



NOTICE OF MEETING

PLANNING COMMITTEE

Members of the Planning Committee are advised that a meeting of the Committee will be held in Council Chambers, Civic Building, 83 Mandurah Terrace, Mandurah on:

**Tuesday 1 August 2017
at 5.30pm**

MARK R NEWMAN
Chief Executive Officer
26 July 2017

Committee Members:

Councillor Peter Rogers (Chairman)
Councillor Jackson
Councillor Tahlia Jones
Councillor Knight
Hon Councillor Riebeling
Councillor Lynn Rodgers
Councillor Wortley

Deputies:

Councillor Field (1st Deputy Member)
Councillor Lee (2nd Deputy Member)

NOTE: Should an Elected Member wish to view any location listed on this Agenda, officers will be available in the Councillor's Lounge at 9.00 am on Tuesday 1 August 2017.

AGENDA

1. **OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS**
2. **ATTENDANCE AND APOLOGIES**
3. **IMPORTANT NOTE:**

Members of the public are advised that the decisions of this Committee are referred to Council Meetings for consideration and cannot be implemented until approval by Council. Therefore, members of the public should not rely on any decisions of this Committee until Council has formally considered the resolutions agreed at this meeting.

4. ANSWERS TO QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Public Question Time provides an opportunity for members of the public to ask a question of Council. For more information regarding Public Question Time, please telephone 9550 3706 or visit the City's website www.mandurah.wa.gov.au.

6. PRESENTATIONS AND ANNOUNCEMENTS BY CHAIRMAN**7. DEPUTATIONS**

Any person or group wishing to make a 5-minute Deputation to the Committee meeting regarding a matter listed on this agenda for consideration must first complete an application form. For more information about making a deputation, or to obtain an application form, please telephone 9550 3706 or visit the City's website www.mandurah.wa.gov.au.

NB: Persons making a deputation to this Committee meeting will not be permitted to make a further deputation on the same matter at the successive Council meeting, unless it is demonstrated there is new, relevant material which may impact upon the Council's understanding of the facts of the matter.

8. CONFIRMATION OF MINUTES: 4 JULY 2017

(NB: It is the Elected Members' responsibility to bring copies of the previous Minutes to the meeting if required).

9. DECLARATIONS OF FINANCIAL, PROXIMITY AND IMPARTIALITY INTERESTS**10. QUESTIONS FROM ELECTED MEMBERS WITHOUT DISCUSSION**

10.1 Questions of which due notice has been given

10.2 Questions of which notice has not been given

11. BUSINESS LEFT OVER FROM PREVIOUS MEETING

12 REPORTS:

- | | | |
|----|---|----------|
| 1. | Local Structure Plan – Lakelands North East | 1 - 19 |
| 2. | Local Structure Plan – Lakelands East Modification No. 2 | 20 - 29 |
| 3. | Activity Centre Plan – Lakelands Town Centre | 30 - 48 |
| 4. | Local Planning Policy – Residential Design Codes | 49 - 66 |
| 5. | Local Planning Policy – Telecommunications Infrastructure | 67 - 75 |
| 6. | Short Term Rental Accommodation and the Shared Economy Discussion Paper | 76 - 110 |

13 LATE AND URGENT BUSINESS ITEMS**14 CONFIDENTIAL ITEMS****15 CLOSE OF MEETING**

1. **SUBJECT:** Lakelands North-East Local Structure Plan – Local Government Report to WAPC
CONTACT OFFICER/S: Ben Dreckow
AUTHOR: Thomas Foulds
FILE NO: LSP163
-

Summary

Council is requested to consider a Local Structure Plan (LSP) for Lot 105 Stock Road, Lakelands. The LSP provides for residential development and a primary school site. The site is located to the east of the Paganoni Lake and Stock Road to the west.

The residential density proposed is low to medium and provides for a total of 5.2868ha of public open space. In order to facilitate development and subdivision of this area, there are a number of environmental factors that require the preparation of management plans, as well as the revision of already submitted management plans.

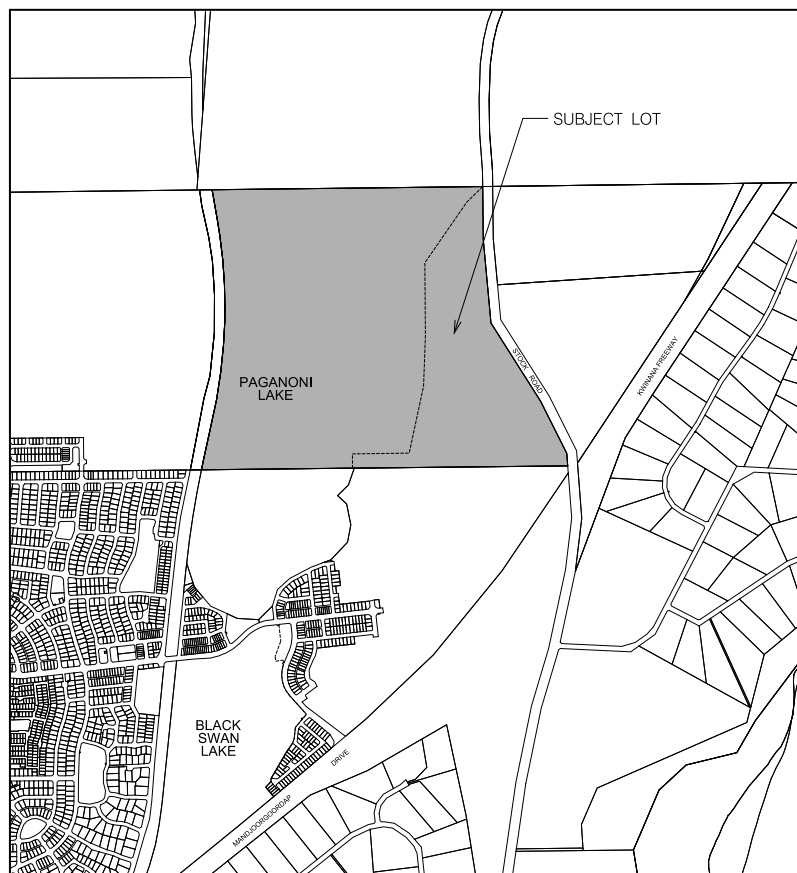
The LSP was advertised for a period of 28 days with 9 submissions being received.

A local government report including any recommendations is required to be submitted to the WAPC. It is recommended that Council support the proposed LSP with modification, and forward it to the WAPC for final approval.

Disclosure of Interest

Nil

Location



Property Details:

Applicant:	Creative Design + Planning
Owner:	Lot 105 Lakelands Pty Ltd
Scheme No 3 Zoning:	Urban Development, Regional Open Space
Peel Region Scheme Zoning:	Urban, Regional Open Space
Lot Size:	132.462 ha
Topography:	2m AHD to 21m AHD
Land Use:	Regional Open Space and vacant Urban

Previous Relevant Documentation

- New Item

Background

The LSP area is bound by Regional Open Space to the North, Stock Road to the East, the Lakelands East LSP to the South, and the Perth-to-Mandurah train line immediately to the West and the Lakelands North ('Ocean Hill') LSP area.

The site has an area of 132.46ha, however 94ha is reserved as Regional Open Space, resulting in an urban zoned area of 38ha.

The Mandurah North Structure Plan identifies the subject site as being future urban development, subject to the submission of a Local Structure Plan.

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') outline the application, referral and determination process for Local Structure Plans.

Comment

Land Use and Density

The subject site is approximately 132ha in total, however the Urban portion equates to approximately 38ha.

Directions 2031, and the *Outer Metropolitan Perth and Peel Sub-regional Strategy (OMSRS)* are the State's spatial framework and strategic planning documents which guide future growth, the subject site is situated within the Peel sub-region and is identified as 'Urban Zoned Undeveloped'.

Provision 4.5 of Part One of the Structure Plan identify the following density targets within the Urban portion of the Structure Plan area:

- 15 dwelling per hectare, gross urban zone; and,
- 25 dwellings per hectare, net urban zone.

The above density target of 15 dwellings per hectare (gross urban zone) is guided by the targets set within *Directions 2031* and the *OMSRS* which would result in a projection of 569 dwellings for the subject site. A 'business as usual' scenario is based on 10 dwellings per hectare, resulting in a projection of 379 dwellings. Based on the proposed Structure Plan concept plan, it is anticipated that a total of 461 dwellings will be provided based on an indicative base coding of R25 with laneway product at R40. The proposed dwelling yield is projected to be lower than the targets set given that the proponent is proposing to provide in excess of the public open space provision.

The Structure Plan area provides for residential development ranging in density from R20-R40, as well as the provision of a primary school site.

Lot Design and Housing Product

Local Development Plans (LDPs) proposed to be prepared, and approved by the City, for the following:

- Lots affected by noise which exceeds the noise target as defined by State Planning Policy 5.4 in relation to the Kwinana Freeway; and
- Lots within a 100m catchment of 'Classified Vegetation' (Bushfire Hazard Zone) and deemed at risk from bushfire.

The provisions under WAPC Planning Bulletin 112/2016 *Medium-density single house development standards – Development Zones* (R-MD Codes) are proposed to be implemented within the Structure Plan area. The R-MD Codes essentially outline acceptable discretions to the deemed-to-comply provisions of State Planning Policy 3.1 - Residential Design Codes (R-Codes) for medium density single houses within Structure Plan areas.

The provisions identified within the R-MD Codes can be applied within Structure Plan areas, and require implementation through a Local Planning Policy (LPP). The City is currently preparing a revised LPP for Residential Development, which is anticipated to be presented to Council for final approval in the short term. The draft LPP intends to incorporate the R-MD Codes provisions.

The applicant has prepared a concept plan which identifies two laneways with the potential for future dwellings to address POS. Such site considerations would be considered via the preparation of a LDP as a condition of subdivision approval.

The residential interface with Stock Road to the east is a concern given the concept master plan appears to show lots with access from the west. As a result, the erection of solid boundary fencing along the majority of the western boundary of the Stock Road road reserve would be considered undesirable. This portion of the road reserve also includes a Western Power easement and power lines. It is recommended that visually permeable fencing be provided to ensure surveillance of the road reserve.

Public Open Space

In accordance with the WAPC's operational policy Liveable Neighbourhoods and Development Control Policy 2.3 – Public Open Space in Residential Areas there is a requirement to provide 10% creditable public open space (POS).

The LSP has a gross subdivisible area of 33.26 ha, requiring a POS provision of 3.3260 ha (being 10%). The proposed POS provision equates to 15.9% (or 5.2868 ha) which is a surplus of approximately 2 ha.

In addition to the POS provision, 2.532 ha has been allocated as a 50m Conservation Category Wetland (CCW) buffer where the adjacent Paganoni Swamp's 50m buffer extends into the Urban portion of the site.

POS locations provide direct interface to Paganoni Swamp and associated CCW buffer, with three of the five POS areas proposing either feature-park or local park facilities (consisting of active recreation space, BBQ and play equipment, pedestrian / path networks).

Access and Internal Roads Network

A network of shared paths and footpaths are provided for pedestrians and cyclists.

A Transport Assessment was prepared by the applicant which projects 4,888 vehicle trips in a typical day taking into account residential development and the primary school site.

The Transport Assessment has been reviewed by the City as well as Main Roads WA. There were no significant issues raised by officers with respect to the internal road layout, however further design refinement may be necessary at detailed engineering stage to ensure consistency with the road network of Lakelands East estate to the south. Lake Valley Drive was designed to provide the main north-south link through Lakelands East, therefore the Neighbourhood Connector to the west of the primary school site should be reviewed to consider whether primacy should be afforded to this route.

Further analysis should be undertaken at subdivision stage to determine whether signals are required at the intersection of Lilydale Drive and Mandjoogoordap Drive. Main Roads WA have requested a modification to the Structure Plan to require this further analysis to be undertaken, and has been identified within the City's recommendation.

Environmental Considerations

Vegetation representing Threatened Ecological Communities (TEC) 'Banksia Woodlands of the Swan Coastal Plain' is present on-site. The proponent is required to contact the Department of Environment and Energy to determine their responsibilities under the EPBC Act. The City will be asked to be kept updated in relation to any referrals made under the EPBC Act.

The Structure Plan area abuts a portion of Rockingham Lakes Regional Park to the north (Paganoni Swamp) which is managed by the Department of Biodiversity, Conservation and Attractions (DBCA), whilst the subject site also includes a portion of the Paganoni Swamp which is regionally reserved but is yet to be ceded to the WAPC. Paganoni Swamp is identified as a Conservation Wetland (CCW) where a 50m buffer applies from the high water mark. Where the buffer extends into the Urban portion of the lot, the proponent has provided a wetland buffer which is not included within the POS calculation. DBCA has highlighted the importance of providing an appropriate interface with Paganoni Swamp. Through relevant management plans (i.e. Wetland and Nutrient Management Plans) the proponent will be required to provide appropriate fencing to limit access to pedestrians and off-road vehicles, rehabilitation of the wetland buffer and management of nutrients being disposed.

The preparation of a Fauna Management Plan is recommended and supported by DBCA and MEAG to manage the displacement of fauna. DBCA identified the presence of a large population of kangaroos and the issues managing their displacement.

