaker's Dwelling will become a "noise sensitive premises" under the EP Regulations with its future use as a Single Dwelling next to a Child Care Premises which emits noise. The City considers this matter can be addressed by the applicant prior to advertising the Scheme Amendment, to ensure the proposal complies with the EP Regulations. If the proposal conversely does not comply with the EP Regulations, acoustic works or other measures may be required.

g. Risk

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

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

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

Nil

Comments

The proposed Scheme Amendment is supported for the following reasons:

- The proposal is compliant with Planning Policy No.3.3.5 Child Care Premises;
- The proposed rezoning to Residential R20 is considered consistent with the prevailing residential character of the area, which is predominantly Residential R20;
- The existing Caretaker's Dwelling land use is to be changed to a Single Dwelling, however, there is no physical change when viewed from the Endeavour Drive or adjacent properties; and
- The existing Child Care Premises land use will not be changing and the rezoning has no impact on the existing car parking and play areas;

The following matter will, however, require further consideration by the applicant:

- The existing Child Care Premises will need further BCA assessment upon a future Subdivision Application being made following rezoning. This matter should be able to be addressed by a Private Building Surveyor for BCA compliance to a future lot boundary; and
- The existing Child Care Premises needs to be assessed to ensure it complies with the EP Regulations as the existing Caretaker's Dwelling will be changed to a Single Dwelling. This should occur before the Scheme Amendment is advertised seeking public comment.

It is recommended that Council adopt (initiate) the proposed Scheme Amendment, subject to the applicant submitting an acoustic consultant report demonstrating how the existing Child Care Premises complies with the EP Regulations, with respect to the portion of land subject to rezoning.

Voting Requirements

Simple Majority

Officer Recommendation

That Council:

- 1. **ADOPTS** (initiate) Amendment No.181 to Town Planning Scheme No.2, in pursuance of Section 75 of the *Planning and Development Act 2005*, to rezone Lot 111 (No.22) Endeavour Drive Port Kennedy from "Community Purpose Child Minding Centre" to "Residential (R20)".
- 2. **CONSIDERS** the proposed Scheme Amendment to be a Standard Amendment in accordance with Regulation 34(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
- 3. **REQUIRES** the applicant to submit an acoustic consultant report to the City which demonstrates how the proposed rezoning to Residential R20 complies with the *Environmental Protection (Noise) Regulations* 1997, prior to advertising the Scheme Amendment.
- 4. **REQUIRES** the proposed Scheme Amendment to be advertised for a minimum period of 42 days in accordance with Regulation 47(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

Additional Officer Comment

A memorandum distributed to Committee members dated 14 June 2021 provided the following clarification to the Officer report.

The City's report refers to rezoning applying to the 'Caretaker's Dwelling' site, when it should refer to rezoning the whole of Lot 111 (No.22) Endeavour Drive, Port Kennedy. Consequently, Figure 7 should include the proposed Residential R20 applying to the whole land, being the Caretaker's Dwelling and the existing Child Care Premises.

The Scheme Amendment was considered by the applicant as an opportunity to remove the current restrictive zoning and provides some more land use flexibility for the future, making the site more robust. The City agrees with this zoning approach.

The clarification does not change the Officer's Recommendation.

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Committee Recommendation

Moved Cr Sammels, seconded Cr Edwards:

That Council:

- 1. **ADOPTS** (initiate) Amendment No.181 to Town Planning Scheme No.2, in pursuance of Section 75 of the *Planning and Development Act 2005*, to rezone Lot 111 (No.22) Endeavour Drive Port Kennedy from "Community Purpose Child Minding Centre" to "Residential (R20)".
- 2. **CONSIDERS** the proposed Scheme Amendment to be a Standard Amendment in accordance with Regulation 34(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
- 3. **REQUIRES** the applicant to submit an acoustic consultant report to the City which demonstrates how the proposed rezoning to Residential R20 complies with the *Environmental Protection (Noise) Regulations 1997*, prior to advertising the Scheme Amendment.
- 4. **REQUIRES** the proposed Scheme Amendment to be advertised for a minimum period of 42 days in accordance with Regulation 47(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

Planning and Development Services Statutory Planning Services



Reference No & Subject:	PD-021/21	Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility		
File No:	DD020.2020.0000	DD020.2020.00000290.001		
Applicant:	Planning Solution	s Pty Ltd		
Owner:	Development			
A(1		Bulk Handling Pty Ltd		
Author:		s, Senior Projects Officer		
Other Contributors:		anager Statutory Planning rector Planning and Development Services		
Date of Committee Meeting:	14 June 2021			
Previously before Council:				
Disclosure of Interest:				
Nature of Council's Role in this Matter:	Tribunal			
O.				
Site:		003 and Portion of Road Reserve, ch Road, East Rockingham		
Lot Area:	Lot 108 - 22.4622			
	Lot 1304 - 20.972 Lot 8003 - 0.1095			
		Reserve - 0.6658ha		
LA Zoning:	Lots 108, 1304 and 8003 - General Industry zone			
, and the second	Portion of Road Reserve - Local Roads Reserve			
MRS Zoning:	Lot 108 and 8003 - Special Industry zone			
	Lot 1304 and Portion of Road Reserve - Industrial zone			
Attachments:	 Responsible Schedule of S 	Authority Report		
	3. WAPC Recoi			
Maps/Diagrams:	1. Location Plar	1		
	2. Aerial Photograph			
	3. Kwinana Indu			
		relopment Seeking Approval Under TPS2 relopment Seeking Approval Under MRS		
	6. Proposed Sit			
	7. Proposed Pe			
	8. Consultation	Plan		

- 9. Coastal Erosion Overlay
- 10. Existing Sewer Network
- 11. Example of a 27.5m B-Double Vehicle

Purpose of Report

To provide recommendations to the Metro Outer Joint Development Assessment Panel (MOJDAP) on an application for Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility on Lots 108, 1304, 8003 and Portion of Road Reserve, Rockingham Beach Road, East Rockingham.

Background

Lot 108 (being the main portion of the Development Area) is predominantly vacant shrubland. Further beyond on Lot 108 ongoing construction of the Puma Fuel Depot facility continues, which overlaps the municipal boundary of the City of Rockingham and the City of Kwinana. The Puma Fuel Depot development was approved by the MOJDAP (former Metro South-West JDAP) in October 2014.

Lot 1304 is developed with the CBH Kwinana Grain Terminal. The terminal has been operational for over 40 years.

Lot 8003 is developed with underground water supply infrastructure and otherwise remains vacant.

The subject land is low-lying, generally flat land.

The Development Area also comprises of Lots 1585 and 4552, which do not form part of this Joint Development Assessment Panel (JDAP) application. For clarity, the overall Development Area is identified below, in Figures 1 and 2, and is further explained below in the Details section of this report.



1. Location Plan



2. Aerial Photograph

In a broader context, the Development Area is situated within an industrial/port related precinct bounded by Rockingham Beach Road/Kwinana Beach Road to the north, Cockburn coastline to the northwest and Patterson Road further to the east.

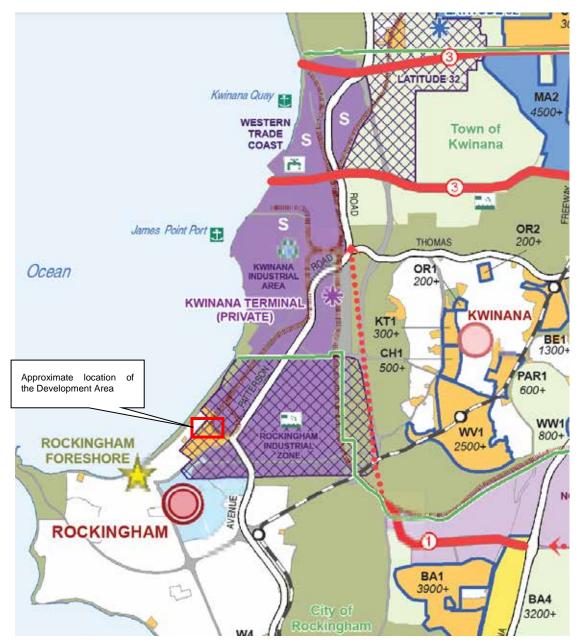
There are residential areas to the southwest of the development area (North Rockingham).

History

The Kwinana Industrial Area (KIA) is the primary location of heavy industry in Western Australia. KIA consists of a highly diverse range of industries from smaller service industries, such as fabrication and construction facilities, through to very large heavy process industries, such as alumina, nickel and oil refineries. The subject lot is located within the Rockingham Industrial Zone (RIZ), which is a sub-precinct of the KIA.

Improvement Plan 14 (IP14), initiated under the provisions of the Metropolitan Region Scheme (MRS) in 1988, was created to facilitate the planning, development and use of land for industrial purposes within the KIA. The Kwinana Regional Strategy (1988) identified that the majority of underutilised land in the region (approximately 1,150ha) was located in the East Rockingham locality. The East Rockingham Industrial Park IP14 Structure Plan was subsequently adopted by the Western Australian Planning Commission (WAPC) to coordinate the utilisation of industrial land in East Rockingham.

The subject land falls within Precinct One - Port Related Industry of the East Rockingham Industrial Park IP14 (refer to Figure 3 below).



3. Kwinana Industrial Area

Details

On 9 October 2020, the City received two JDAP applications for the Co-corporative Bulk Handling (CBH) Fertiliser Expansion Project (Development Area), comprising of:

- 1. Liquid Urea Ammonium Nitrate (UAN) Fertiliser and Solid Fertiliser Storage and Blending Facility located on and under Lots 108, 1304, 8003 and portion of Road Reserve, Rockingham Beach Road in East Rockingham; and
- CBH Grain Jetty Fertiliser Expansion Project Construction of an UAN pipeline and UAN cargo receival equipment and associated infrastructure located under Lot 4552 on Deposited Plan 220690 and under Lot 1585 on Deposited Plan 191087 in East Rockingham.