Bushfire Planning

The subject site is identified within a "Bushfire Prone Area" under the *Map of Bushfire Prone Areas 2016* released by the Office of Bushfire Risk Management. A Bushfire Management Plan (BMP) has been submitted by the applicant to support the LSP and the future development of the subject site, by assessing bushfire risk and to demonstrate management measures.

All areas within 100 metres of the Urban boundary have been assessed as being affected by the presence of bushfire prone vegetation, as a result of remnant vegetation associated with Paganoni Swamp and the CCW buffer to the West, and vegetation contained within private property to the East.

The BMP has classified bushfire prone vegetation, and applied preliminary Bushfire Attack Level (BAL) contours to the subject site. It is relevant to note that the preliminary BAL contours are based on the post development scenario. Based on this preliminary BAL assessment, BAL-29 will not be exceeded for any proposed residential lots which is consistent with State Planning Policy 3.7 (SPP3.7) which identifies a BAL rating of BAL-40 or BAL-FZ should generally not be supported.

The BMP determines that the bushfire protection criteria outlined within the WAPC's Guidelines for Planning in Bushfire Prone Areas can be achieved. Bushfire risk is proposed to be managed in the following ways:

- Strategically locating and designing development to ensure buildings are not exposed to an unacceptable level, without appropriate mitigation measures. Separation will be provided between dwellings and post-development classified vegetation, implemented through the provision of Asset Protection Zones (APZ) contained within road reserves and POS.
- POS is proposed to be maintained to an APZ standard which essentially is a low fuel area, which can adversely affect the retention of native vegetation.
- An interconnected public road network within the development provides access to the east via Stock Road and south via the Lakelands East estate.
- Reticulated water and fire hydrants (to Water Corporation standards) are proposed to be provided to ensure emergency services can respond to any bushfire event.

Where the loss of vegetation causes conflict with environmental objectives, reducing lot yield may be necessary in order to minimise the removal of vegetation. Provision 4.5 under Part One of the LSP identifies that the WAPC, in consultation with the City, will consider a lower density target at the time of subdivision or development to achieve an environmental objective.

The BMP was referred to the Department of Fire and Emergency Services (DFES) for technical comment. DFES recommended that the Structure Plan not be approved until a number of technical matters requiring either modification, or evidence to demonstrate compliance / justification for non-compliance be resolved. The recommendation made by DFES has been supplied to the applicant and will be included within the City's recommendation.

MEAG Comment

This item was considered by the Mandurah Environmental Advisory Group at its meeting on 7 July 2017. MEAG does not support the proposal in its current form for the following reasons:

1. *Tuart woodlands are on the final priority assessment list for threatened ecological communities, (TEC) protected under the EPBC Act and technically should be awarded the same level of protection until a final assessment is made. The structure plan does not appear to have taken appropriate consideration of this.*

Officer Comment:

The proponent is required to contact the Department of Environment and Energy to determine their responsibilities under the EPBC Act. The City will ask to be kept updated with respect to any referrals made.

2. *Tree retention is limited only to the Public Open Space areas immediately adjacent to the wetland area and opportunities to retain trees of significance should be established throughout the site. This should not just be limited to mature trees.*

Officer Comment:

The proposal provides in excess of the 10% POS requirement providing opportunities for tree retention. There are also opportunities for vegetation retention within the Conservation Category Wetland buffer which does not form part of the POS requirement. The proponent has acknowledged that there may be further opportunities for the retention of trees within road reserves and lots subject to future detailed design.

3. *There are no considerations currently for Fauna Management which is an important concern at this site.*

Officer Comment:

Noted, it is recommended that the Structure Plan be modified to require the preparation of a Fauna Management Plan to be approved as a condition of subdivision approval. The Department of Biodiversity, Conservation and Attractions have highlighted the issue of fauna relocation, particularly with respect to the displacement of kangaroos.

MEAG also suggested the following recommendations should be considered in a review of the Structure Plan and associated reports:

4. *Early consideration of Fauna Management be conducted with particular reference to the management of kangaroos, venomous snake species, phascogales, chuditch, and quenda, and ensuring connectivity between wetland sites.*

Officer Comment:

Noted, see officer comment above (point 3).

5. *Opportunities be investigated to harvest and utilise timber from trees felled for development purposes.*

Officer Comment:

Noted, this recommendation can be highlighted in the form of an advice note.

6. *Any activity shown to be adding a nutrient load to Paganoni Swamp be controlled or ceased as this wetland already has a high nutrient load due to previous farming practices at this site. This should be established through a water monitoring program.*

Officer Comment:

Noted, the City has recommended the preparation of a Nutrient Management Plan given proximity to Paganoni Swamp, which is intended to compliment a Wetland Management Plan (to be prepared as a condition of subdivision approval) and a Local Water Management Strategy (which requires refinement in consultation with relevant authorities).

Consultation

The proposal was advertised in accordance with the Deemed Provisions for a period of 28 days through the following:

- Direct notification to surrounding landowners;
- Public notice in the local newspaper; and,
- Publication on the City's website.

Comments were also sought from the following external agencies: Main Roads WA, Western Power, Water Corporation, Department of Fire and Emergency Services, Department of Water, Department of Biodiversity, Conservation and Attractions, Department of Planning, and the Shire of Murray.

A total of 9 submissions were received during the advertising period, which included 2 from the community, 1 from the representatives of the adjoining land development and 6 from State Government agencies. All submissions have been summarised in Attachment 3 – Schedule of Submissions and key issues addressed above.

Statutory Environment

The procedures for preparing and modifying a structure plan are prescribed by Part 4 of the Deemed Provisions for Local Planning Schemes. Upon adoption of the Lakelands East Structure Plan, the plan will be referred to the Western Australian Planning Commission for approval.

Under the provisions of Part 4, “a decision maker for an application for a development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application”.

Policy Implications

The Structure Plan area is covered by the Local Planning Strategy (Environment and Biodiversity) with the following recommendation for the ‘Lakelands North-East’ Precinct:

“A Biodiversity Protection Target of 8.3 hectares (21.8 per cent of the Precinct) has been identified in the Strategy, subject to the results of on-site ecological survey and analysis... The future Structure Plan for the Precinct is to be prepared consistent with the Precinct Biodiversity Protection Target, subject to the proponents carrying out an ecological assessment of natural areas on the site; and confirmation of the location of the necessary wetland buffer to Paganoni Swamp.”

The area of public open space and the Conservation Category Wetland buffer a total of 7.8ha which is 0.5ha less than the target proposed in the Strategy. Notably the Strategy was prepared at a desktop level and the Structure Plan has been prepared with further analysis and assessment to confirm the wetland buffer for Paganoni Lake and area of vegetation remaining on site outside the buffer area have been identified in POS areas.

Economic Implications

The proposal seeks to provide for residential development and a primary school site.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2013 – 2033* are relevant to this report:

Environment:

- Protect and ensure the health of the natural environment and waterways

Infrastructure:

- Facilitate the provision of diverse housing stock

Conclusion

The residential density proposed is low to medium and is considered to facilitate the provision of public open space in excess of the required 10%. There are considered to be a number of environmental factors requiring the preparation of management plans, as well as the revision of already submitted management plans.

Given the proximity of Paganoni Swamp, Wetland and Nutrient Management Plans are required to be prepared to ensure appropriate management of wetland access, nutrient run-off and rehabilitation to ensure the wetlands future health. In addition, the preparation of a revised Local Water Management Strategy is important to ensure stormwater can be manage appropriately and without adversely impacting upon Paganoni Swamp.

Further traffic analysis at subdivision stage is considered appropriate to determine the requirement for traffic signalisation at the intersection of Mandjoogordap Drive and Lilydale Drive. Furthermore, proposed Neighbourhood Connector roads should be reviewed further to ensure the continuation of Lake Valley Drive as the primary north-south link, with lesser prominence being given to the Neighbourhood Connector road east of the primary school site to ensure consistency with the Lakelands East estate.

It is recommended that Council forward the Local Structure Plan and local government report to the WAPC for final approval.

NOTE:

- Refer **Attachment 1** *Lakelands North-East Local Structure Plan*
Attachment 2 *Site Analysis; Concept Master Plan and POS Schedule*
Attachment 3 *Schedule of Submissions*

RECOMMENDATION

That

Under Clause 20(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council provides this report to the Western Australian Planning Commission for the Lakelands North-East Local Structure Plan (Dated April 2017; Version 1) recommending that:

1. The proposed Structure Plan should not be approved until the following matters have been addressed:
 - 1.1 A revised Bushfire Management Plan being prepared as required by the comments of the Department of Fire and Emergency Services (dated 10 July 2017);
 - 1.2 A revised Local Water Management Strategy being prepared in consultation with the Department of Water and Environmental Regulation and the City of Mandurah.
 - 1.3 The applicant ensuring that its responsibilities under the EPBC Act have been satisfied by making contact with the Federal Department of Environment and Energy.
2. Upon the above being satisfied and the Local Structure Plan being modified accordingly, the plan being approved subject to the following matters being included in the Structure Plan:
 - 2.1. The following requirements being included in Section 4 (Subdivision and Development):
 - (a) The provision of uniform visually permeable fencing for those lots adjacent to Stock Road
 - 2.2. The following requirements being included in Section 7 (Additional Information):
 - (a) further traffic analysis shall be undertaken at subdivision stage to determine:
 - (i) The requirement for traffic signalisation at the intersection of Mandjoogoordap Drive and Lilydale Drive and
 - (ii) Consistency between the subject Structure Plan area and Lakelands East Structure Plan area in regards to the Neighbourhood Connector road primacy and road reserve width.
 - (b) A Fauna Management Plan. The plan shall be prepared as a condition of subdivision approval in consultation with the City of Mandurah and WAPC.
 - (c) A Nutrient Management Plan. The plan shall be prepared as a condition of subdivision approval in consultation with the City of Mandurah and WAPC.



LAKELANDS NORTH-EAST STRUCTURE PLAN

Lot 105 Stock Road, Lakelands

April 2017

Lot 105 Lakelands Pty Ltd

PART ONE – IMPLEMENTATION

1 Structure Plan Area

This Structure Plan applies to Lot 105 Stock Road, Lakelands, being the land contained within the inner edge of the line denoting the Structure Plan boundary on the Structure Plan (Plan 1).

The Structure Plan is identified as the Lakelands North-East Structure Plan (Structure Plan).

2 Operation

This Structure Plan comes into effect on the date it is approved by the Western Australian Planning Commission.

The Structure Plan is to be given due regard when considering development of subdivision applications.

3 Staging

The development of the subject land will be implemented in multiple stages. The staging plan is indicative as timing, location and composition of the future stages will be dependent on market demand.

The staging will commence in the southern portion of the subject land, with access provided via Stock Road until such time that the Lakelands urban front and associated road network extends north to the Structure Plan boundary. The staging will generally move northwards until completion.

The provision of engineering infrastructure and primary internal road network will also need to be staged to suit development demand. A detailed programme for this will be prepared as part of ongoing detailed planning and design of service infrastructure.

4 Subdivision and Development Requirements

4.1 Land Use Permissibility

- a) Land use permissibility within the subject land is to be in accordance with the corresponding zone or reserve under the City of Mandurah Town Planning Scheme No.3 (the 'Scheme').

4.2 Hazards and Separation Areas

- a) Residential lots identified within the Bushfire Prone Area of the Bushfire Management Plan (Appendix 4.1) will require a Bushfire Attack Level assessment to be undertaken at subdivision stage.
- b) A Detailed Noise Management Plan is to be prepared and implemented in accordance with State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning for lots identified as affected by noise under Figure B1 of Appendix B in the Acoustic Assessment prepared by Lloyd George Acoustics (Appendix 4.2).

4.3 Major Infrastructure

- a) Primary access to the subject land is proposed via three road connections to the south, approved as Neighbourhood Connectors in the Lakelands East Structure Plan (January 2015, as amended).

4.4 Public Open Space

- a) The Structure Plan (Plan 1) nominates an area of 5.2864ha as creditable Public Open Space. The proposed Public Open Space meets the minimum 10% requirement as outlined in Part Two of this report.
- b) An updated Public Open Space schedule is to be provided at the time of subdivision for determination by the WAPC upon advice of the City of Mandurah.

4.5 Residential Density Targets

- a) Density Targets within the 'Urban' portion of the Structure Plan area include:
- The density target for the '*gross urban zone*' is 15 dwellings per hectare across the subject land; and
 - The density target in terms of '*site hectare*' is 25 dwellings per hectare across the subject land.

The WAPC, in consultation with the City of Mandurah, will consider a lower density target at the time of subdivision or development where the developer demonstrates environmental benefits. This may include providing additional public open space areas beyond the prescribed 10% requirement to retain quality natural vegetation, or for any other environmental benefits deemed worthy at the time of assessment.

- b) Residential density codes shall be in accordance with those shown on the plan. The allocation of residential densities will generally be in accordance with the following locational criteria:

Density Coding	General Location Principles	Criteria
R25	Applies to majority of subject land supporting delivery of traditional front loaded product.	Applies as the base code to single dwelling units on lots that do not have a laneway abutting the rear boundary.
R40	Located in general proximity to public open space, key distributor roads, key public transport nodes and routes.	Applies to: <ol style="list-style-type: none"> lots generally within, but not exclusive to, 100m walking distance of public open space, key distributor roads, and public transport routes; lots with a laneway abutting the rear boundary; and lots with a site area less than 300m² to a maximum density of R40.

4.6 Density Plans

The Structure Plan defines the residential ranges that apply to specific areas within the Structure Plan.

Lot specific residential densities, within the defined residential density ranges, are to be subsequently assigned in accordance with a Residential Density Code Plan approved by the WAPC at the subdivision stage.

A Residential Density Code Plan is to be submitted at the time of subdivision to the WAPC and shall indicate the Residential Density Coding applicable to each lot within the subdivision and shall be consistent with the Structure Plan, and the Residential Density Ranges identified on the Structure Plan and location criteria contained in Clause 4.5.

The Density Plan is to include a summary of the proposed dwelling yield of the subdivision and demonstrate how the density target within the Structure Plan, as specified in Clause 4.5, is progressively being achieved.

Approval of the Density Plan is to be undertaken at the time of determination of the subdivision application by the WAPC. The approved Density Plan is to then form part of the Structure Plan and is to be used for the determination of future development applications.

Density Plans are not required if the WAPC considers that the subdivision is for one or more of the following:

- The amalgamation of lots;
- The purposes of facilitating the provision of access, services or infrastructure;
- Land which by virtue of its zoning or reservation under the Structure Plan cannot be developed for residential purposes; or
- Land which by virtue of its zoning under the Structure Plan is not subject to a density range.

5 Local Developments Plans

Local Development Plans will be prepared for the subject land pursuant to the WAPC's Local Development Plan Framework and Schedule 2, 'Deemed Provisions for Local Planning Schemes' of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.1 Prescribed Requirements

Local Development Plans will be prepared to inform applications for subdivision and development in regard to the following:

- a) Lots affected by noise which exceeds the noise target as defined by State Planning Policy 5.4 in relation to Kwinana Freeway; and
- b) Lots within a 100m catchment of 'Classified Vegetation' (Bushfire Hazard Zone) thus deemed at risk from bushfire pursuant to Australian Standards.

5.2 WAPC Planning Bulletin 112/2016

A Local Development Plan is not required to vary 'Deemed to Comply' provisions of the Residential Design Codes where such variations are adopted under a City of Mandurah Local Planning Policy and in accordance with WAPC Planning Bulletin 112/2016 Medium-density single house development standards – Structure Plan areas.

Such variations may include (but are not exclusive to) design provisions relating to:

- Street Setback and Front Fences;
- Boundary Setbacks;
- Boundary Walls;
- Open Space;
- Garage Setbacks and width and vehicular access;
- Overshadowing; and
- Privacy.

6 Other Requirements

6.1 Notifications on Title

Notifications are to be placed on titles of all affected lots to advise of:

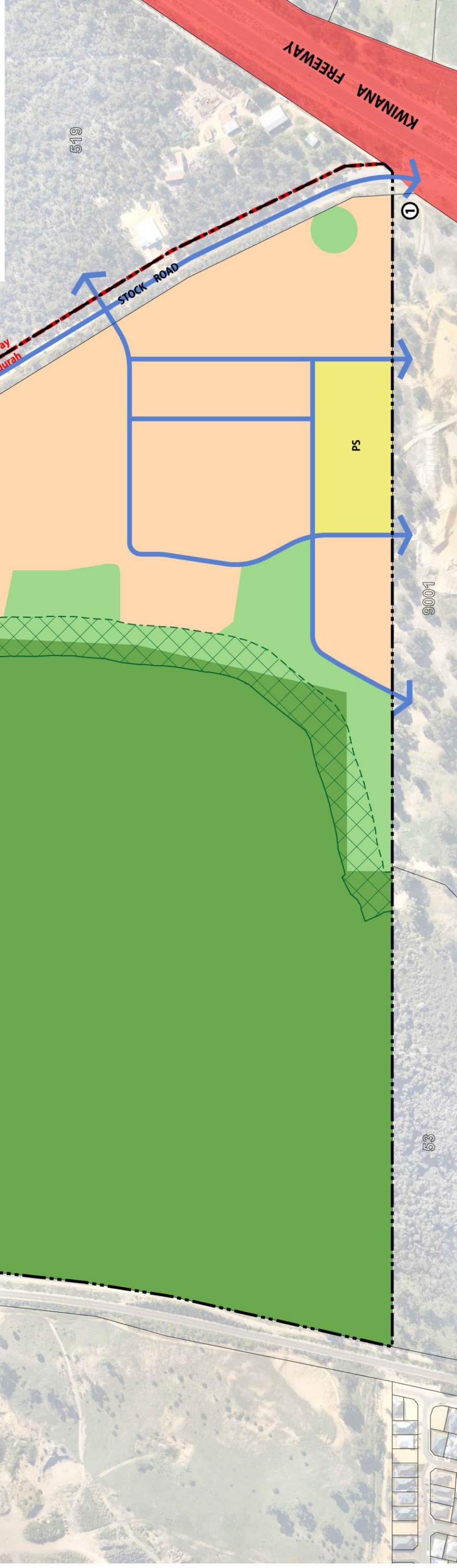
- a) Construction standards to achieve higher noise standards in accordance with State Planning Policy 5.4 *'Road and Rail; Transportation Noise and Freight Considerations in Land Use Planning'*.
- b) Building setbacks and construction standards to achieve a Bushfire Attack Level -29 or lower in accordance with 'Australian Standards (AS3959-2009): Construction of buildings in bushfire prone areas'.

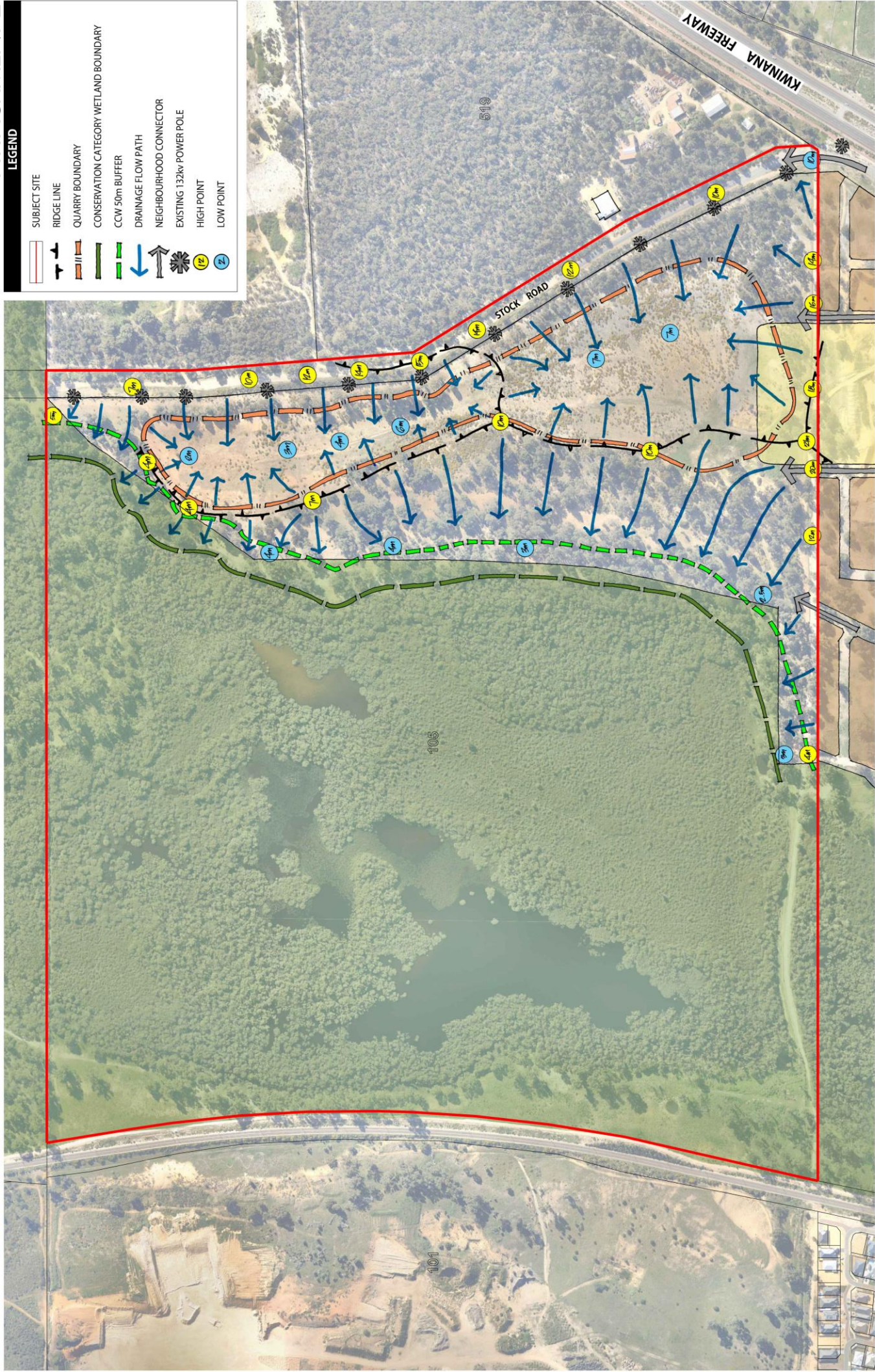
6.2 Developer Contributions

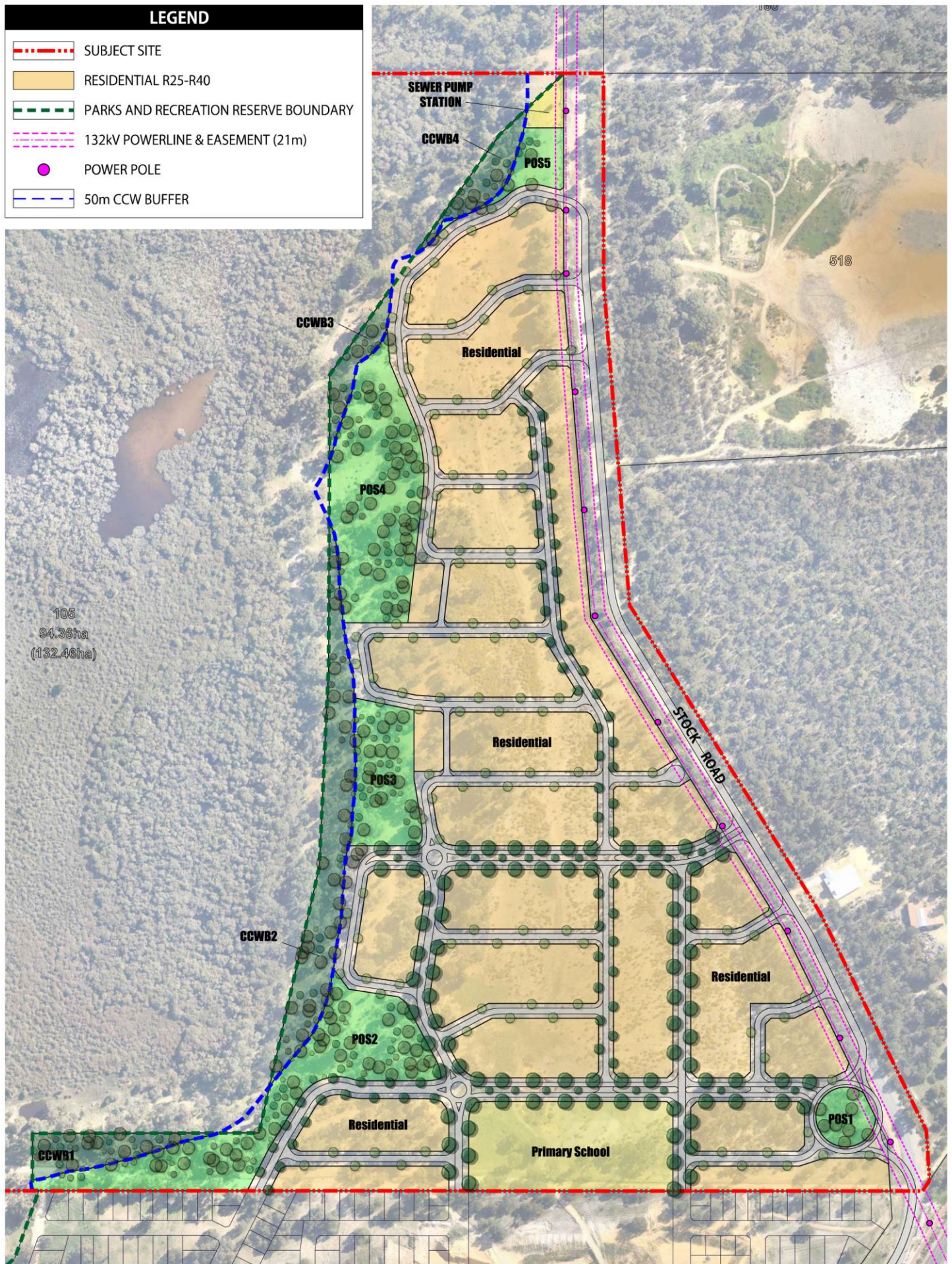
The proposed development is not encompassed by a Development Contributions Area.