CBH proposes to develop a liquid UAN fertiliser and solid fertiliser storage and blending facility on Lot 108. The proposed overall development also includes the construction of a pipeline between the CBH Jetty at the Kwinana Grain Terminal and the proposed liquid UAN fertiliser storage facility on Lot 108.



The liquid UAN fertiliser storage facility will have a capacity of 48,000 tonnes, and the solid fertiliser storage facility will have a capacity of 80,000 tonnes. The fertiliser is imported to the storage facility on shipping carriers and transferred to the proposed facility via:

- (a) a liquid UAN pipeline from the Kwinana Grain Terminal; and
- (b) solid fertiliser transferred by semi-trailers from the Kwinana Bulk Jetty.

Both liquid UAN fertiliser and solid fertiliser are stored at the facility pending distribution to customers via road.

The facility may operate 7 days a week, 24 hours a day, however, the operations at the facility are seasonal and these operating hours would only be required during the annual peak period, which typically runs for approximately 7 weeks. Outside of this peak period, the facility is expected to primarily operate 5 days a week with a 12 hour day (6am to 6pm).

The development is expected to generate approximately 98 vehicle trips during the peak hour period (in and out) and a daily approximate trip generation total of 788 (in and out).

The liquid UAN fertiliser is used to provide plants with nitrogen and is primarily used for bloom growth, whilst, the solid fertiliser will be blended on-site to provide for a variety of fertiliser compounds for various agricultural uses. The development provides for a range of fertilisers to balance soil nutrients and contribute to the long-term viability of farmland.

A summary of the development is tabled below.

Exten	t of Development Seeking Approval Under TPS2
Solid fertiliser storage warehouse	A 240m long and 85m wide warehouse, with a wall height of 14m and a ridge height of 19.1m. There are 12m high, 24m wide openings on the northeast and southwest sides to permit truck and machinery egress.
UAN storage tanks	Three 16,000m³ capacity above ground storage tanks (30m diameter and 20m high) for the storage of liquid UAN fertiliser. The tanks are contained within a bunded area to contain any spills.
UAN Pipeline	One 254mm diameter pipeline between the CBH Kwinana Grain Terminal Jetty and the UAN storage tanks. The pipeline will be located underground between the Jetty and the UAN storage facility.
Administration building	A 444m ² single-storey office designed to accommodate up to 10 staff.
Vehicle access	Access road and crossover to Rockingham Beach Road to allow access by RAV-4 and semi-trailer vehicles. All vehicle access will travel to and from the north in the direction of Kwinana Beach Road.
Car parking	11 on-site car parking spaces are provided west of the Administration building.
Diesel storage tank	A 20,000 litre diesel storage tank at the northeast end of the warehouse building. The tank will be a proprietary item including self-contained bund and bowser.
Maintenance shed	Located adjacent to the diesel storage tank.
Weighbridges	Installed to weigh tanks being loaded with blended fertiliser product.
Landscaping	The perimeter of the fertiliser storage facility is proposed to be landscaped.
Evaporation Pond	85m x 40m pond with a total volume of 3,000m ³ .
Swale	Designed to manage clean site runoff.

Extent of	Development Seeking Approval Under TPS2 (cont…)
Fencing and Gates	Security fencing around the perimeter of fertiliser storage facility. A security gate and two emergency access gates will be provided on the southwest and southeast side of the facility.
Exter	nt of Development Seeking Approval Under MRS
UAN Pipeline	One, 254mm diameter pipeline constructed to Australian Standard 4041 - Pressure Piping (AS 4041) supported on the CBH Grain Jetty, the piping materials will change specification to heavy wall HDPE at the transition from the Jetty to the land crossing, after crossing the shoreline the pipeline then continues underground to the onsite UAN storage tanks.
UAN Cargo Unloading Hose	One, 203.2mm diameter UAN cargo unloading hose retained on a retractable reel, located mid-way on the east side of the CBH Grain Terminal Jetty berth, connected to the 254mm diameter discharge pipeline.

A more detailed operational breakdown forms part of the applicant's Planning Report (Attachment 1).

Supporting documentation

The following reports accompanied the two JDAP applications:

- Planning Report;
- Environmental Assessment Report and Environmental Management Plan;
- Acoustic Report:
- Bushfire Management Plan and Bushfire Risk Management Plan;
- Transport Impact Assessment; and
- Water Management Strategy.

Development Application Process

The proposed CBH Fertiliser Expansion Project is located on land which is zoned General Industry under the City's Town Planning Scheme No.2 (TPS2), and in part reserved for Local Roads under the TPS2. The proposed CBH Grain Jetty Fertiliser Expansion is also located on land which is reserved for Waterways under the Metropolitan Region Scheme (MRS), and for Parks and Recreation under the MRS. Accordingly two separate approvals are required as follows:

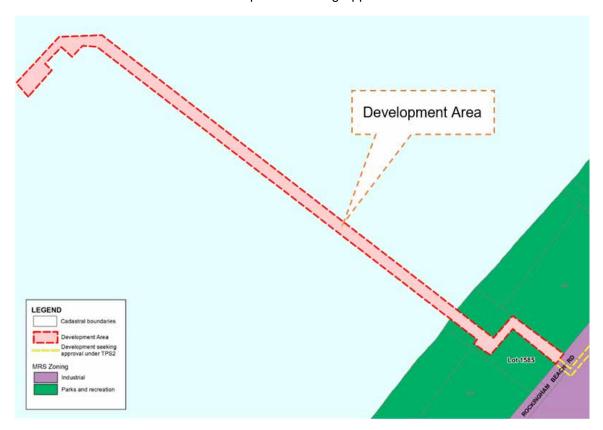
- 1. Development Approval under the City's TPS2 for the portion of the application which is within the General Industry zone and Local Roads via this DAP application.
- 2. Approval to Commence Development under the MRS for the portion of the application which is reserved for Waterways and Parks and Recreation under the Metropolitan Region Scheme via the Western Australian Planning Commission DAP application; and

While the MOJDAP is the determining authority for both Development Applications, the accompanying Responsible Authority Report (RAR) (Attachment 1) relates only to the CBH Fertiliser Expansion Project (Extent of Development Seeking Approval Under TPS2), being the development northeast of and under Rockingham Beach Road. This Report and accompanying RAR assesses the proposal with regard to the City's TPS2.

The pipeline and related infrastructure which is proposed on the southwest of Rockingham Beach Road, including Jetty infrastructure is subject to a separate Development Application under the MRS. Officers representing the WAPC (via Department of Planning, Lands and Heritage), have prepared a concurrent RAR for the CBH Grain Jetty Fertiliser Expansion Project (Extent of Development Seeking Approval Under MRS) and the City has provided its recommendations to the WAPC for consideration of the proposal (Attachment 3).



4. Extent of Development Seeking Approval under TPS2



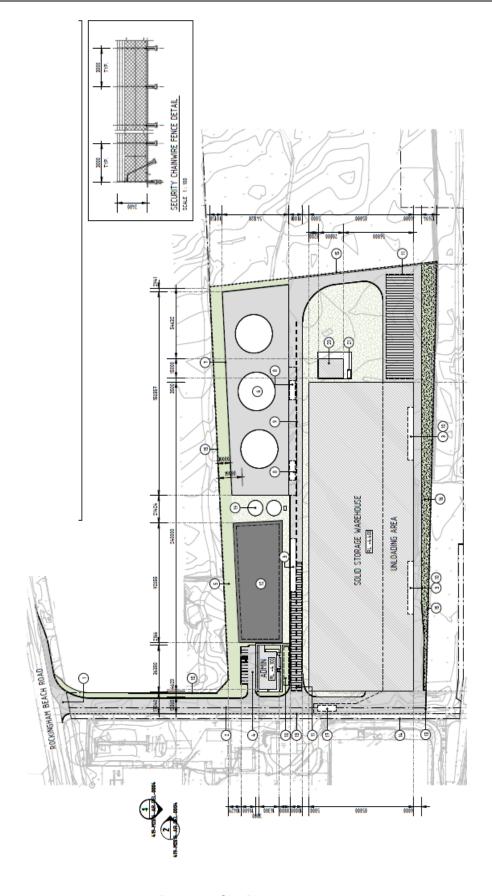
5. Extent of Development Seeking Approval under MRS

Environmental Approval

On 21 January 2021, the City was informed that pursuant to the Environmental Protection Act 1986 (EPA Act), the Environmental Protection Authority (EPA) decided to assess the proposed facility for the blending, transfer and storage of liquid UAN and solid fertiliser. In this regard the EPA had requested more information from the applicant to determine the impact to marine environmental quality and to consider it in the context of the Cockburn Sound Environmental Policy area.

On 20 May 2021, EPA concluded that the proposal is environmentally acceptable, and may be implemented subject to conditions. In this regard, the subject JDAP application represents the next step of Approval process for the development, and reflects the proposal recommended for Approval to the Minister for Environment by the EPA.

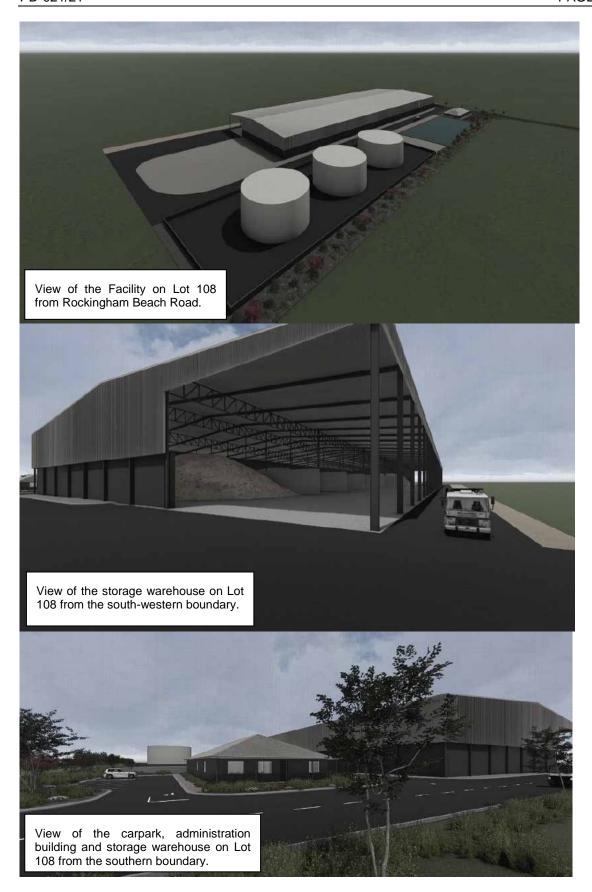
Consequently, the item is now presented to Council for its consideration as a decision had been made under the EPA Act.