7 Additional Information

Additional Information	Approval Stage	Consultation Required
Density Plans	Subdivision application	WAPC City of Mandurah
Public Open Space Schedule	Subdivision application	City of Mandurah
Bushfire Attack Level Assessment	<ul style="list-style-type: none"> • Subdivision application/condition of Subdivision for identified lots, or • Development application for identified lots 	City of Mandurah Department of Fire and Emergency Services
Wetland Management Plan	Condition of Subdivision	City of Mandurah
Detailed Noise Management Plan	<ul style="list-style-type: none"> • Subdivision application/condition of Subdivision for identified lots, or • Development application for identified lots. 	City of Mandurah Main Roads WA Department of Environment Regulation







CONCEPT MASTER PLAN

Figure 11



0 50 100 150m

Scale: 1:5000@A4 Date: 01/05/2017 Plan: URBM2-1-014D



PUBLIC OPEN SPACE SCHEDULE Lakelands North-East Structure Plan	
Gross Site Area	137.316
Minus Deductions	
1:1yr Drainage	0.332
Primary School	1.848
Sewer Pump Station Site	0.140
CCW Buffer	2.532
PRS Parks and Recreation Reserve	94.350
Stock Road	4.854
Total Deductions	104.056
Gross Subdivisible Area	33.260

Maximum 2% Restricted POS Permitted	0.6652
Minimum 8% Unrestricted POS Required	2.6608
10% POS Requirement	3.3260

Proposed POS Provision - Liveable Neighbourhoods Summary	
Restricted POS Provision	
>1:1 - 1:5yr Drainage	0.2797
Unrestricted POS Provision	
Credited POS (inclusive >1:5 - 1:100yr drainage)	5.0071
TOTAL POS PROVISION	15.90% 5.2868
OVER PROVISION OF 10% POS REQUIREMENT	1.9608

POS AND DRAINAGE PROVISION - DETAILED BREAKDOWN					
All Figures in hectares (ha)		Uncredited Green Space (Deduction)	Credited 'Restricted' Public Open Space	Credited 'Unrestricted' Public Open Space	Total Credited Public Open Space
POS	Land Area	1:1yr drainage	>1:1 - 1:5yr Drainage	Inclusive >1:5 - 1:100yr drainage	
POS 1	0.2779	0.0160	0.0142	0.2477	0.2619
POS 2	2.0921	0.1240	0.1038	1.8643	1.9681
POS 3	0.9013	0.0530	0.0451	0.8032	0.8483
POS 4	2.0367	0.1200	0.1018	1.8149	1.9167
POS 5	0.3108	0.0190	0.0148	0.2770	0.2918
TOTAL	5.6188	0.3320	0.2797	5.0071	5.2868



LEGEND	
	SUBJECT SITE
	PARKS AND RECREATION RESERVE BOUNDARY
	PUBLIC OPEN SPACE
	CCW BUFFER

PUBLIC OPEN SPACE PROVISION

Figure 16



0 50 100 150m

Scale: NTS@A4 Date: 01/05/2017 Plan: URBM2-5-018A



**Attachment 3 – Lakelands North-East LSP
Submissions Table**

Owner / Address	Submission (Summarised comments)	Comment
1. A Weehuizen (received via email)	<p>Objects to the proposal for the following reasons:</p> <ul style="list-style-type: none"> a. Impact on flora and fauna. b. Impact on property prices given current availability. c. Increase in traffic. d. Lack of POS and retention of established trees. 	<ul style="list-style-type: none"> a. The LSP area is zoned Urban, the applicant proposes a POS allocation in excess of the minimum requirement. Relevant management plans are proposed to minimise environmental impact. b. Property prices are not a material planning consideration. State Government sets residential density targets. c. The Traffic Assessment submitted determines that the proposed road network is sufficient to deal with the projected increase in vehicle trips. d. The LSP proposes in excess of the minimum POS requirement, providing opportunities for tree retention. The proponent is required to liaise with the Department of Environment and Energy to determine their responsibilities under the EPBC Act.
2. Friends of Paganoni Swamp	<ul style="list-style-type: none"> a. Vegetation representing TEC Banksia Woodlands of the Swan Coastal Plain is located within the LSP area. b. Paganoni Swamp is a Conservation Category Wetland which are the highest priority wetlands. c. Disappointing that the LSP essentially ignores this unique and valuable bushland in terms of its contribution to health of residents and protection of the wetland. d. Restrictions on dog and cat ownership to reduce impact on wetland. e. Impact of weeds and exotic plants. f. Impact of off-road vehicles. g. Encourage fencing to preserve wetland. 	<ul style="list-style-type: none"> a. Noted, proponent required to contact Department of Environment and Energy to determine EPBC Act responsibilities. b. Recommendation that management plans be provided to limit impact on the wetland. c. LSP covers Urban portion of the lot and intends to provides in excess of the minimum POS requirement. Management plans are recommendation to limit impact on the wetland. d. Not considered to be within the realms of planning control, given that animal ownership and exercising is regulated by separate legislation. e. Noted, management controls are anticipated to be included within relevant management plans. f. Noted, it is anticipated that the use of the LSP area for off-road vehicles will reduce as the LSP area is developed. g. Noted, fencing is anticipated to be included within relevant management plans as a requirement.

	<p>h. Impact on trees supporting Carnaby's Black Cockatoos require consideration under EPBC Act.</p> <p>i. Impact of mosquitos on human health, expect no mosquito treatments on wetland.</p> <p>j. Car park required for users of the reserve.</p>	<p>h. Noted, see comment 4a.</p> <p>i. Notifications on titles will be required as a condition of subdivision approval advising owners of the proximity to a mosquito breeding area.</p> <p>j. Noted and agreed that parking will enhance the use of the reserve, consideration may be given at detailed subdivision stage.</p>
3. Taylor Burrell Barnett (Representing Peet Limited Adjoining Developers)	a. Inconsistency between Lakelands East and proposed LSP in terms of Neighbourhood Connector primacy (i.e. Lake Valley Drive main north-south link)	a. Noted, recommended that further traffic analysis be undertaken at subdivision stage to determine consistency and afford primacy to Neighbourhood Connector which extends from Lake Valley Drive.
4. Department of Biodiversity, Conservation and Attractions (DBCA)	<p>a. Consultation with EPA required to demonstrate all environmental recommendations have been addressed.</p> <p>b. Fauna management recommended to manage displacement of kangaroo population.</p> <p>c. Vegetation representing TEC Banksia Woodlands of the Swan Coastal Plain, and foraging / roosting habitat for black cockatoos within LSP area. Proponent to contact Department of Environment to determine responsibility under EPBC Act.</p> <p>d. 50m wetland buffer should be revegetated, and Wetland Management Plan should be prepared to the satisfaction of the City.</p> <p>e. DBCA defers to the Department of Water to provide comment on the Local Water Management Strategy, but in view of the risk of potential hydrological change to the Swamp, DBCA has highlighted concerns with the LWMS.</p> <p>f. Interface treatment with conservation areas require appropriate fencing, firebreaks and management controls.</p> <p>g. Recommend perimeter road be provided along the full extent of the western POS.</p>	<p>a. Noted, and recommended.</p> <p>b. Noted, and recommended.</p> <p>c. Noted, and recommended.</p> <p>d. Noted, and recommended.</p> <p>e. Noted, and recommended.</p> <p>f. Noted, to be considered within Wetland Management Plan.</p> <p>g. Lots directly abutting POS are limited to two pockets, and are considered to offer alternative housing product.</p>
5. Department of Fire and Emergency Services (DFES)	a. Identified technical issues with the BMP and recommend that the Structure Plan is not supported until modifications are made.	a. Noted, and recommended.

6. Main Roads WA	<p>No objection in principle to the LSP, subject to the following comments/conditions.</p> <p>a. Requested that Part One of the LSP require further traffic analysis to be undertaken at subdivision stage to determine if signalisation at Mandjoogoordap Drive is required.</p> <p>b. Requested that the LSP requires confirmation of Stock Road as a temporary local road and that the interim deviation be secured via legal agreement, to ensure Lot 105 does not become land locked.</p>	a. Noted, and recommended.
7. Water Corporation	<p>a. Conceptual water and wastewater planning has been prepared for the area, which can be used to guide future design.</p> <p>b. Developer will be required to fund water mains and gravity sewers from the existing networks.</p> <p>c. A new wastewater pump station is required to be installed, final location subject to design.</p>	<p>a. Noted.</p> <p>b. Noted.</p> <p>c. Noted.</p>
8. Western Power	<p>a. LSP should be modified to avoid residential development encroaching upon existing high voltage line. All lots should be reconfigured to ensure the existing line is located within road reservations or areas of POS. Where lots are adjacent to lines, the provision of Section 70A Notifications shall be placed on titles.</p> <p>b. A detailed study is required to confirm power arrangements to the development.</p>	<p>a. Noted, the concept master plan shows lots along eastern boundary adjacent to Stock Rd and transmission line, obtain their access from the west.</p> <p>b. Noted.</p>
9. Department of Water	<p>a. Review of LWMS undertaken, recommended that revisions be made.</p>	a. Noted, and recommended.

2. SUBJECT:	Lakelands East Structure Plan Modification No 2 Report to Western Australian Planning Commission
CONTACT OFFICER/S:	Ben Dreckow
AUTHOR:	Ann Harrop / Ben Dreckow
FILE NO:	ODP140/3 (F122379)

Summary

The Lakelands East Outline Development Plan (ODP) was originally granted final approval by Council in August 2012 and endorsed by the Western Australian Planning Commission in August 2013, with minor modifications being approved by Council in January 2015.

The City has now prepared further modifications to the Lakelands East ODP on behalf of the landowner. The proposed modifications include the following:

- (i) Replacing the terminology of Outline Development Plan to Structure Plan;
- (ii) Replacing the 'Community Purpose' and 'Commercial' land use designations on the corner of Lake Valley Drive and Lilydale Drive with Medium Density Residential (R30-R60) and Public Open Space;
- (iii) Removing Note 7 on the ODP which refers to permissible commercial land uses.

Advertising of the proposed modifications was undertaken in accordance with the requirements of the Deemed Provisions for Local Planning Schemes during which 6 submissions were received.

Following the consideration of the submissions received, Council is requested to provide this report to the Western Australian Planning Commission, supporting the modifications proposed.

Disclosure of Interest

Nil

Location



Property Details:

Owner:	Peet Mandurah Syndicate Ltd
Scheme No 3 Zoning:	Urban Development
Peel Region Scheme Zoning:	Urban
Lot Size:	118.27ha
Topography:	2.0 m AHD – 31.9 m AHD (north-south dunal ridge
Land Use:	Partially developed for residential development, previously used for grazing.

Previous Relevant Documentation

- G.21/11/14 25 November 2014 Council resolved that the preferred option for the provision of community infrastructure within the Lakelands Estate under a Deed of Agreement with Peet Mandurah Syndicate Limited is for 0.5ha land to be provided within the Lakelands Town Centre and a balance in cash contribution.
- PCDS.10/8/12 10 August 2012 Council resolved to approve the Structure Plan subject to modifications.
- G.21/8/12 28 August 2012 Council resolved to approve the Structure Plan subject to modifications.
- G.18/1/15 27 January 2015 Council resolved to approve the Structure Plan subject to modifications.

Background

The Lakelands East Outline Development Plan (ODP) was originally granted final approval by Council in August 2012 and endorsed by the Western Australian Planning Commission in August 2013. The ODP provided for residential development with densities ranging from R15-R60, a 50% contribution towards a primary school site, a local neighbourhood centre, key neighbourhood connectors to Lakelands West and wetland buffers surrounding Black Swan and Paganoni Lakes.

Modifications to the ODP were approved by Council in January 2015 and endorsed by the Western Australian Planning Commission in May 2015. The modifications adopted included the provision of an additional neighbourhood road connector, a reconfiguration of public open space, and a reduction in the amount of medium density residential land proposed. The modifications were identified primarily as a result in changes to the housing market since the original concept had been prepared. A copy of the 2015 ODP has been included as **Attachment 1**.

Initial stages of Lakelands East have been developed with subdivisions having been approved and constructed along Lilydale Drive and Lake Valley Drive.

On request from the applicant, the City has now prepared further modification to the Lakelands East ODP.

The proposed modifications include the following:

- Replacing the terminology of Outline Development Plan to Structure Plan in accordance with the Deemed Provisions for Local planning Schemes;
- Replacing the 'Community Purpose' and 'Commercial' land use designations on the corner of Lake Valley Drive and Lilydale Drive with Medium Density Residential (R30-R60) and Public Open Space;
- Removing Note 7 on the ODP which refers to permissible commercial land uses.

Removal of Community Purpose Site

During the early stages of the development of the Lakelands Estate, the City of Mandurah and Peet Ltd (the developer) entered into a legal agreement which required two separate contributions from the developer towards community facilities.

The first contribution was for the provision of the Lakelands Community House which has now been provided on Dalona Parkway, Lakelands.

The second contribution was for one of the following options:

- one hectare of land contiguous with (meaning adjacent to but not within) the proposed district shopping centre at the Lakelands Estate; or
- land of equivalent value to the Specified Land situated on any other part of the Lakelands Estate (ie, Lakelands East); or
- a combination of land situated in the Lakelands Estate or cash or services that, in total, are of equivalent value to the Specified Land.

In November 2014, Council determined that the preferred option is for 0.5ha land to be provided within the Lakelands Town Centre and a balance in cash contribution.

It is considered therefore, that there is no longer a need for the 'Community Purpose' site within the Lakelands East estate, given the provision within the Town Centre.

Additionally, no community facility in Lakelands East has been identified in the City's 30 year Social Infrastructure Plan 2013-2043.

Removal of Commercial land

With regard to the 'Commercial' zoned part of the site, the developer has indicated that there is little demand for commercial uses in Lakelands East, given the proximity to the Lakelands Town Centre. Stage One of the Lakelands Town Centre was completed in June 2017 and is located less than 2km from the commercial site identified within the 2015 ODP.

A copy of the Lakelands East Structure Plan is included as **Attachment 2**.

In accordance with the requirements prescribed under Part 4 of the Deemed Provisions for Local Planning Schemes, the amended Structure Plan was advertised for public consultation for a period of 28 days. A total of 6 submissions were received during the submission period with 4 submission objecting to/questioning the proposed changes to the ODP. A summary of the submission received has been included as Attachment 3.

Comment

Of the submissions received, two objected to the proposed changes on the grounds the land should be allocated for public open space, two questioned the change in use and one raised the issue of the interface between the public open space and proposed residential lots.

Public Open Space

The proposed changes to the Lakelands East Structure Plan do not represent an increase in the developable area within the structure plan, rather a change of use. Throughout the structure plan area, 32.06% of land has been allocated to public open space. In summary the key areas of POS are:

- Black Swan Lake - Approximately 12ha of POS (was previously approximately 11ha) is proposed around Black Swan Lake. Due to the environmental significance of the lake the Applicant has proposed walking trails, along with an observational boardwalk out to the lake.
- Hilltop Park - The proposed Hilltop Park is located at the highest part of the ODP area and is approximately 2.8ha in area (was previously approximately 2.5ha). The identification of Hilltop Park for POS is primarily due to the topography of the site and the natural environment which includes a number of mature trees identified as part of the tree survey, undertaken by arboricultural consultants, Arborlogic. It is anticipated that the topography of the POS will facilitate the creation of a landmark open space providing 360 degree views corridors across the estate, to the coast and towards the Darling Scarp.
- Dam - An existing spring fed dam (with pastoral origins) located within the north-west portion of the ODP area is proposed to be retained within a 2.11ha area of POS (was previously 1.23ha). The proposed POS is expected to retain its current drainage purpose, with proposed swales and wetland vegetation to be introduced to reduce future run-off into the dam and Lake Paganoni. The proposed POS provides a 25m minimum setback to future development and will retain a number of existing Jarrah and Marri trees and is expected to contribute toward the on-going protection of an identified Long Neck Turtle habitat.

The Lakelands East Structure Plan satisfies the requirements for the provision of public open space within the structure plan area.

Change in Use

As outlined above, the requirement for the provision of two community purpose site within the Lakelands estate has been fulfilled through the provision of a site within the Lakeland Town Centre and the provision of the Lakelands Community House. Additionally, no community facility in Lakelands East has been identified in the City's 30 year Social Infrastructure Plan 2013-2043. It is therefore considered to be no further need for the community purpose site identified within the 2015 Lakelands East ODP.

With respect to the removal of the proposed commercial site, the development of the Lakelands Town Centre less than 2km from the subject site has removed the demand for additional commercial land.

Public Open Space Interface

The applicants have prepared a concept plan for the subdivision of the site that requires further refinement but provides a road interface to the active recreation spaces of the adjacent POS. Remaining lots within the subdivision share a boundary with proposed drainage basins within the reserve and the public car parking area and will be screened from the open space with landscaping. Standard subdivision conditions including the provision of uniform fencing and the preparation of a local development plan specifying development standards for those lots directly abutting the POS will further ensure a quality interface between the public and private domains.

MEAG/MCCAG Comment

The modified Lakelands East Structure Plan was not referred to MEAG as the proposed modifications do not result in any changes to the development areas proposed, rather represent a change in use. The original ODP was referred to MEAG in January 2012 with comments addressed at this stage.

Consultation

The modified Lakelands East Structure Plan was advertised for public comment for a period of 28 days in accordance with the requirements of Part 4 of the Deemed Provisions for Local Planning Schemes.

All landowners within Lakelands East were notified in writing, a sign was placed on site, and an advertisement was placed in the Mandurah Mail. A total of 6 submissions were received, with four (4) submissions objecting to the proposed change of use.

Statutory Environment

The procedures for preparing and modifying a structure plan are prescribed by Part 4 of the Deemed Provisions for Local Planning Schemes. Upon adoption of the Lakelands East Structure Plan, the plan will be referred to the Western Australian Planning Commission for approval.

Under the provisions of Part 4, *"a decision maker for an application for a development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application"*.

Policy Implications

Nil

Economic Implications

Whilst the modified Lakelands Structure Plan proposes the replacement of land set aside for community purposes with medium density residential housing, the developers have satisfied Council's requirements for the contribution towards community facilities through the provision of land for this purpose within the Lakelands Town Centre. This is consistent with the deed of agreement between the City and Peet Mandurah Syndicate Limited (Peet) originally in 1996 which required two separate contributions towards community facilities. The first (the Lakelands Community House) has been satisfied with the second provided within the Lakelands Town Centre.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2013 – 2033* are relevant to this report:

Social:

- Provide a range of social, retail, recreational and entertainment experiences for the City's residents and visitors.

Infrastructure:

- Facilitate the provision of diverse housing stock.

Conclusion

The Lakelands East Structure Plan proposes the modification of the Lakelands ODP to replace the Commercial and Community Purpose sites with medium density residential development.

The proposed modifications do not increase the developable area of the structure plan and are responding to changes in demand for the originally identified purpose of the land. Concept plans for the proposed subdivision of the land meet design principles for development adjoining public open space and will ensure passive surveillance of the adjoining parkland. It is therefore recommended that Council support the modification and forward the plan to the Western Australian Planning Commission for approval.

NOTE:

- Refer **Attachment 1** **Lakelands Outline Development Plan (2015)**
Attachment 2 **Proposed Lakelands East Local Structure Plan**
Attachment 3 **Schedule of Submissions**

RECOMMENDATION

That:

Under Clause 20(2) of Deemed Provisions for Local Planning Schemes, Council provides this report and the schedule of submissions to the Western Australian Planning Commission for the Lakelands East Local Structure Plan – Modification No 2 (Plan Dated 10 April 2017; Plan Ref: 08/017/015H (CoM)) recommending that the proposed Structure Plan should be approved.



LEGEND

- COMMERCIAL (R30-R60)
- MEDIUM DENSITY RESIDENTIAL (R30-R60)
- LOW DENSITY RESIDENTIAL (R15-R25)
- LAKE
- PRIMARY SCHOOL (50%)
- COMMUNITY PURPOSE
- PUBLIC OPEN SPACE
- TRAFFIC SIGNALS
- PEDESTRIAN/CYCLE LINKS (Arborways)
- SEWER PUMP STATION
- FUTURE RAIL STATION/800m WALKABLE CATCHMENT
- NEIGHBOURHOOD CONNECTOR 'A' ROADS
- VEHICLE ACCESS CONTROL REQUIRED
- OUTLINE DEVELOPMENT PLAN AREA

NOTES

- 1 The proponent shall upgrade the Mandjoogordap Drive intersection to a full movement T-intersection with provision for future signalisation, to the specifications of Main Roads WA. This upgrade is required prior to the Mandjoogordap Drive intersection being accessible by subdivisional roads with the ODP area.
- 2 Stock Road provides temporary access only and is not designed to accommodate urban traffic. The proposed design of the temporary connection between Stock Road and the ODP area is indicative and shall be determined at the subdivision stage.
- 3 Arborways provide vegetation and open space connectivity between larger pockets of public open space. Retention and rehabilitation of locally endemic native vegetation and retention of trees shall be managed and protected via subdivision design.
- 4 At the time of subdivision, a Residential Density Code Plan is to be submitted as a minor modification to the ODP and be approved by the City of Mandurah and the Western Australian Planning Commission, prior to the subdivision application being determined. The Residential Density Code Plan shall be consistent with the residential density range shown on the Outline Development Plan.
- 5 As part of future subdivision applications within Lakelands East the applicant shall provide updated traffic analysis, to the satisfaction of Main Roads WA, to determine whether the intersection with Mandjoogordap Drive requires signalisation as result of that subdivision.
- 6 Traffic calming measures required along Lake Valley Drive west of and adjacent to the Neighbourhood Centre/Community Purpose Site.
- 7 Land use permissibility for the Commercial site shall be in accordance with the Commercial zone under the Town Planning Scheme with the exception of the following land uses and their designated use classes:

Auction Mart - SA	Laundromat - AA
Amusement Parlour - SA	Liquor Store - AA
Car Park - SA	Marina - X
Car Wash - SA	Motel - SA
Dwelling (single) - P	Night Club - X
Funeral Parlour - X	Place of Amusement - SA
Hotel - X	Tavern - X
- 8 The proponent is required to submit a POS schedule for the ODP area as part of subdivision applications.



LEGEND

- MEDIUM DENSITY RESIDENTIAL (R30-R60)
- LOW DENSITY RESIDENTIAL (R15-R25)
- LAKE
- PRIMARY SCHOOL (50%)
- PUBLIC OPEN SPACE
- TRAFFIC SIGNALS
- PEDESTRIAN/CYCLE LINKS (Arborways)
- SEWER PUMP STATION
- FUTURE RAIL STATION/800m WALKABLE CATCHMENT
- NEIGHBOURHOOD CONNECTOR 'A' ROADS
- VEHICLE ACCESS CONTROL REQUIRED
- LOCAL STRUCTURE PLAN AREA

NOTES

- The proponent shall upgrade the Mandjoogordap Drive intersection to a full movement T-intersection with provision for future signalisation, to the specifications of Main Roads WA. This upgrade is required prior to the Mandjoogordap Drive intersection being accessible by subdivisional roads with the LSP area.
- Stock Road provides temporary access only and is not designed to accommodate urban traffic. The proposed design of the temporary connection between Stock Road and the LSP area is indicative and shall be determined at the subdivision stage.
- Arborways provide vegetation and open space connectivity between larger pockets of public open space. Retention and rehabilitation of locally endemic native vegetation and retention of trees shall be managed and protected via subdivision design.
- At the time of subdivision, a Residential Density Code Plan is to be submitted as a minor modification to the LSP and be approved by the Western Australian Planning Commission, prior to the subdivision application being determined. The Residential Density Code Plan shall be consistent with the residential density range shown on the LSP.
- As part of future subdivision applications within Lakelands East the applicant shall provide updated traffic analysis, to the satisfaction of Main Roads WA, to determine whether the intersection with Mandjoogordap Drive requires signalisation as result of that subdivision.
- Traffic calming measures required along Lake Valley Drive.
- The proponent is required to submit a POS schedule for the LSP area as part of subdivision applications.

ATTACHMENT 3 – Submission Table

Owner / Address	Submission (Summarised comments)	Comment
1. A Dixon PO Box 5205 Falcon WA 6210	a. Will this type of change be a better outcome, and is this type of change comparable with the Liveable neighbourhood strategy? This document is a viable, sustainable, methodology to create communities not housing lot sizes of insulated people.	a. The proposed modifications do not increase the developable area of the structure plan and are responding to changes in demand for the originally identified purpose of the land. Concept plans for the proposed subdivision of the land meet design principles for development adjoining public open space and will ensure passive surveillance of the adjoining parkland.
2. Kristen Clarke 230 Lake Valley Dr Lakelands	a. Question the location of the shops for the local area?	a. The Lakelands Town Centre is located less than 2km from the previously identified commercial site. Given the sites proximity to the Lakelands Town Centre there is insufficient need for additional commercial zoned land.
3. Melissa Williams 4 Rowan Way Lakelands	a. Speed signs are needed down Lilydale Drive, this is as soon as you come off Mandoorgoordrup road onto Lilydale Drive as people are speeding down Lily Dale Drive. The same is said for Lake Valley Drive as well, signs are needed by the new park as there are people speeding over the speed bumps and hooning down Lake Valley to the turn for Mandoorgoordrup and not aware of vehicles that are turning..	a. Submission is noted and has been referred for consideration internally.
4. Michael 2 Yanga Court Lakelands	b. Request some sort of continuity and uniformity between the houses and the new park (such as roof and house colours and the scale - single/double story houses) should all be the same so that they will blend in with the new park and the landscape of the wetlands.	a. Noted. Concept plans for the proposed subdivision of the land provide a road interface to the active recreation spaces of the adjacent POS. Remaining lots within the subdivision back onto drainage basins within the reserve and the public carparking area and will be screened from the open space with landscaping. Standard subdivision conditions including the provision of uniform fencing and the preparation of a local development plan specifying development standards for those lots directly abutting the POS will further ensure a quality interface between the public and private domains.