6. Proposed Site Plan





7. Proposed Perspectives

Implications to Consider

a. Consultation with the Community

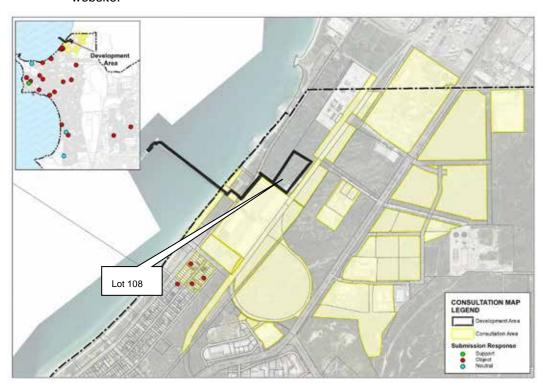
The proposed land use is not permitted unless the Local Government has exercised its discretion following advertising.

Both Development Applications were advertised for public comment over a period of 36 days, commencing on 27 October 2020 and concluding on 2 December 2020. This consultation period includes the one week extension period, as a result of a City letter being sent out on 2 November 2020, clarifying the description of the proposed development.

The applications were subsequently further advertised to the occupants of the Cee and See Caravan Park site for an additional period of 21 days, commencing on 16 December 2020 and concluding on 5 January 2021. The Caravan Park operator and occupants were omitted from the original consultation period. The nature of the development warranted comments from nearby owners and occupiers prior to Council providing its recommendation to the MOJDAP.

Advertising was carried out in the following manner:

- Owners and occupiers within 1.1km of Lot 108 were notified in writing of the proposed development;
- A sign advertising the proposed development was erected on site;
- A copy of the consultation letter was displayed on a public notice board at the Cee and See Caravan Park site;
- A notice appeared in the public notices section of the Sound Telegraph on the 28
 October 2020 and 11 November 2020; and
- Copies of technical documents and plans of the proposal were made available for public inspection at the City's Administration Offices and placed on the City's website.



8. Consultation Plan

At the close of the public consultation period a total of 33 submissions were received, which included 29 objections, three neutral letters and one letter of support.

The objections received have been summarised in the table below as well as the applicant's and Officer's response to the issues.

1. Amenity and Land Use

Submission:

Concerns development encroaches on the surrounding ambience for people living in close proximity.

Applicant's Response:

The proposed development is of an industrial nature similar to facilities in the area, including the adjoining Grain Terminal, fuel storage facility to the north, and nickel refinery to the east.

City's Comment:

The proposed development is an industrial type land use in the RIZ. The immediate locality is characterised by a mix of general, heavy industrial and port related land uses, with surrounding vacant land to the north-east and south-east also zoned for industrial development. The amenity aspects of this proposal have been discussed throughout this report, where it is concluded the development will have minimal impact on the amenity of the area and will not create or exacerbate any amenity issues for people living in close proximity.

Submission:

Concerns regarding storage of explosive substance - Ammonium Nitrate.

Applicant's Response:

The proposed development will import, store and distribute liquid UAN fertiliser, which is a liquid solution of urea and ammonium nitrate at concentrations which are not explosive.

Liquid UAN fertiliser has been manufactured in Kwinana for a number of decades, and in 2020 two liquid UAN fertiliser facilities were approved at Kwinana Beach by the MSWJDAP Panel and the MOJDAP.

City's Comment:

The Department of Mines, Industry Regulation and Safety (DMIRS) response is that the proposed development will not import or store Ammonium Nitrate or any other materials in quantities classified as Dangerous Goods under the Dangerous Goods Safety Act 2004 and Regulations.

DMIRS response is provided below in the Consultation with Government Agencies section of this report.

Submission:

Concerns that there are enough chemical plants in the area.

Applicant's Response:

No off-site impacts have been identified for the proposed development.

City's Comment:

The development is situated within an industrial area with port access.

As detailed throughout this report, the matters arising from this development are such that the proposed development is appropriately suited to its context.

2. Risk and Safety

Submission:

Some submitters questioned who can confirm the proposal does not present a risk to lives.

Applicant's Response:

The environmental impact assessment is being reviewed by the EPA and Department of Water and Environmental Regulation (DWER) who are the appropriate agencies to assess the risk and provide a determination on the suitability of the proposal.

There are no materials classed Dangerous Goods under the Australian Dangerous Goods code, International Maritime Dangerous Goods code and all material safety data sheets were provided to the City as part of the assessment process.

City's Comment:

The determination of risk guidelines for hazardous development are matters within the domain of the EPA under the EPA Act 1986 and the DMIRS under the Dangerous Goods Safety Act 2004 and Regulations.

DMIRS considered risk in terms of explosive gas atmosphere and hazardous zones and have confirmed that all the products and quantities intended to be stored on-site are not classified as Dangerous Goods.

The applicant has also demonstrated through the EPA process that impacts (marine environmental quality, Inland Waters for impacts on Cockburn Sound) associated with the proposed development can be managed to an acceptable standard.

3. Impact on Cockburn Sound – water quality

Submission:

A concern that the spilt grain from the existing Jetty is impacting the quality of water in Cockburn Sound.

Applicant's Response:

This comment relates to existing development and is not relevant to the current application.

The general operations related to the proposal have minimal possibility of causing any environmental impact to Cockburn sound, with stringent operational controls for loading and pumping of liquid UAN fertiliser and emergency response procedures in the unlikely event of a spill.

City's Comment:

Whilst the submission is not relevant to the proposed development, it is worth noting that as part of EPA's decision to assess the proposal, more information was requested from the proponent to determine the impact to marine environmental quality and to consider it in the context of the Cockburn Sound Environmental Policy area. By virtue of the EPA recommending approval to the Minister for Environment, it can be considered that the marine environmental impacts of the development are acceptable.

4. Environmental Reporting

Submission:

A concern that the supporting environmental report is thin, apologetic to zoning and highly qualified in its limitations, and likely reflects in the interests of CBH rather than the residents in the locality.

Applicant's Response:

There is no evidence in support of the claims. The environmental report is subject to assessment and review through the DWER works approval process. The application has also been self-referred to the EPA for a determination on whether an environmental review is required.

4. Environmental Reporting (cont...)

City's Comment:

The City's Sustainability and Environment Services has reviewed the applicant's submitted Environmental Assessment Report and Environmental Management Plan and is satisfied that development is unlikely to have an adverse environmental impact on the Development Area or surrounding land, subject to the following measures being undertaken:

- The applicant addressing City's Coastal Hazard Risk Management and Adoption Plan (CHRMAP);
- A revised Fauna Management Plan being provided and approved by the City of Rockingham prior to commencement of development, outlining the methods that will be implemented for the proposed cage-trapping program; and
- · All vegetation outside of the approved Development Area being retained.

With respect to the CHRMAP matter, this is discussed in detail in the Policy section of this report where it is concluded the proposed development has not adequately addressed the threat of coastal erosion.

Notwithstanding the above comment, condition/s requiring compliance with the abovementioned matters have been recommended in the event that the development is approved by MOJDAP.

Again, by virtue of the EPA recommending approval to the Minister for Environment, it can be considered that the submitted Environmental Assessment Report and Environmental Management Plan is acceptable.

5. Traffic

Submission:

A concern regarding increased truck movement along Rockingham Beach Road.

Applicant's Response:

No trucks or heavy vehicles will travel past residential areas to the southwest. Traffic analysis undertaken for the development application demonstrates the additional traffic will be accommodated satisfactorily within the road network, and no safety issues have been identified.

City's Comment:

The additional traffic from the north generated as a result of this development will operate along Rockingham Beach Road, which is in the process of being handed over from the City of Rockingham to Main Roads Western Australia and the City of Kwinana road network. These Government Agencies did not object to the increased traffic movements, and this is discussed below in Consultation with Government Agencies section of this report.

The City reviewed the traffic modelling for the proposal and considers that the existing surrounding road network has the capacity to accommodate the increase in traffic generated by the proposed development, subject to the construction of a 70m long auxiliary left-turn off Rockingham Beach Road. The auxiliary lane is necessary due to the high performance of RAV-4 network and semi-trailers which are required to access the facility.

No trucks or heavy vehicles associated with the proposal will travel along Rockingham Beach Road from the south, past residential areas to the southwest.

6. Not in the interest of the public

Submission:

The proposal is not in the long-term interests of Rockingham as a place where people want to live.

6. Not in the interest of the public (cont...)

Applicant's Response:

The submitted technical studies demonstrate the amenity of residential areas will be preserved with no adverse impact by way of noise, risk, traffic or the like.

City's Comment:

The Council must provide its recommendation to the MOJDAP on planning grounds, taking into consideration impacts on the amenity of surrounding locality. The development application complies with City's TPS2 and applicable planning policies, and is considered to be compatible with the General Industry zone and is unlikely to have any adverse impacts on the amenity of the Rockingham residents.

b. Consultation with Government Agencies

The following government departments and service agencies were consulted:

- Y Alinta Energy;
- \underset

 City of Kwinana;
- Y Cockburn Sound Management Council;
- Dampier-Bunbury Pipeline;
- Positive Department of Biodiversity, Conservation and Attractions;
- Department of Fire and Emergency Services;
- Pi Department of Mines, Industry Regulation and Safety;
- **Y** Department of Water and Environmental Regulation;
- **Y** Fremantle Ports Authority;
- Main Roads Western Australia;
- Ÿ Telstra; and
- Water Corporation.

The comments received are as follows:

1. City of Kwinana (CoK)

The fertiliser facility is located adjacent to Kwinana Beach Road, which is under the control of Main Roads WA. It is presumed the application has been referred to Main Roads WA for comment.

The City's Health team has requested than written notification be provided via email in the event any marine spillages result from the operations of the proposed development.

City's Comment:

Main Roads Western Australia response is provided below.

CoK comment pertaining to any spillage is noted.

2. Cockburn Sound Management Council (CSMC)

Under its Terms of Reference, CSMC is an advisory council to the Minister for Environment and as such, does not have a role in providing advice to decision-making authorities on development proposals in Cockburn Sounds. CSMC provides advice and recommendations to the Minister on the environmental management of Cockburn Sound to ensure the protection and maintenance of water quality and associated environmental values for the Cockburn Sound marine area.

City's Comment:

Noted.

mark for

3. Dampier-Bunbury Pipeline (DBP)

DBP as owners and operators of the Dampier-Bunbury Natural Gas Pipeline have no objection to the proposed facility as indicated on the plans supplied.

City's Comment:

Noted.

4. Department of Biodiversity, Conservation and Attractions (DBCA)

Any proposed clearing of native vegetation associated with the development should be undertaken in accordance with the Environmental Protection Act 1986 (EPA Act 1986) and Environmental Protection (Clearing of Native Vegetation) Regulations 2004, and discussed with the DWER.

City's Comment:

Based on the information provided the proposal may be exempt from the requirement for a clearing permit under Schedule 6, Clause 2 of the EPA Act 1986. This exemption is dependent upon whether it is determined that the development constitutes a derived proposal from the RIZ (Ministerial Statement 863) which was previously referred and assessed under Part IV of the EPA Act 1986. If the exemption is applicable, any clearing must be in accordance with the implementation agreement or decision. In any instance, the applicant will be required to liaise with Department of Water and Environmental Regulation in this regard.

5. Department of Fire and Emergency Services (DFES)

Bushfire Management Plan (BMP) Methodology

The BMP has not been prepared in accordance with Appendix 3 of the Guidelines. Notwithstanding that the CBH Grain Jetty is predominantly not in a bushfire prone area the BMP must assess the subject land in its entirety that includes the CBH Grain Jetty and the pipeline.

Management Agreement On-site (APZ)

DFES acknowledges that the BMP recommends that the Development Approval incorporates a condition requiring a Maintenance Agreement between the proponent and the owner of Lot 108. The condition requires an Agreement to be prepared and implemented in relation to maintenance of off-site vegetation management zone within an undeveloped portion of Lot 108 in perpetuity, or until such a time the bushfire hazard is permanently removed and the lot is developed to a non-vegetated/low threat state. DFES notes that Clause 4.6.2 of the Guidelines states: "As the BMP is a document that should apply for the life of the development, the decision-maker should require modifications to the document in the event that there are discrepancies, prior to endorsement and/or approval of the planning application being granted. Conditional approval should not be granted prior to the BMP being prepared and endorsed." Technical evidence and verification should be included in the BMP to qualify the vegetation exclusion can be achieved and that it is enforceable in perpetuity. An endorsed copy of the agreement or written undertaking by the Lot 108 landowner would address this requirement.

Recommendation

The development design has not demonstrated compliance to Element 1: Location and Element 2: Siting and Design.

The BMP has not assessed the CBH Grain Jetty and Pipeline.

Applicant's Response:

BMP Methodology

Grain Jetty and associated pipeline is subject to a separate development application which has been considered by WAPC. In accordance with the criteria outlined in Planning Bulletin 111/2016, these offshore works are considered exempt from responding to SPP3.7.



5. Department of Fire and Emergency Services (DFES) (cont...)

Management Agreement On-site (APZ)

The project area is being leased from the current landowner of Lot 108 who have indicated via email that they addressed a similar issue with the Puma development to the north-east, by including a licence clause for the off-site management zone outside the lease area. This approach allows for the partial or total termination of the licence clause, should future development of the off-site management zone permanently remove the bushfire threat (with non-vegetated elements or low threat vegetation). Given that DevelopmentWA is the owner of both the project area and the off-site management zone nominated in the BMP, it is considered that there is little risk involved with this arrangement, with it considered more formalising that the landowner understand their obligation to enable ongoing management of this land by CBH for the life of the facility, or until vegetation is permanently removed.

Recommendation

As outlined in the BMP, following implementation of the onsite APZ and the off-site management zone (the validly of which is addressed above), the vegetation classification and BAL contours are to remain as documented within the BMP. On this basis, all proposed development can be compliantly located in an area of BAL-29 or lower, and a compliant APZ within the project area, supplemented by the off-site management zone.

Compliance with A1.1 and A2.1 has been satisfactorily demonstrated.

City's Comment:

BMP Methodology

The pipeline and related infrastructure which is proposed to the south-west of Rockingham Beach Road, including Jetty infrastructure is subject to a separate Development Application under the MRS. Advice from Department of Planning, Lands and Heritage officers is that the response provided by the applicant adequately addresses the concern raised by DFES.

Management Agreement On-site (APZ)

As advised by the applicant in the response to this matter, the City is satisfied that an enforceable mechanism would be in place between the lessee and owner to permit an off-site vegetation management zone on Lot 108 (outside of the Development Area), should MOJDAP resolve to approve the proposed development.

Recommendation

The development application and the BMP have adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved. The City does not consider that modifications to the BMP are required.

The City and Department of Planning, Lands and Heritage is satisfied that the development in its entirety complies with SPP3.7, specifically Element 1: Location and Element 2: Siting and Design which is discussed in detail in the State Government Policy section of this report.

6. Department of Mines, Industry Regulation and Safety (DMIRS)

Based on the provided information, the products which are UN3082 are stored in Intermediate Bulk Containers (IBC) and are not classified as Dangerous Goods under SP01. The remainder of the bulk products are not classified as Dangerous Goods. As a result, this site would not be considered as requiring a Dangerous Goods Storage Licence.

As a result of our assessment that the site will not require a Dangerous Goods Storage Licence, it is therefore not tested for distance/buffers under Dangerous Goods legislation or relevant Australian Standards.

City's Comment:

Noted. The application was referred to DMIRS for comment to clarify if the development requires a Dangerous Goods Licence and registration of the proposed pipelines.

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

The Department has no objection to the proposal.

City's Comment:

Noted.

8. Department of Water and Environmental Regulations (DWER)

DWER has reviewed the application and wishes to advise it has no objections to the proposal. General advice is provided in relation to Industry Regulation, Native Vegetation Regulation and Contamination.

City's Comment:

DWER makes comment that no decision on this proposal should be made until the EPA's process is complete. Upon resolution of the EPA's process for determination at the time, DWER in its submission includes various advice notes relating to Industry Regulation, Native Vegetation Regulation and Contamination.

In relation to Contamination, DWER notes that part of Lot 108 is classified as potentially contaminated and continues to be managed under the Contaminated Sites Act 2003. DWER acknowledges that the extent of the proposed Development Area is outside the portions of Lot 108 where contaminated sites memorials are placed.

Given the risks associated with the potential disturbance of remnant buried asbestoscontaining material, DWER recommends an Asbestos Management Plan. The City agrees with the need for an Asbestos Management Plan, however, as a recommended condition of Development Approval.

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

9. DevelopmentWA

DevelopmentWA has no comment.

City's Comment:

Noted.

10. Fremantle Ports Authority (FPA)

FPA has reviewed the proposal and has no comment.

City's Comment:

Noted.

11. Main Roads Western Australia (MRWA)

MRWA has reviewed the application and wishes to advise it has no objection to the proposal subject to conditions relating to a Deed of Agreement, earthworks encroachment into the road reserve, stormwater discharge and waste collection pick up point.

City's Comment:

Noted. The recommended conditions and footnotes form part of the Officer recommendation for conditional Development Approval. The Deed of Agreement has been recommended as an advice note to the applicant since this matter would require agreement between CBH Group and Main Roads WA, not the City.

12. Water Corporation (WC)

The WC has no objection to the proposed development.

It is noted that the WC has an existing potable water pipe asset within Rockingham Beach Road and Lot 8003. Given the works proximity to the WC asset, in line with the corporations Working Near Assets Technical Guidelines, a damage risk assessment and working near assets approval shall be obtained prior to construction.

mark for

12. Water Corporation (WC) (cont...)

City's Comment:

Noted. An advice note per WC comment has been recommended in the event development is approved.

c. Strategic

Community Plan

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

Aspiration 3: Plan for Future Generations

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

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

consideration of future generations.

d. Policy

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

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

The entirety of the Development Area has been designated bushfire prone under the Fire and Emergency Services Act 1988 (as amended) and therefore the requirements of SPP3.7 are applicable.

The objectives of SPP3.7 are to:

- "Avoid any increase in the threat of bushfire to people, property and_infrastructure.

 The preservation of life and the management of bushfire impact are paramount.
- Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.
- Ensure that higher order strategic planning documents, strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.
- Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change."

As the land is designated as a bushfire prone area and is classified as a 'high risk' land use, the applicant submitted a BMP, Risk Management Plan (RMP) and Bushfire Emergency Plan (BEP) in support of the application, as per the requirements of SPP3.7.

The proposal was referred to DFES which advised development does not comply with Elements 1 and 2 of the Guidelines for Planning in Bushfire Prone Areas because the BMP excluded the Jetty and associated infrastructure from the BMP assessment and technical evidence was not included in the BMP to qualify that vegetation exclusion can be achieved and that it is enforceable in perpetuity. The matter raised pertaining to Element 1 relates to the extent of Seaward Development Application while matter raised pertaining to Element 2 relates to the extent of the Landside Development Application.