<p>5. Rebecca Servina 271 Lake Valley Dr LAKELANDS</p>	<p>b. Do not agree with the Medium Density Residential plan on the corner on Lilydale and Lake Valley Drive. The whole area on that side should be dedicated public space</p>	<p>a. Noted. The subject land was identified for development within both the 2012 and 2015 versions of the Lakelands East ODP. The proposed modifications represents a change in use of the land and does not propose any increase in the development area. Approximately 32.06% of the Lakelands East Structure Plan area has been allocated to open space and including the provision of required buffers to Black Swan Lake.</p>
<p>6. JDGEZZA (received via email)</p>	<p>a. The corner of Lilydale and Lake Valley drive being proposed as a residential area at the site for Black Swan Lake would not benefit the estate in anyway.</p> <p>The corner should be incorporated as part of the park with either of the following options would serve a greater purpose; a larger carpark, grassed/picnic area, dog exercise area, playground, a large pond area (like Yindana park) with a high lookout point to overlook the natural lake. To turn the corner into a residential area would spoil the natural appeal and attraction of the natural lake which is a main reason for families and others to bought into the estate</p>	<p>a. Noted. The subject land was identified for development within both the 2012 and 2015 versions of the Lakelands East ODP.</p> <p>The proposed modifications represents a change in use of the land and does not propose any increase in the development area. Approximately 32.06% of the Lakelands East Structure Plan area has been allocated to open space and including the provision of required buffers to Black Swan Lake.</p>

3. **SUBJECT:** Lakelands Town Centre Activity Centre Plan
CONTACT OFFICER/S: Ben Dreckow
AUTHOR: Emily Hayward
FILE NO: ACP2

Summary

The current Lakelands Activity Centre Plan was adopted by Council in July 2014. The plan was prepared as a requirement of State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP 4.2) prior to the consideration of a development application for the first stage of the Lakelands Town Centre.

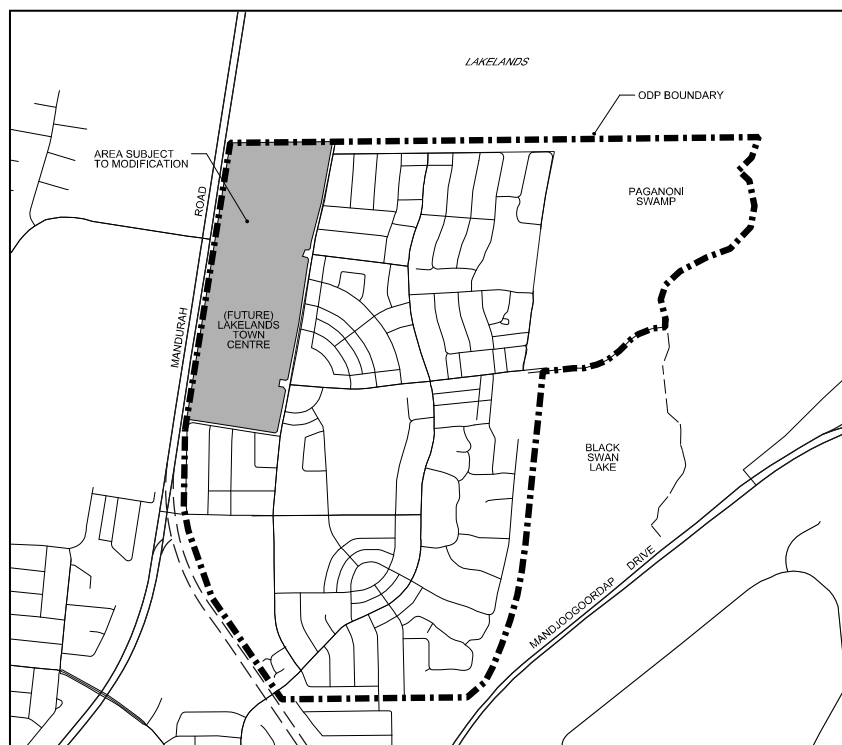
As part of the City's planning and policy review, modifications are proposed to the Lakelands Activity Centre Plan to update the plan and to ensure consistency across all activity centres precincts within the City of Mandurah and the approval requirements of an Activity Centre Plan under the Deemed Provisions for Activity Centre Plans now be the responsibility of the Western Australian Planning Commission. As a result, the ACP has been modified to include subdivision and development requirements to guide any further development of the Lakelands Town Centre.

In accordance with Part 5 of the Deemed Provisions for Local Planning Schemes, Council is requested to consider the adoption of the Lakelands Activity Centre Plan for the purposes of advertising.

Disclosure of Interest

Nil

Location



Property Details:

Applicant:	City of Mandurah
Owner:	Peet Mandurah Syndicate Limited
Scheme No 3 Zoning:	Urban Development
Peel Region Scheme Zoning:	Urban
Lot Size:	30.2 ha
Topography:	Relatively flat
Land Use:	

Previous Relevant Documentation

- SP.14/7/14 29 July 2014 Council endorsed the Lakelands Activity Centre Structure Plan
- G.29/4/14 22 April 2014 Council adopted final approval to a modification to the Lakelands West Outline Development Plan.
- G.16/12/13 17 December 2013 Council adopted the Activity Centres Planning Strategy for final approval.
- G.30/3/13 26 March 2013 Council endorsed the Lakelands Shared Use School, Sport and Recreation Master Plan.
- G.21/11/07 20 November 2007 Council adopted the Lakelands West ODP for final approval.

Background

In June 2014 an application for Stage One of the Lakelands Town Centre including the Main Street development, Retail centre, Town Square and associated services was submitted for determination by the Peel Joint Development Assessment Panel (JDAP). The proposed development was consistent with the Lakelands West Outline Development Plan, adopted by Council in April 2014 which had identified the site as a Town Centre to be designed with Mixed Use/Main Street Retail development outcomes.

Upon receipt of the development application, the Department of Planning advised that an activity centre plan was required under the provisions of State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP 4.2) which identifies the Lakelands Town Centre as a District Centre.

An activity centre plan for the Lakelands Town centre was subsequently prepared by the officers and endorsed by Council in July 2014. The activity centre plan identified a town centre development centred around a main street and framed by residential development. Notations on the plan provided further guidance for the future development of the site.

Stage One of the Lakelands Town Centre development was approved by the Peel JDAP at its meeting held on the 13 August 2014 with subsequent stages and modifications approved through the JDAP process. Construction of the Town Centre commenced in early 2016 and the centre was officially opened in June 2017.

In October 2015 the Planning and Development (Local Planning Schemes) Regulations 2015 took effect introducing deemed provisions for Local Planning Schemes. Part 5 of the Deemed Provisions provides for the preparation, adoption, amendment and review of an activity centre plan. Part 5 of the Deemed Provisions also regulates the approval process for Activity Centre Plans; including a formal advertising process to follow.

The existing Lakelands Activity Centre Plan has not been endorsed by the Western Australian Planning Commission as it was approved prior to the introduction of the regulations.

Comment

As part of the City's planning and policy review, modifications are proposed to the Lakelands Activity Centre Plan to update the plan and to ensure consistency across all activity centres/precincts within the City of Mandurah. A copy of the modified Lakelands Activity Centre has been included as **Attachment 1**.

The Activity Centre Plan incorporates requirements for subdivision and development within the Lakelands Town Centre and proposes the creation of three key precincts, including;

- Commercial (Main Street) – incorporating commercial development fronting Main Street and the Lakelands Shopping Centre.
- Commercial (Freestanding) – incorporating freestanding commercial development along the Mandurah Road frontage;
- Mixed Use – incorporating the residential frame surrounding the Town Centre.

The Activity Centre Plan also identifies public spaces including the future public primary and high schools sites and recreational playing fields in accordance with the previously endorsed Activity Centre Plan.

The Activity Centre Plan seeks to maximise activation of Main Street by ensuring commercial development along the street frontage addresses the street, minimises crossovers, provides for passive surveillance and ensures car parking is located away from the street edge. Commercial development along the remaining street frontages are also required to address the street and corner lots shall have active frontages to both streets. The Activity Centre Plan also seeks to have a high standard in building design and architectural form through the use of variety in materials, projections from buildings and integration of art. A nil setback for all commercial development applies.

With respect to future residential development, the requirement for a local development plan (LDP) to be prepared prior to the development of the residential frame has been carried through into the revised activity centre plan with the inclusion of additional guidance on the matters to be addressed within the LDP. These include:

- The designation of a minimum residential density of R50 and minimum scale of 2 storeys in addition to the maximum density of R-AC3, to ensure sufficient density within walking distance of the town centre to establish a sense of community and increase activity outside of normal business hours.
- The identification of lots that may be impacted by noise arising from the proposed tavern and the incorporation of Quiet House Design guidelines to ensure residential development complies with the relevant Australian Standards;
- The provision of site and development standards to ensure buildings and streets are urban in form and provide for passive surveillance of streets and public spaces.

A mixed use zone has been applied to the residential frame which provides for a variety of land uses and a mix of housing types in order to provide for a transition between the commercial precincts and the existing residential areas of Lakelands. These include;

- Higher density residential at key entrance points, to provide transition from Main Street to residential;
- Residential land uses being permitted above ground floor only in Main Street Commercial and Free Standing Commercial to ensure other land uses are the priority and Residential is encouraged above creating more density;
- The mixed use zone encourages residential and commercial uses being permitted, while considering retail, tourism and community uses as well.

MEAG/MCCAG Comment

The draft Lakelands Activity Centre Plan will be forwarded to the Mandurah Environmental Advisory Group for consideration during the public consultation period.

Consultation

In accordance with the Deemed Provisions for Local Planning Schemes, the Lakelands Activity Centre Plan is required to be advertised for a period not less than 14 days and not more than 28 days.

An advertisement will be placed in the local paper, a sign erected on site and a letter will be sent to all landowners within the immediate vicinity of the Lakelands Activity Centre. Following the completion of the advertising period, a further report will be presented to Council.

Statutory Environment

The Lakelands Activity Centre Plan has been prepared in accordance with Part 5 of the Deemed Provisions for Local Planning Schemes under the Planning and Development (Local Planning Schemes) Regulations 2015.

Once an Activity Centre Plan has been adopted by the Western Australian Planning Commission, the plan will be published by the Commission and the Local Government. The approval of an Activity Centre Plan has effect for 10 years commencing on the day on which the Commission approves the plan.

Policy Implications

State Planning Policy 4.2 – Activity Centres for Perth and Peel provides guidance for the preparation of an Activity Centre Plan. The Lakelands Activity Centre Plan is consistent with the provisions of this policy.

Economic Implications

The development of the town centre represents a significant investment in the northern corridor of Mandurah. Whilst this is generally meeting consumer demand, nonetheless, it represents a commitment to localised employment for these northern suburbs.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2013 – 2033* are relevant to this report:

Social:

- Provide a range of social, retail, recreational and entertainment experiences for the City's residents and visitors.

Organisational Excellence:

- Deliver excellent governance and financial management.

Conclusion

The Lakelands Activity Centre Plan has been reviewed as part of the City's planning and policy review, with modifications proposed in order to update the plan and ensure consistency across all activity centres/precincts within the City of Mandurah. The proposed modifications include the provision of greater detail to guide the future subdivision and development of the Lakelands Town Centre.

The revised Lakelands Activity Centre Plan has been prepared in accordance with State Planning Policy 4.2 – Activity Centres for Perth and Peel and in accordance with the requirements of Part 5 of the Deemed Provisions for Local Planning Schemes, Council is requested to consider the adoption of the Lakelands Activity Centre Plan for the purposes of advertising.

Following the completion of the public consultation period, the Activity Centre Plan will be again brought before Council for its consideration.

NOTE:

- Refer ***Attachment 1 Lakelands Activity Centre Plan***

RECOMMENDATION

That Council resolves to adopt the Lakelands Town Centre Activity Centre Plan (ACP2 – Dated August 2017) for the purposes advertising in accordance with Part 5 (Activity Centre Plans) of the Deemed Provisions for Local Planning Schemes and advertises the plan for a minimum of 28 days.



**City of Mandurah
Activity Centre Plan
ACP2 Lakelands Town Centre
Part 1 Implementation Section**

**Draft for Council Adoption
August 2017**

Endorsement Page

This activity centre plan is prepared under the provisions of the City of Mandurah Town Planning Scheme No. 3
(in accordance with Part 5 of the Deemed Provisions for Local Planning Schemes)

IT IS CERTIFIED THAT THIS ACTIVITY CENTRE PLAN WAS APPROVED BY RESOLUTION OF THE

WESTERN AUSTRALIAN PLANNING COMMISSION ON:

DATE

Signed for and on behalf of the Western Australian Planning Commission

.....

an officer of the Commission duly authorised by the Commissions pursuant to section 16 of the Planning and Development Act 2005 for that purpose in the presence of:

..... Witness Date

.....