The City liaised with DPLH officers and determined that the submitted BMP adequately addresses the concerns raised by DFES. This was discussed in the Consultation with Government Agencies section of the report.

The BMP has been assessed and is considered acceptable. The requirements of the BMP are recommended as conditions of Development Approval.

Guidelines for Planning in Bushfire Prone Areas (GfPBPA)

The DPLH's GfPBPA provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP3.7. The following is an assessment against the relevant requirements of the GfPBPA.

Element 1 Location

The development in its entirety complies with the relevant Acceptable Solution for this Element, as the applicant has demonstrated through a BAL assessment and implementation of an Asset Protection Zone (APZ) that the maximum BAL level that buildings will be required to be constructed to will be BAL-19 of *Australian Standard 3959 - Construction of Buildings in Bushfire Prone Areas* (AS3959).

Element 2 - Siting and Development

The development complies with the relevant Acceptable Solution for this Element, as the buildings on the lot will be provided with an APZ (of the required dimension with off-site vegetation management zone).

Element 3 - Vehicular Access

The development includes two access routes which complies with the requirement of Acceptable Solution A3.1. Unless, however, there is a bushfire emergency, all truck movements as a result of this development are to travel north-east along Rockingham Beach Road as per MRWA requirements. The development also complies with the requirement of Acceptable Solution A3.4 (Battle-axe Lots) and Acceptable Solution A3.5 (Private Driveways).

Element 4 - Water

The proposed development will be connected to reticulated water supply via surrounding development in accordance with WC requirements.

State Planning Policy 4.1 - State Industrial Buffer Policy (SPP4.1)

The key objective of SPP4.1 is to protect industry, infrastructure and special uses from the encroachment of incompatible land uses as well as provide for the safety and amenity of land uses surrounding industry, infrastructure and special uses. As a result, most industries and infrastructure as well as other uses need to be separated from residential areas and other sensitive uses within a buffer area.

The objectives of SPP4.1 are as follows:

- "To provide a consistent Statewide approach for the definition and securing of buffer areas around industry, infrastructure and some special uses;
- To protect industry, infrastructure and special uses from the encroachment of incompatible land uses;
- To provide for the safety and amenity of land uses surrounding industry, infrastructure and special uses; and
- To recognise the interest of existing landowners with buffer areas who may be affected by residual emissions and risk, as well as the interests, needs and economic benefits of existing industry and infrastructure which may be affected by encroaching incompatible land uses."

The proposal is considered to be compatible with existing industrial land uses in the area, which has been strategically designated for port related industry type land uses. The development complies with SPP4.1, with any environmental impacts managed by the pending DWER Works Approval under the EPA Act.

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

The EPA Guidance Statement provides advice to proponents, responsible authorities, stakeholders and the public, on the minimum requirements for environmental management which the EPA would expect to be met when the Authority considers a development proposal.

For the purpose of the Guidance Statement, "industrial land use" is used in a general way to encompass a range of industrial, commercial and rural activities, associated with off-site emissions that may affect adversely the amenity of sensitive land uses. A table of land uses is provided in the Guidance Statement, however, it is recognised that the list is not definitive.

The generic separation distances are based on the consideration of typical emissions that may affect the amenity of nearby sensitive land uses. These include gaseous and particulate emissions, noise, dust and odour.

The EPA recommends a 300-500m distance buffer to all chemical blending or mixing (where chemicals or chemical products are blended, mixed or packaged) industries from sensitive land uses. It should be noted that the buffer recommended by the Guidance Statement is not an absolute separation distance, but instead are default distances providing general guidance in the absence of site-specific technical studies.

The nearest sensitive land use – Cee n See Caravan Park is setback approximately 647m from the proposed storage facility on Lot 108 where fertilisers are proposed to be blended and packaged. The development meets the generic separation requirements and is compliant with the EPA Guideline Statement.

Development Control Policy 4.2 – Planning for Hazards and Safety (DCP4.2)

DCP4.2 provides general provisions to ensure appropriate mechanisms are in place to control risk exposure, with the overarching objective of maintaining an appropriate level of public safety. The overseas catastrophe in Beirut, Lebanon has heightened public awareness of the hazards associated with land use activities such as storing of ammonium nitrate, which is reflected in the large number of submissions received objecting the development.

The determination of risk guidelines for hazardous development are matters within the domain of the EPA under the EPA Act 1986 and the DMIRS under the Dangerous Goods Safety Act 2004 and Regulations. DMIRS has confirmed that all the products and quantities intended to be stored are not classified as Dangerous Goods. It was also clarified that the proposed 20,000L diesel storage tank east of the storage warehouse does not require licencing either as it is under the 100KL threshold. As part of its assessment, EPA has determined that development is of a low risk.

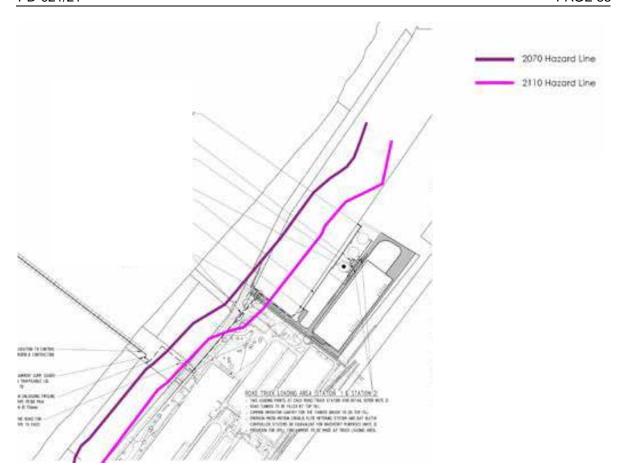
Further, DFES hazardous materials unit did not raise any concerns pertaining to the location of the proposed development.

DCP4.2 supports the location of hazardous industries within industrial areas, separated from residential areas. As the development is located within the established RIZ and is separated from sensitive land uses, the proposal is considered to be consistent with the applicable policy objectives.

City of Rockingham Coastal Hazard Risk Management and Adoption Planning (CHRMAP)

In September 2019, Council endorsed a CHRMAP, in accordance with State Planning Policy 2.6 - Coastal Planning. The CHRMAP is a strategic planning document that informs the community and decision makers about potential costal hazards (such as erosion and inundation), the risk and necessary actions. The CHRMAP outlines key directions for coastal adoption over a 100-year planning timeframe, while also prioritising management responses over the next 10 years.

An assessment of erosion vulnerability shows that the proposed development is within the coastal erosion hazard lines as modelled in the City's CHRMAP.



9. Coastal Erosion Overlay

The proposed overall development has not appropriately addressed the threat of coastal erosion as identified by the City's CHRMAP. It is noted that pipeline is to be built on existing infrastructure, however, the works will only increase the value of the assets at risk. The new pipeline and vehicle access-way onto Rockingham Beach Road are also proposed as part of the development seeking approval under TPS2 (refer to Figures 1-2 and 4-5). The extent of the overall proposed development extends beyond the areas of existing approved infrastructure, and as such, the Development Approval process is an appropriate mechanism to ensure that the risk of future coastal hazards is suitably addressed prior to these development commencing.

To address this risk, it is recommended that a condition requires the proponent to implement measures to protect or remove pipeline and road infrastructure once the most landward part of the Horizontal Shoreline Datum (HSD) is within the S1 storm erosion allowance of 17 metres of the most seaward part of the proposed development. This has been agreed at Officer level with the DPLH staff.

The CHRMAP has acknowledged the strategic economic importance of CBH Kwinana Grain Terminal to the State and this infrastructure has been identified as a priority for long-term protection, subject to this protection being funded by the CBH Group or the State Government. As the CHRMAP was endorsed by Council, it is the City's position that any future protection of this infrastructure will not be funded by the City.

Planning Policy 3.3.8 - East Rockingham Development Guidelines (draft) (PP3.3.8)

The proposed revised PP3.3.8 was considered in conjunction with revised Scheme Amendment No.178 as part of a broader review of the statutory framework that applies to the East Rockingham Industrial Zones. The revised PP3.3.8 will replace the current version of PP3.3.8 in its entirety and comes into effect upon the gazettal of Scheme Amendment No.178 to TPS2. Hence, draft PP3.3.8 is considered to be a seriously entertained planning instrument.

The objectives of draft PP3.3.8 are:

- "To achieve attractive and unified development which acknowledge the goal of conserving and enhancing the natural environment through the retention of natural vegetation and introduction of water efficient and quality landscaping together with well-designed buildings;
- To achieve consistency and compatibility in the built form and landscaping, whilst allowing for individuality and well presented corporate or market image;
- · To avoid unsightly and poorly planned development; and
- To protect and enhance natural vegetation along Patterson Road and Mandurah Road, as major entry ways to the City, to ensure Industrial development is appropriately screened."

The design of buildings along with car parking and landscape improvements complies with the standards of the draft PP3.3.8.

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

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

Bicycle parking requirement

The requirement for short-term parking is not considered to serve any benefit, and for that reason only the requirement for long-term was applied.

Land Use	Minimum Short-Term Parking	Minimum Long-Term Parking
Office (350m ² NLA)	0.05 spaces per 100m ² NLA	0.45 spaces per 100m ² NLA
Industry (<1000m ² NLA)	N/A	0.1 spaces per 100m ² NLA

Note:

All rounding of bicycle parking rates is to be calculated by rounding up to the nearest whole number.

The proposed development requires the provision of 2.8 (3) long-term bicycle parking spaces. The proposed development provides two U-rails along the eastern side of the administration building capable of parking four bicycles.

In its submission, the applicant states that "due to the frequency of heavy vehicles accessing the site and the limited access points, along with the intended 24 / 7 operational nature of development, site access may be required to be restricted to vehicles only." Whilst the above comments are acknowledged, cycling may be attractive to employees of the proposed development and two U-rails are considered appropriate as on-site traffic safety measures can be adopted by the operator to ensure safe cyclist passage. A condition of Development Approval requiring the provision of minimum 3 bicycle parking spaces is recommended.

End-of-Trip Facilities

The provision of 3 long term parking spaces does not require the provision of shower facilities. The proposed administration building includes four showers and 13 lockers.

Planning Policy 3.3.21 - Heritage Conservation and Development (PP3.3.21)

The Kwinana Grain Terminal Granary Museum and Jetty, are listed as Site No.15 of the City's Local Heritage Survey (formerly called the Municipal Heritage Inventory). The places were included on the City's original Municipal Heritage Inventory in 2008 and are identified as buildings of "considerable significance".

The development requires the construction of a UAN pipeline and receival equipment which will lead along the eastern side of the Jetty and from there to the liquid UAN fertiliser storage facility along the approach Jetty to the land crossing under the portion of Rockingham Beach Road adjacent to the Kwinana Grain Terminal. The pipeline then runs underground along the western edge of the Kwinana Grain Terminal (used for landscaping and vehicular access), through to the fertiliser facility and to the liquid UAN storage tanks.

The development is complementary to the existing CBH operations and has no material impact on the aesthetic and historic value of the Kwinana Grain Terminal Granary Museum and Jetty. The application is considered to be compliant with PP3.3.21.

Planning Policy 7.3 - Cockburn Sound Catchment (PP7.3)

The objective of PP7.3 is to protect and improve the marine waters of Cockburn Sound by minimising contaminant inputs (particularly nutrients) from different land use sources. PP7.3 utilises the following categories for assessment against minimum requirements for development standards:

- Nutrient Loading;
- Nutrient Intensive Land Uses;
- Nutrient Retentive Effluent Disposal Systems;
- · Stormwater Management; and
- Native Vegetation and Wetland Management.

The proposed development is not considered to be a nutrient intensive land use and will not result in nutrient loading. The liquid UAN fertiliser and solid fertiliser is to be stored in enclosed, sealed storage facilities that will prevent the leaching of nutrients to the environment and will be handled and stored in compliance with the licensing requirements specified by DWER. A liquid UAN Spill Response Procedure and Diesel Spill Response Plan have been prepared to account for any spillage of liquid UAN fertiliser.

There are no reticulated sewerage networks in the area. As reticulated sewerage service is not available on Lot 108, a secondary treatment system with nutrient retention will be required for wastewater produced from staff facilities. The storage of potentially contaminated stormwater from bunded areas will be directed into a waste stabilisation (evaporation) pond. An application will need to be made to the City of Rockingham's Health Services for installation of the secondary treatment system and the evaporation pond as required by Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974.



10. Existing Sewer Network (red line shows the location of any sewerage)

A Water Management Plan has been prepared by the applicant which the City considers sufficiently demonstrates that protection of groundwater quality can be achieved, which is further discussed in the Legal and Statutory section of this report. Also, the proposed development is located within the RIZ and already possess a clearing permit.

The application complies with PP7.3.

e. Financial

Nil

f. Legal and Statutory

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

Clause 67 of Schedule 2 of the Regulations outlines the matters to which the Local Government is to have due regard when considering an application for Development Approval. Where relevant, these matters have been discussed throughout this report.

Town Planning Scheme No.2 (TPS2)

Land use

As different fertiliser products are blended on-site, the development is a 'Prescribed Premises' under Category 33 (Chemical blending) under Schedule 1 of the EPA Act 1986. Hence, the City considers the proposal represents an Industry General: Licensed use in the context of the TPS2, which is classified as an 'A' listed use in the General Industry zone. This means the use is not permitted unless the Local Government has exercised its discretion by granting Development Approval, post consultation – noting that the City of Rockingham is not the decision making Authority for this application.

TPS2 defines an Industry General: Licensed land use as:

"an industry which is a category of Prescribed Premises set out in Schedule 1 of the Environmental Protection Regulations 1987 or premises subject to registration set out in Schedule 2 of the Environmental Protection Regulations 1987, but does not include an abattoir, agriculture – intensive, animal husbandry – intensive, industry – extractive, industry – hazardous, industry – noxious, industry – primary production, industry – rural, landfill (Prescribed Premises Category 63, 64, 65 and 66), or stockyard."

The City's assessment of the proposal against the relevant development standards of TPS2 is discussed below.

Clause 4.10.1 - Objectives

The objectives of the Industrial zoned land are:

- "(a) to provide for a range of industrial land uses by establishing guiding principles and policies that are environmentally and socially acceptable;
- (b) to encourage and facilitate the establishment of attractive and efficient industrial areas ensuring that acceptable levels of safety and high standard of amenity are provided through the application of appropriate landuse, design and landscaping controls; and
- (c) to ensure that industrial areas are developed in a manner which has due regard to potential industries and their infrastructure needs, and that adjacent urban areas are not subjected to pollution and hazards."

The site is fenced, illuminated and operated at majority of times to ensure security.

The EPA has assessed the environmental and social impacts of the development and has recommend approval to the Minister for Environment on the environmental and social impacts of the development being acceptable.

The proposed development is considered consistent with the objectives of the Industrial zones.

Clause 4.10.2 - Form of Development

The Local Government shall have regard to the following when considering an application for development approval on Industrial zoned land:

- "(a) promotion of a high standard of building development, landscaping and working environment:
- (b) protection of the amenity of adjacent residential and open space areas;
- (c) management of drainage systems and land uses to promote groundwater and conservation; and
- (d) to ensure safe movement of vehicular and pedestrian traffic in the area."

The proposed development is compliant with draft PP3.3.8 in regards to the building design, car parking, landscaping and the working environment.

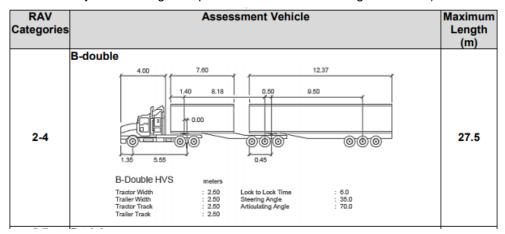
The locality has a mix of general, heavy industrial and port related industry land uses, with surrounding vacant land to the north-east and south-east also zoned for industrial purposes. The abutting Parks and Recreation Reserve, west of Lot 108 is undeveloped and access into the Reserve is restricted. The proposed development is considered to be compatible with the locality.

Drainage

Given that engineering plans and cross-sections have not been provided at the development application stage (generally provided at the detailed design stage), it is difficult to determine how the proposed drainage infrastructure will integrate with all other elements of the development. The Water Management Strategy does address the initial concerns raised pertaining to urban water and consequently the City is satisfied that management of drainage and groundwater can be resolved at the detailed design stage.

Traffic

Main Roads WA is responsible for determining and administering road access for Restricted Access Vehicles (RAV) in Western Australia. The standard RAV categories are grouped into four (4) assessment levels from Level 1 (B-Double maximum length 25m or 27.5m to Level 4 with heavy vehicle lengths equivalent to a maximum length of 53.5m).



11. Example of a 27.5m B-Double Vehicle

The applicant, through WSP, conducted a Transport Impact Assessment (TIA) to assess the impact the proposed development will have on the local road network in the context of the existing capacity of the proposed haulage route. The TIA identified that the proposed facility requires the construction of a 70m long auxiliary left-turn off Rockingham Beach Road due to the high performance of RAV-4 network and semi-trailers that are required to access the facility to ensure they minimise disturbance on the flow of through traffic along this traffic route. TIA concludes that there were no issues identified with regard to traffic operations of the proposed development. The findings concur with the City's assessment of the TIA and have been corroborated by CoK and MRWA, as previously discussed in the Consultation with Government Agencies section of this report.

Acoustics

The City's Health Services has reviewed the Acoustic report and advised that the development is unlikely to have an adverse impact on surrounding land uses.

4.10.3 - Parking

TPS2 requires the provision for the on-site parking of vehicles for all development on industrial zoned land in accordance with the provisions of Clause 4.15 and Table No.2. The proposed development is a land use that is not specified in Table No.2 and therefore no minimum car parking requirement is specified. In accordance with Clause 4.15.1.4, where land is proposed to be developed for a purpose which is not specified in Table No.2, the Council is to determine the number of car parking bays required in regards to the following:

- "(i) The nature of the proposed development;
- (ii) The number of employees likely to be employed on the site;
- (iii) The anticipated demand for parking; and
- (iv) The orderly and proper planning of the locality"

The development proposes 11 car parking bays which includes one accessible bay.

The applicant has stated that the facility has an intended workforce of six, with a maximum capacity for 10 staff to manage and coordinate the facility operations. It is understood that all car parking and vehicular access will be at the facility on Lot 108 with no new parking or vehicle access proposed at the Jetty. Entry to the facility will also be restricted to authorised vehicles via a security gate adjacent to the administration building along the access road into the site. Given there are adequate bays to accommodate the intended workforce and visitor access being restricted, the parking requirements of TPS2 are considered to be compliant with the above criteria.

4.10.4 - General Development Provisions

Clause 4.10.4 provides for development provisions on all Industrial zoned land within the City. The provisions are outlined below and considered in relation to the proposed development.