Schedule of Amendments

Amendment No	Summary of the Amendment	Amendment Type	Date Approved by the WAPC

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1. Introduction

1.1 Application and Activity Centre Plan Area

This Activity Centre Plan, once endorsed, becomes the development control plan for the Lakelands Activity Centre, providing subdivision, land use and development standards for the Centre as required by the local planning scheme.

This Activity Centre Plan shall apply to the land contained within the inner edge of the line denoting the Lakelands Activity Centre as shown in Plan 1.

1.2 Interpretation and Relationship with the Scheme

Unless otherwise specified in this part, the words and expressions used in this Activity Centre Plan shall have the respective meanings given to them in the operative local planning scheme ('the Scheme').

The Activity Centre Plan Map (**Plan 1**) outlines land use, zones and reserves applicable within the Activity Centre plan area.

Clause 43 of the Deemed Provisions for Local Planning Schemes states the following:

"A decision maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to, but is not bound by, the activity centre plan when deciding the application."

1.3 Operation

This Activity Centre Plan comes into effect on the date the Activity Centre Plan is approved by the Western Australian Planning Commission pursuant to Clause 28 of the Deemed Provisions.

The Lakelands Activity Centre Plan is valid for 10 years from the date of approval unless otherwise extended in accordance with Clause 44 of the Deemed Provisions.

1.4 Activity Centre Purpose

The Lakelands Town Centre Activity Centre Plan has been prepared to fulfil the requirements of an Activity Centre Plan as required by State Planning Policy 4.2 (Activity Centres for Perth and Peel) and Part 5 of the Deemed Provisions.

1.5 Activity Centre Plan Objectives

To create a pedestrian orientated town centre with an active main street and town square to service the retail, social and recreational needs of the wider residential catchment, which involves the following priorities;

- Providing a pedestrian orientated main street
- Focusing the centre on the town square
- Providing an architectural and landscape response to the Mandurah Road elevation
- Ensuring shared use facilities within the recreation and education facilities
- Providing for community facilities in the built and open space environment

2. Land Use and Subdivision

2.3 Subdivision Requirements

2.1 Activity Centre Zones

For the purposes of providing specific details relating to subdivision and land use requirements within the Lakelands Town Centre, the Activity Centre has been broken down into the following precinct areas:

- Commercial (Core Retail and Main Street)
- Commercial (Free Standing)
- Mixed Use

2.2 Land Use Permissibility

2.2.1 Land use permissibility within the Activity Centre Plan area shall be in accordance with Table 2: Land Use Table.

2.2.2 Where a land use is proposed that has not been specifically referred to in the Land Use Table and cannot reasonably be determined as falling within a use class referred to in the Table, Council may consider the use in accordance the Scheme.

Note: The relevant clause is 3.2.3 of Scheme 3 or 3.2.4 of draft Scheme 12.

2.2.3 Land Uses shall be taken to have the same meaning as defined within the Scheme and Appendix 1 of the R-Codes.

2.2.4 Land use permissibility within all public spaces shall be determined as per the reserved land of the Scheme.

2.3.1 Subdivision of any lot within the Lakelands Activity Centre shall not be approved unless:

- The proposed subdivision is in accordance with an approved Local Development Plan (LDP); or
- The proposed subdivision represents a minor boundary adjustment where no additional lots are being created and the future development of the land in accordance with the provisions of this plan are not compromised.

2.3.2 A Notification on Title will be required as a condition of subdivision for all Mixed Use lots identified as being within close proximity to a Tavern within the commercial precinct.

2.4 Requirement for a Local Development Plan

A Local Development Plan (LDP) is required in accordance with Part 6 of the Deemed Provisions prior to the development or subdivision of land within the Mixed Use Precinct.

The LDP is required to address the following criteria:

- (a) Provide for a minimum density of R50;
- (b) Incorporate a variety of housing options that provides a transition from the Main Street to the existing residential areas of Lakelands, including higher density residential at key entrance points;
- (c) Provide for a legible street network with an integrated use of public and private space;
- (d) Provide strong pedestrian and cyclist connections to the remainder of the Activity Centre;
- (e) Identify lots that have the potential to be impacted by noise arising from a Tavern within the Commercial Precinct and provide associated Quiet House Design guidelines in order to achieve an internal environment that complies with the relevant Australian Standard

Note: *The current Australian Standard is AS2107:2000 "Acoustics Recommended Design Sound Levels and Reverberation Times for Building Interiors";*

- (f) Provide for a minimum scale of 2 storeys; and

(g) Incorporate site and development standards to ensure the buildings and streets are urban in form and provide for passive surveillance of streets and public spaces including, unless otherwise covered by the R-Codes:

- Residential development to be designed as street front development with active and permeable frontage to buildings;
- Developments to provide openings to the street and other public spaces to facilitate surveillance and pedestrian safety;
- Development on corner lots being designed to address both streets;
- No blank walls being permitted on any street frontage; and
- Any fence within the front setback area to be visually permeable above 1.2m.

Table 1 Zoning Table

Grouped Land Uses			
Zones	Commercial (Main Street)	Commercial (Free Standing)	Mixed Use
	X ¹	X	P
	P #	P #	P
Residential Uses (Category A) Single Dwelling			
Residential Uses (Category B) Aged Care Aged Persons Dwelling Ancillary Dwelling Bed and Breakfast Dwelling (Group, Multiple) Family Day Care Holiday House Home Business Home Occupation Home Office Single Bedroom Dwelling	P #	P #	P
Commercial Uses Car Park Consulting Rooms Medical Centre Office	P	P	P
Retail Uses Convenience Store Liquor Store (Small) Market Shop	P	P	D

¹ P – Permitted; I – Incidental; D – Discretionary; A – Discretionary Requiring Advertising; X – Not Permitted
Above Ground Floor Only

Zones		Commercial (Main Street)	Commercial (Free Standing)	Mixed Use
Tourism Uses Holiday Accommodation Motel	Serviced Apartment Tourism Development	D	D	A
	Dining & Entertainment Amusement Parlour Club Premises Reception Centre	P	P	X
	Licensed Premises (Category A) Hotel Liquor Store (Large)	D	D	X
	Licensed Premises (Category B) Nightclub	X	X	X
Community Uses Child Care Premises Community Purpose	Restricted Premises			
	Education Establishment Place of Worship	D	D	A
Specific Land Uses				
Bulky Goods Showroom		X	P	X
Fast Food Outlet		X	P	X
Motor Vehicle Wash		X	D	X
Service Station		X	P	X
Telecommunications Infrastructure		P	P	D
Veterinary Centre		D	D	X

3. General Development Requirements

3.1 Main Street Activation

All development within the Lakelands Activity Centre shall seek to maximise activation of the Main Street as identified within Plan 1.

To fulfil this requirement, the following shall be required as a minimum:

- (a) On-site car parking and service areas shall be located away from the street edge;
- (b) The design of the car parking areas shall be consistent with the overall vision and include well designed landscaping;
- (c) Crossovers shall be provided as per Plan 1;
- (d) Services areas shall be discrete with rubbish bins, plant and equipment screened from the public view;
- (e) Ground floor tenancies shall incorporate full height glazing to street elevations with shading devices for solar control as required;
- (f) Building entrances at ground floor levels shall address the primary street frontage and be clearly identified ;
- (g) A canopy or awning shall be provided to all ground floor tenancies adjacent to a street, to a minimum height of 3m, and a minimum depth of 2.5m into the street;
- (h) Areas of blank wall at ground floor level shall be minimised along any street frontage;
- (i) Corner lots shall have active frontages to both streets;
- (ii) Commercial development to have a minimum nil setback to the main street.

3.2 Building Design and Architectural Form

- (a) New developments should respond to the context and climate and should contribute positively to the desired character of each precinct as well as reinforcing a strong overall sense of place.
- (b) Careful consideration should be given to the interface between each precinct and to the relationship between new developments and adjoining areas.
- (c) A minimum nil setback applies to all development within the Commercial (Main street) and Commercial (Mixed Use) precincts.
- (d) Development along the Mandurah Road frontage shall be designed to provide visual interest, including the provision of landscaping, building articulation and use of a variety of materials.
- (e) Corner buildings are to address both frontages and should articulate the corner by incorporating a distinctive design feature (such as a tower element or entrance feature).
- (f) Ground floor windows of unobscured glass are required to be provided along all street frontages with the exception of Mandurah Road.
- (g) The public faces of buildings should be detailed in order to provide visual richness and variety. This can be achieved through the use of a variety of materials, surface modelling, projections such as balconies and verandahs, the spacing of windows and doors, and the integration of art.

3.3 Signage

- (a) No pylon signs are to be permitted within the Lakelands Activity Centre.
- (b) All other signage is to be in accordance with Local Planning Policy 2: Signage, unless otherwise specified within the approved signage concept plan for the Lakelands Activity Centre.
- (c) The total area of any window sign must not cover more than one quarter (25%) of the total glazed surface area. The remaining glazed surface is to remain visually permeable.

3.4 Pedestrian Access

The design for exterior spaces, including car parks, is to provide a priority access for pedestrians.

This shall include footpaths being continuous over driveways.

3.5 Car Parking

- (a) Car parking is to be provided in accordance with Table 2.

Table 2 Car Parking Requirements

Use	Standard (Floorspace in Gross Leasable Area)
Residential	<ul style="list-style-type: none">As per R-Codes
Commercial, Retail, Dining and Entertainment	<ul style="list-style-type: none">4 bays per 100m²
Office	<ul style="list-style-type: none">1 bay per 50m²
All Other Uses	<ul style="list-style-type: none">As per the Scheme

- (b) Car parking ratios are calculated across both the Commercial (Main Street) and Commercial (Freestanding) Precincts, with reciprocal access to carparking to be maintained between all tenancies.
- (c) Multi storey car parks are to be screened from all street frontages and sleeved with other uses such as offices, retail and residential development.

3.6 Noise Attenuation

- (a) All new development within the Lakelands Activity Centre shall address the potential adverse impacts of noise intrusion and noise emissions at the planning and design stage, incorporating appropriate measures at the time of construction to achieve compliance with the relevant Australian Standard.

Note: *The current Australian Standard is AS2107:2000 "Acoustics Recommended Design Sound Levels and Reverberation Times for Building Interiors";*

- (b) All mixed use buildings that include a residential component must be designed to minimise structural noise transfer between ground floor commercial or retail uses and the residences above.

3.7 Landscape Design

- (a) A minimum of 10% of the site shall be landscaped.
- (b) A minimum of one shade tree per 4 uncovered bays shall be provided (minimum 45 litre for exotics and 1 litre for natives);
- (c) Landscaped areas should be at least 1 metre wide with a minimum area of 2m² to ensure enough space for plants to grow and to be of any landscape value;
- (d) All landscaped areas shall be reticulated unless the applicant can provide satisfactory evidence that reticulation is not necessary. A minimum of 75mm of mulch (gravel not permitted) is to be applied to all landscaping beds);

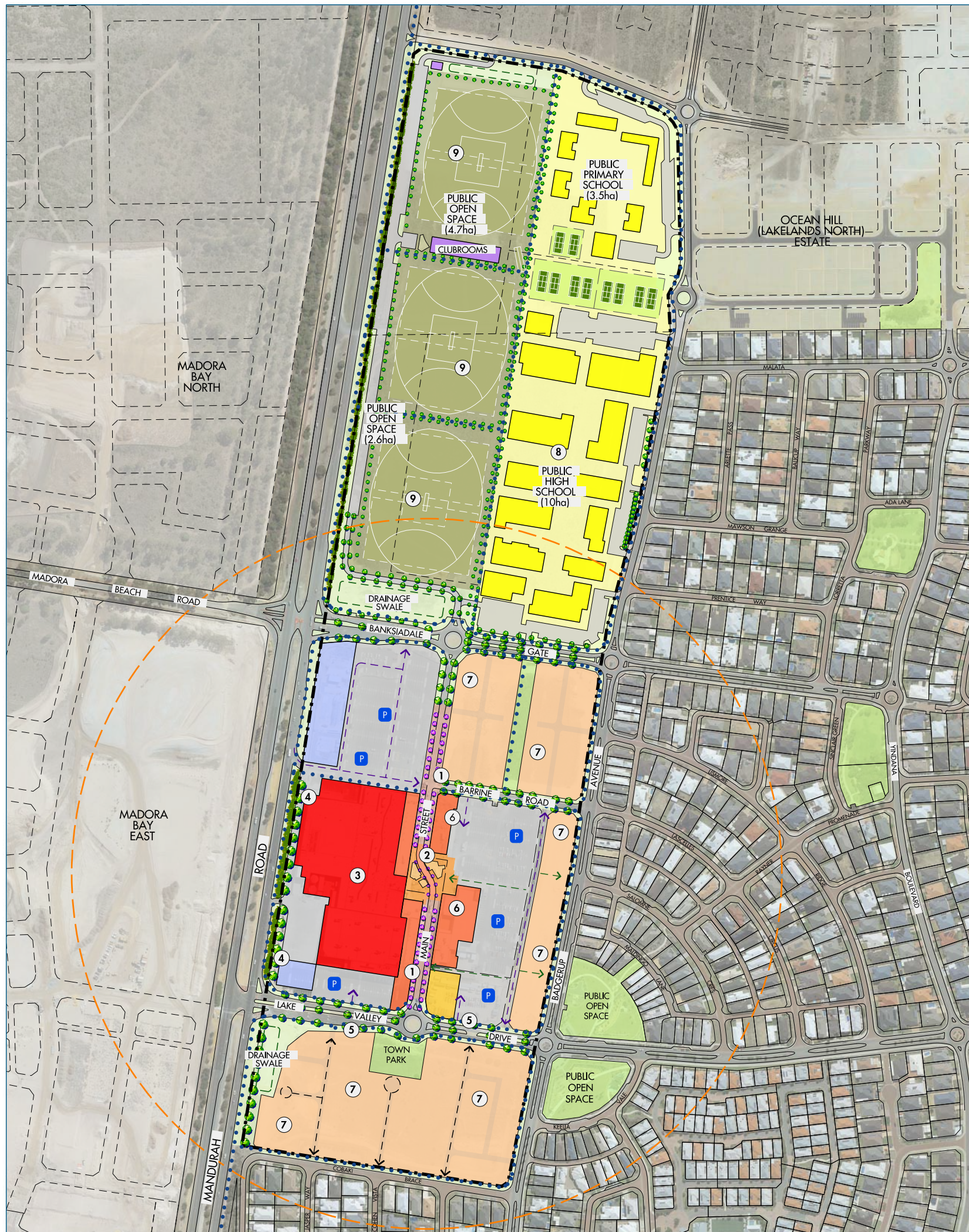
- (e) Vertical green walls and rooftop gardens are encouraged. Vertical green walls will be calculated as contributing 1 square metre of the landscaping requirement for every 2 square metres of vertical element;
- (f) Where paving within lot boundaries of private land abuts or is visible from the street or public spaces, effort should be made to coordinate the paving with that in the public areas, in terms of colour, scale and texture;
- (g) In order to increase on site water absorption and reduce run-off, paving which facilitates or promotes these qualities should be used for all hard surfaces.