General Development Provisions	Provided	Compliance
Facade		
The facades of all buildings visible from the primary road or open space area shall be of masonry construction or any other material approved by the Local Government in respect of the ground floor level, provided that if concrete panels are used, such panels must have an exposed aggregate or textured finished. The second floor level or its equivalent may be constructed of any other material in accordance with the Building Code of Australia and to the satisfaction of Local Government.	The proposed development on Lot 108 does not have a direct frontage to its primary road, however, it does adjoin a Parks and Recreation reserve to the west. The storage warehouse, administration building and three liquid storage tanks visible from the reserve are proposed to be constructed of materials generally expected within an industrial setting (e.g. concrete, fibre cement sheeting and colorbond). A proposed 10m wide landscaping strip along the western side boundary will further assist soften visual impact from the public realm.	Yes
Fencing		
No fence visible from a road or open space reserve shall be constructed of materials/colours which in the opinion of Local Government are unsightly or detract from the amenity of the locality, or be used for signage where the approval of the Local Government has not been granted.	The proposed fencing shall be constructed from black PVC coated galvanised mesh material at a height of 2.1m along the northern, eastern and western side boundaries of the site.	Yes

Fencing (cont)		
Any industrial (e.g. chain wire) fencing forward of the street building setback line shall be landscaped to the satisfaction of the Local Government.	The proposed fencing material is considered acceptable as it will not be visible from Rockingham Beach Road.	
Setback Area		
No use of the area between the street alignment and the prescribed building setback line shall be permitted other than for landscaping, or for pedestrian and vehicular circulation and parking, except that not more than 20% of the setback area may be used for trade display purposes, to be approved at the discretion of the Local Government.	Area between the street alignment and prescribed building setback will only be used for pedestrian and vehicular circulation.	Yes

4.10.9 General Industry zone

Clause 4.10.9 provides for setback and landscaping requirements for developments within the General Industry zone. The provisions are outlined below and considered in relation to the proposed development.

General Development Provision	Provided	Compliance
Setback		
A minimum front setback of twenty five (25) metres shall apply for major structures and a minimum front setback of fifteen (15) metres shall apply to offices, gatehouses and amenity buildings. Where a lot has frontage to two or more streets, the prescribed front setbacks of twenty five (25) metres and fifteen (15) metres shall apply to the primary street and the setback to the secondary street shall be determined by the Local Government, but shall not be less than the prescribed minimum landscaping setback requirement.	A front setback of 156m has been provided from Rockingham Beach Road, which is to the administration building. All pipeline infrastructure including works with the front setback area shall be situated below the ground level.	Yes
Landscaping		
Landscaping shall be provided on all street frontages for a distance of not less than 10 metres from each property boundary. At the discretion of Local Government, additional landscaping may be required on the remainder of the site.	Development on Lot 108 does not have a direct street frontage. A 10m wide landscaping strip has been provided along the western side boundary and a partial 3m wide landscaping strip has been provided along the northern side boundary of the development site. A revised Landscape Plan was also subsequently submitted as requested by the City showing a landscape treatment along the northeaster side of the access road.	Yes, subject to condition of Development Approval

Landscaping (cont)		
	The City does not consider that any further landscaping is necessary to support the proposed development on Lot 108, however, notes that the plan does not provide any details on the proposed drainage swales.	
	Because of this, the Landscape Plan is not consistent with the Water Management Strategy which is evident in the vegetation that is proposed along the northern side boundary (e.g. vegetation not typical for regular inundation - Banksia Trees are not typically positioned in drainage swales).	
	A condition requiring landscaping in accordance with the submitted plans and matters raised above is recommended should the application be approved.	

g. Risk

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

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

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

Nil

Comments

The proposed development is an industrial land use. The context of the surrounding locality is for a mix of general, heavy industrial and port related industry land uses, with surrounding vacant land to the north-east and south-east also zoned for industrial purposes. The proposed development is considered compatible with the existing surrounding context of the locality.

The proposed development is compliant with TPS2, Policy requirements and represents effective use of currently vacant industrial land within the RIZ.

Granting Development Approval consents to the proposed land use and location of buildings. Should an approval be granted, the applicant is still subject to further approvals (Building Permits and DWER licences) that must be obtained prior to development commencing.

It should be noted that the MOJDAP will not be able to make its decision on the proposed development until the Minister for Environment decision is made under section 45(8) of the EPA Act 1986, which involves the issue of the Ministerial Statement. The EPA assessment has drawn to a conclusion and it is expected that the Ministerial Statement will be released shortly after.

It is recommended that the application be conditionally approved.

Voting Requirements

Simple Majority

Officer Recommendation

That Council **ADOPTS** the Responsible Authority Report for the application for the proposed Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility at Lots 108, 1304, 8003 and Portion of Road Reserve, Rockingham Beach Road, East Rockingham.

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Committee Recommendation

Moved Cr Sammels, seconded Cr Edwards:

That Council *ADOPTS* the Responsible Authority Report for the application for the proposed Liquid Urea Ammonium Nitrate Fertiliser and Solid Fertiliser Storage and Blending Facility at Lots 108, 1304, 8003 and Portion of Road Reserve, Rockingham Beach Road, East Rockingham, contained as Attachment 1 as the report required to be submitted to the presiding member of the Metro Outer Joint Development Assessment Panel pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulations 2011, which recommends:

That the Metro Outer Joint Development Assessment Panel resolves to:

Approve DAP Application reference DAP/20/01878 and accompanying plans:

- This decision constitutes development approval only and is valid for a period of four years from the date of approval (this is inclusive of the additional two years available under 'Clause 78H Notice of Exemption from planning requirements during State of Emergency' issued by the Minister for Planning on 8 April 2020). If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
- Development is to be removed, modified or protected at the lessees/landowners cost when the most landward part of the Horizontal Shoreline Datum is within 17 metres of the proposed development to the satisfaction of the City of Rockingham, on advice from Western Australian Planning Commission.
- 3. Prior to commencement of development, detailed civil engineering construction plans for the auxiliary left turn treatment within the Rockingham Beach Road road reserve shall be submitted by a suitably qualified person to the City of Rockingham and Main Roads WA for approval. These works must be constructed, in accordance with the approved plans, prior to the occupation of the development.
- 4. Prior to commencement of development, an updated Stormwater Management Plan must be submitted showing how stormwater will be contained on-site and those plans must be submitted to the City of Rockingham for its approval. All stormwater generated by the development must be managed in accordance with Planning Policy 3.4.3 Urban Water Management to the satisfaction of the City of Rockingham. The approved plans must be implemented and all works must be maintained for the duration of the development.
- 5. Stormwater discharge (if any) shall not exceed pre-development discharge to the Rockingham Beach Road reserve.
- 6. Prior to commencement of development, an updated Fauna Relocation Plan for the native fauna species within the site is to be prepared, approved and implemented to the satisfaction of the City of Rockingham, to ensure the protection and management of the site's environmental assets.
- 7. Prior to commencement of development, a Dust Management Plan for the development must be prepared and approved by the City of Rockingham and all measures identified in the plan shall be implemented to the satisfaction of the City of Rockingham for duration of the development.
- 8. Prior to commencement of development, an Asbestos Management Plan shall be developed and implemented to address the potential risks to site workers to the satisfaction of the City of Rockingham and Department of Water and Environmental Regulations.
- 9. Prior to commencement of development, a revised Landscaping Plan must be prepared and must include the following:
 - (i) The location, number and type of existing and proposed trees (including any shade trees), swales and shrubs, indicating calculations for the landscaping area;
 - (ii) Any lawns to be established;
 - (iii) Those areas to be reticulated or irrigated for plant establishment;

- (iv) All plants to be native; and
- (v) The swale south of the administrating building is to include a combination of mulch and plantings or alternatively is to be grassed.

The landscaping, paving and reticulation must be completed prior to the occupation of the development, and the approved Landscaping Plan must be maintained at all times to the satisfaction of the City of Rockingham for the duration of the development.

- 10. Prior to occupation of development, as this land is not connected to the reticulated sewerage infrastructure, development on Lot 108 must adhere to the Government Sewage Policy 2019 including the requirement for a secondary treatment system with nutrient removal as well as setbacks required to the satisfaction of the City of Rockingham and Department of Water and Environmental Regulation.
- 11. Prior to occupation of the development, the Asset Protection Zone on Lot 108, as depicted in the Bushfire Management Plan prepared by Linfire Consultancy, dated 31 July 2020 must be implemented in accordance with the WAPC Guidelines for Planning in Bushfire Prone Areas. The Asset Protection Zone must be maintained for duration of the development.
- 12. No earthworks shall encroach to the Rockingham Beach road reserve.
- 13. Earthworks over the site associated with the development must be stabilised to prevent sand or dust blowing off the site, and appropriate measures shall be implemented within the time and in the manner directed by the City of Rockingham in the event that sand or dust is blown from the site.
- 14. All vegetation outside the approved development area on Lot 108 must be retained, unless otherwise required for bushfire mitigation pursuant to the Offsite Vegetation Management Zone which is identified within the Linfire Consultancy Report, dated 31 July 2020 for duration of the development.
- 15. Grass tree plants (XANTHORRHOEACEAE family) must be retained (unless specifically identified for removal on the approved Landscaping Plan) and, during the construction period, measures for their retention must be taken in accordance with Australian Standard AS 4970—2009, Protection of trees on development sites. Arrangements must be made to the satisfaction of the City for all grass tree plants requiring removal to be relocated, prior to applying for a Building Permit.
- 16. In accordance with City of Rockingham Planning Policy 3.3.14 Bicycle parking and End of Trip Facilities, 3 long-term bicycle parking spaces must be provided for the development. The bicycle parking spaces must be designed in accordance with AS2890.3— 1993, Parking facilities, Part 3: Bicycle parking facilities and must be approved by the City of Rockingham prior to applying for a Building Permit and constructed prior to occupancy of the development.
- 17. The Carpark must:
 - (i) provide 11 car parking spaces;
 - (ii) be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval prior to commencement of development;
 - (iii) minimum one (1) car parking space dedicated to people with disabilities designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
 - (iv) Be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;
 - (v) Have lighting installed, prior to the occupation of development; and

- (vi) Confine all illumination to the land in accordance with the requirements of Australian Standard AS 4282-1997, Control of the obtrusive effects of outdoor lighting, at all times
- 18. Materials, sea containers, goods or bins must not be stored within the carpark at any time.
- 19. No waste collection is permitted from the Rockingham Beach Road reserve.

Advice Notes

- 1. Prior to construction of the below ground liquid fertiliser pipeline, a Deed of Agreement regarding the pipeline crossing the Rockingham Beach Road reserve shall be entered into and executed between CBH Group and Main Roads Western Australia. The Deed shall be prepared by and be at the cost of the lessee/landowner.
- The proponent is advised of the requirement under the Environmental Protection Act 1986 to obtain a clearing permit for the clearing of native vegetation from the Department of Water and Environmental Regulation.
- 3. The proponent is advised that this approval is not a building permit, which constitutes a separate legislative requirement. Prior to any building work commencing on site, a building permit may need to be obtained.
- 4. The proponent is to ensure Health (Asbestos) Regulations 1992 and National Code of Practice for the Safe Removal of Asbestos practices and procedures are in place and followed during the removal of any asbestos containing material.
- 5. Any spills on-site exceeding in-ground containment, are to be reported to the City of Rockingham and Department of Water and Environmental Regulations.
- 6. Main Roads Western Australia is the responsible authority for the Rockingham Beach Road reserve adjacent to the CBH Kwinana Grain Terminal. Main Roads has provided the applicant with authority to lodge a development application for a below ground liquid fertiliser pipeline crossing the Rockingham Beach Road reserve. This is subject to a deed between CBH Group and Main Roads in relation to the pipeline being executed prior to construction of the pipeline and this requirement for a deed being a condition of development application approval.
- 7. Given the works proximity to a water pipe asset within the Rockingham Beach Road and reserve Lot 8003, a damage risk assessment and working near assets approval shall be obtained prior to construction from Water Corporation.
- 8. All works in the road reserve, including construction of a crossover and other streetscape works and works to the road carriageway must be to the satisfaction of the City of Rockingham and Main Roads WA; the applicant should liaise with the City of Rockingham's Land Infrastructure and Development Services and Main Roads WA in this regard.
 - The applicant is required to submit an Application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.
- 9. With respect to the Landscape Plan and Stormwater Management Plan, the applicant is to liaise with the City's Land Development and Infrastructure Services in this regard.
- 10. With respect to the Dust Management Plan, the applicant is to prepare a Plan in accordance with the Environmental Protection Authority Dust Management Plan Guidelines.
- 11. In relation to Condition 2, the applicant is advised that the Horizontal Shoreline Datum means the active limit of the shoreline under storm activity, as defined in State Planning Policy 2.6 State Coastal Planning Policy (2013). The applicant is advised that the 17 metre distance between the Horizontal Shoreline Datum and the proposed development is the S1 value for this location which is obtained from the Coastal Hazard Risk Management and Adaptation Plan prepared for the City of Rockingham. S1 is the allowance for absorbing the current risk of storm erosion, as defined in State Planning Policy 2.6 Coastal Planning.
- 12. In relation to Condition 6, the following additional detail is required in the Fauna Relocation Plan to outline the methods that will be implemented for the proposed cage-trapping program:

- A list of all required fauna relocation licenses that are to be obtained from the Department of Biodiversity, Conservation and Attractions. Copies of these licenses are required to be sent to the City prior to any trapping commencing onsite; and
- A detailed trapping methodology with the Southern Brown Bandicoot being the primary target species. The methodology must be in accordance with the relevant Department of Biodiversity, Conservation and Attractions guidance.

The applicant is advised to liaise with the City of Rockingham Sustainability and Environment Department in this regard.

- 13. In relation to Condition 8, the Asbestos Management Plan should be prepared in accordance with the Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC:2008 (2005)] (National Occupational Health and Safety Commission, April 2005.
- 14. In relation to Condition 10, an application will need to be made to the City of Rockingham Health Services for installation of the secondary treatment system and the evaporation pond as required by Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974.

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 and Parks Services Engineering Services



Reference No & Subject: EP-013/21 Tender T21/22-03 - Construction of Stage 2 of the Mersey Point Granite Seawall

File No: T21/22-03

Applicant:

Owner:

Author: Mr Manoj Barua, Manager Engineering Services

Other Contributors: Mr Stephen Forrester, Coordinator Coastal Engineering and

Fleet

Mr Matthew Donaldson, Coastal Engineering Officer

Date of Committee Meeting: | 14 June 2021

Previously before Council:

Disclosure of Interest:

Nature of Council's Role in

this Matter:

Executive

Site: R22948

Lot Area: Lot 24 Arcadia Drive, Shoalwater

LA Zoning:

MRS Zoning:

Attachments: Mersey Point Seawall - Stage 2 Set out Plan - Drawing

No.311010-00127-CS-DWG-0002 Rev C

Maps/Diagrams:

Purpose of Report

To provide Council with details of the Tenders received for Tender T21/22-03 - Construction of Stage 2 of the Mersey Point Granite Seawall, document the results of the Tender assessment and make recommendations regarding award of the Tender.

Background

The City has been conducting coastal monitoring at Mersey Point for the past decade and analysis of this extensive historical data has enabled a planned approach for considering coastal protection at the site.

Due to significant recent localised erosion at Mersey Point, Shoalwater, the City will demolish the existing limestone rock revetment/seawall and construct a 325m granite seawall to improve coastal protection to existing City infrastructure located behind the seawall, including the Arcadia Drive road reserve.

Tender T21/22-03 - Construction of Stage 2 of the Mersey Point Granite Seawall was advertised in the West Australian on Saturday, 17 April 2021. A mandatory site briefing session was held on-site at the Mersey Point Seawall with prospective tenderers on Tuesday, 4 May 2021.

The Tender closed at 2.00pm, Wednesday, 12 May 2021 and was publicly opened immediately after the closing time.

Details

The scope of works under the contract includes;

- Demolition and removal of the existing limestone seawall;
- Earthworks, excavation, backfilling and compaction related to upgrade/extension of the seawall;
- · Construction of the seawall as per the Drawings and the Specification;
- · Construction of beach access stairs as per the Drawings and the Specification.
- Design and construction of screw pile foundation as per the Specification and required performance criteria.

Tender submissions were received from WA Limestone Company Pty Ltd, Advanteering Civil Engineers Pty Ltd and Neo Civil Pty Ltd.

A panel comprising Director Engineering and Parks Services, Coordinator Coastal Engineering and Fleet and Coastal Engineering Officer undertook Tender evaluations.

Evaluation of the Tender, in accordance with the advertised Tender assessment criteria, produced the following weighted scores:

Assessment Criteria	Level of Service	Understanding Tender Requirements	Tendered Price/s	Total Weighted Scores
Max. Points	35 Pts	35 Pts	30 Pts	100 Pts
Neo Civil Pty Ltd	30.1	29.0	30.0	89.1
Advanteering Pty Ltd	29.9	29.2	23.0	82.1
WA Limestone Company	30.7	28.6	20.7	80.0

Implications to Consider

a. Consultation with the Community

Not Applicable

b. Consultation with Government Agencies

The project was identified and approved for funding under the Australian Government, Department of Infrastructure, Transport, Regional Development and Communications - Local Road and Community Infrastructure Program (LRCI).

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

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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

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

e. Financial

Lump Sum Tenders

The project has been approved for 100% funding under the Australian Government, Department of Infrastructure, Transport, Regional Development and Communications - Local Road and Community Infrastructure Program (LRCI).

The LRCI guidelines allow for transfer of cost savings to other funded projects. The City has sufficient funds available from savings in recently completed projects under the LRCI program to reallocate to the Construction of Stage 2 of the Mersey Point Granite Seawall.

An amount of \$1,811,249 has been allocated for the project in the 2021/2022 Budget and the additional funds, \$134,843 will be reallocated from recently completed projects under the LCRI program.

f. Legal and Statutory

In accordance with section 3.57 of the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11(1).

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

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

High (Environment) - the foreshore and nearshore areas in this location are subject to significant erosion risk and storm damage as identified in CHRMAP. Temporary repairs to the existing limestone seawall were necessary to address storm damage in recent years and subsequent assessment indicated the need for the replacement of the existing structure.

Comments

Tenderers were required to supply information addressing level of service, organisational structure, demonstrated relevant industry experience, available resources, qualified personnel, methodology for undertaking works and quality accreditation systems.

The standard of information in the Tender submissions demonstrated that all three companies have the relevant coastal and marine seawall construction experience, capacity and capability to undertake the works. The companies provided a very high level of service and understanding of Tender requirements demonstrated in their methodology statements. Neo Civil Pty Ltd scored in the top two submissions across Level of Service and Understanding of Tender requirements. Neo Civil Pty Ltd also scored the highest in the tendered price giving it the highest overall score.

Following consideration of the submissions in accordance with the Tender assessment criteria, the submission received from Neo Civil Pty Ltd is considered the best value to the City and therefore recommended as the preferred Tenderer.

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Voting Requirements

Simple Majority

Officer Recommendation

That Council *ACCEPTS* the Tender submitted from Neo Civil Pty Ltd, 2/5 Davidson Terrace, Joondalup WA 6027 for Tender T21/22-03 - Construction of Stage 2 of the Mersey Point Granite Seawall in accordance with the Tender documentation for the lump sum value of \$1,946,092.00 (ex. GST).

Committee Recommendation

Moved Cr Sammels, seconded Cr Edwards:

That Council *ACCEPTS* the Tender submitted from Neo Civil Pty Ltd, 2/5 Davidson Terrace, Joondalup WA 6027 for Tender T21/22-03 - Construction of Stage 2 of the Mersey Point Granite Seawall in accordance with the Tender documentation for the lump sum value of \$1,946,092.00 (ex. GST).

Committee Voting (Carried) - 5/0

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

Not Applicable

Implications of the Changes to the Officer's Recommendation

Not Applicable

13.	Reports of Councillors
	Nil
14.	Addendum Agenda
	Nil
15.	Motions of which Previous Notice has been given
	Nil
16.	Notices of Motion for Consideration at the Following Meeting
	Nil
17.	Urgent Business Approved by the Person Presiding or by Decision of the Committee
	Nil
18.	Matters Behind Closed Doors
	Nil
19.	Date and Time of Next Meeting
	The next Planning and Engineering Services Committee meeting will be held on Monday 19 July 2021 in the Council Chambers, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.
20.	Closure
	There being no further business, the Chairperson thanked those persons present for attending the Planning and Engineering Services Committee meeting, and declared the meeting closed at 5:05pm .