3.8 Application of the Residential Design Codes

A density of R-AC3 applies to all residential development within the Lakelands Activity Centre.

City of Mandurah Activity Centre Plan

Plan 1 Lakelands Activity Centre Plan



Sub-Precincts

- Core Retail
- Main Street Commercial
- Free-Standing Commercial
- Community Centre
- R-AC3 Mixed Use (Subject to LDPs)
- School Site

Land uses and sub-precincts are indicative only.

Public Spaces

- Town Square
- Town Parks
- Active Recreation

Overlays

- Core Parking Areas
- Main Street
- Access Street
- Vehicle Accessway / Car Park Entry
- Pedestrian Accessway
- 400m Walkable Catchment
- Shared Path Network
- Activity Centre Plan Boundary

All details shown on the Activity Centre Plan are indicative only and subject to further detailed design.

Details shown on the Activity Centre Plan that are outside the Activity Centre Plan require separate approvals as required by the local planning scheme.

Activity Centre Plan Vision

To create a pedestrian orientated town centre with an active main street and town square to service the retail, social and recreational needs of the wider residential catchment.

Activity Centre Plan Purpose

To fulfill the requirements of an Activity Centre Plan as required by State Planning Policy 4.2 (Activity Centres for Perth and Peel) and Part 5 of the Deemed Provisions of the Local Planning Scheme

Key Priorities

- Providing a pedestrian orientated main street
- Focusing the centre on the town square
- Providing an architectural and landscape response to the Mandurah Road elevation
- Ensuring shared use facilities within the recreation and education facilities
- Providing for community facilities in the built and open space environment

Plan Notes

- The main street being a publically accessible street designed to have a compact and fine grain urban form with on-street parking, outdoor dining spaces, street furniture, street trees and landscaping, with awnings and colonades for pedestrian weather protection
- The town square being the 'heart' of the centre, designed to be a natural meeting place and accommodating a range of activities, public art, outdoor dining and street furniture with emphasis of shopping centre having key entry point adjacent to the square
- Retail centre being a 'District Centre' size providing for a range of retail and shopping experiences, with a built form that addresses the main street and public spaces through architectural features, external access points, and colours and materials
- Built form of retail centre adjacent to Mandurah Road using a mix of architectural design features and hard and soft landscaping treatments to soften the edge effects of the rear elevation and servicing core
- Lake Valley Drive being the southern gateway to the town centre. Intersection with the main street providing for pedestrian priority, built form to frame the entry to the town centre and town park at southern side with residential surrounding
- Main Street Commercial tenancies to provide for a night time economy for the town centre that may include tavern, restaurant and entertainment uses
- Mixed use frame providing for a range of housing options that responds to the town centre and provides a transition from existing residential areas of Lakelands, including higher density residential at key entrance points, addresses public spaces, streets and car parking areas.

Quiet House Design Requirements are required for residential development within proximity to the Tavern together with Notification on Titles. An acoustic report outlining recommendations must be prepared to achieve an internal environment that complies with Australian Standard AS 2107:2000 "Acoustics Recommended Design Sound Levels and Reverberation Times for Building Interiors."

- Public high school designed to integrate with the town centre and adjoining recreation space, with school fencing located to provide for after hours community use of shared use facilities, including indoor recreation, outdoor courts and parking areas. Toilets / Changerooms within indoor recreation to service southern oval.
- District Open Space providing for three 'Active Recreation Templates' that can accommodate a combination of ovals and rectangular pitch provision with clubrooms to accommodate meeting / function space and changerooms to service northern recreation spaces.

District Open Space achieved through shared use with high school (2.7ha), primary school (0.5ha), public open space from Lakelands West (2.6ha) and Lakelands North (4.7ha)

Plan compiled from following sources:

Town Centre Master Plan: Roberts Day
Retail Design: Buchan Group
Residential Frame: Studio 53

Landscape Masterplan: Place Laboratory
High School Master Plan: Mode
Recreation Master Plan: City of Mandurah



7 July 2017 | 14/370/002A | 1:5000 @ A3

4.	SUBJECT:	Local Planning Policy 1 – Residential Design Codes: Final Approval
	CONTACT OFFICER/S:	Ben Dreckow
	AUTHOR:	Thomas Foulds
	FILE NO:	LPP1

Summary

State Planning Policy 3.1 - Residential Design Codes ('R-Codes') were updated in 2013 to reflect the increasing development of apartment buildings (multiple dwellings) in medium to high density areas and to make revisions to the layout, content and formatting of the document.

Council has a current Local Planning Policy (LPP10) which deals with supplementary provisions to the previous version of the R-Codes and current planning scheme provisions dealing with residential development, including canal lots.

Arising from modifications to the R-Codes and a review of the existing LPP10 and internal working practices, a new Residential Design Codes Policy was been prepared to provide a user friendly document that assists with the design and assessment of dwellings, while providing certainty regarding acceptable Residential Design Codes deemed-to-comply provisions requirements.

In addition, the revised policy includes the following:

- Inclusion of R-MD Codes following the Western Australian Planning Commission release of a standard set of provisions for smaller lots where implementation is required to be through an LPP. As a result, modifications to the policy has introduced the R-MD Codes; and
- Refinement and clarification of matters for canal lots that are not covered by the R-Codes and the provisions of the local planning scheme do not thoroughly cover.

The draft LPP was adopted by Council for advertising in 2015 and subsequently advertised. Given that only minor improvements have been made to the content of the Local Planning Policy, the policy does not require further advertising. As a result, it is recommended Council adopt Local Planning Policy 1.

Disclosure of Interest

Nil

Previous Relevant Documentation

- | | | | |
|---|-----------|-------------------|--|
| • | G.11/9/15 | 22 September 2015 | Council resolved to provide comment to the WAPC on Planning Bulletin 112/2015 ('R-MD Codes') and that is would not accept further Local Development Plans unless consistent with the R-MD Codes. |
| • | G.18/7/15 | 28 July 2015 | Council adopted Local Planning Policy 1 for Advertising. |
| • | G.18/5/10 | 25 May 2010 | Council adopted for final approval Local Planning Policy No 10 (Residential Design Codes Policy) |
| • | G.37/6/09 | 16 June 2009 | Council adopted Local Planning Policy 10 for Advertising. |

Background

State Planning Policy 3.1 – Residential Design Codes (the R-Codes) includes provisions for decision-makers to prepare local planning policies to replace certain development standards of the R-Codes where a specific local need arises.

The current Local Planning Policy (LPP10) that deals with residential design provision policy was adopted for advertising by Council in June 2009, and adopted for final approval in May 2010. This policy replaced a previous policy that was initially adopted in 2002 and updated in 2005.

LPP10 operates as a guiding document for the development of single, grouped and multiple dwellings and ancillary structures and buildings. The Policy also provides guidance on the development of lots that back onto foreshore reserves and canals, as the Residential Design Codes do not have any provisions that reflect the characteristics of these type of lots.

Comment

Local Planning Policy 1 (LPP1) provides variations to relevant deemed-to-comply provisions of the R-Codes to assist in their implementation. The policy should be read in conjunction with the R-Codes, including Explanatory Guidelines which provide a guide for assessment.

A primary use of LPP1 will be in the assessment of Single Dwellings, which are assessed via an Application for a Building Permit, or as an R-Codes Variation Application. Provisions relating to Single Dwellings have been updated to reflect the most recent version of the R-Codes, and to reflect discretions to the deemed-to-comply provisions which officers consider appropriate.

Canal Dwellings

Part 3 of LPP1 includes provisions relating to canal development given the need for specific provisions. Of particular note are setbacks to the canal wall, whereby dwellings require an average setback of 6m (minimum setback of 4m) as per the Scheme. The draft LPP identifies that both sides of a dwelling may be used to calculate the average setback subject to neighbour consultation, whereas the current LPP does not include this provision.

Medium Density Dwellings (R-MD Codes)

The WAPC's "Planning Bulletin 112/2016 – Medium density single house development standards" (R-MD Codes) essentially outline acceptable discretions to the deemed-to-comply provisions of State Planning Policy 3.1 - Residential Design Codes (R-Codes) for medium density single houses within Structure Plan areas.

The provisions identified within the R-MD Codes can be applied within Structure Plan areas, and require implementation through a Local Planning Policy (LPP). To date, the Ocean Hill estate in Lakelands has implemented R-MD provisions through individual Local Development Plan's (LDP) which cover stages of a subdivision.

Implementation of the R-MD Codes via an LPP will allow Local Development Plan's to be used for their intended purpose of facilitating development on smaller constrained sites (e.g. lots affected by transport noise and/or bushfire).

The application of the R-MD Codes provisions will result in a greater consistency in considering single houses in Structure Plan areas. The WAPC will not generally support further variations to the R-MD Codes unless the proposed variations provide for innovative housing typologies and that deliver positive community outcomes.

On release of the R-MD Codes, a report was presented to Council in September 2015 detailing a review of the R-MD Codes. Subsequently a submission was made to the WAPC and the Department of Planning outlining standards and requirements within the R-MD Codes for further consideration. Importantly, Council resolved to not accept further LDP's for standard lots in new subdivision areas unless consistent with the R-MD Codes in order to ensure consistency of development standards and outcomes unless special circumstances apply.

Consultation

Consultation was undertaken in accordance with clause 9.6.3 of the Scheme, involving a notice being published in the local newspaper, giving details of where the Policy was able to be viewed, the subject and nature of the Policy, and in what format submissions may be made.

This consultation was undertaken in August 2015, with one submission being received from the Department of Planning (refer Submissions Table).

Owner / Address	Submission (Summarised comments)	Comment
1. Department of Planning	<p>a. DoP does not wish to make formal comment, but offers general advice.</p> <p>b. Draft LPP proposes some variations beyond the scope of Part 7 of the R-Codes, which require WAPC approval. Clause 7.3.2 of the R-Codes provides circumstances where this can occur.</p>	<p>a. Noted.</p> <p>b. Noted</p>

Statutory Environment

Local governments may prepare Local Planning Policies under Part 2, Division 2 of the Deemed Provisions for Local Planning Schemes in respect to any matter related to the planning and development of the scheme area.

This Local Planning Policy is adopted pursuant to Clause 4(4) of the *"Deemed Provisions"* for Local Planning Schemes.

Clause 3(5) and Clause 67(g) of the *"Deemed Provisions"* for Local Planning Schemes state that the local government is to have due regard to a local planning policy in making a determination under the local planning scheme and applications for development approval.

Policy Implications

The review and modification of the subject Local Planning Policy will assist in the assessment of residential development.

The policy is proposed to be numbered as Local Planning Policy No 1 which will replace existing Local Planning Policy No 10 which was adopted in 2010.

Economic Implications

Development approval will not be required for a single dwelling that complies with the provisions of this policy (and all other deemed-to-comply requirements of the R-Codes), in accordance with clause 61(4)(c) of the *“Deemed Provisions”*.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2013 – 2033* are relevant to this report:

Infrastructure:

- Facilitate the provision of diverse housing stock.

Organisational Excellence:

- Ensure the City has the capacity and capability to deliver services and facilities that meet community expectations.

Conclusion

The proposed revisions to the current Local Planning Policy on Residential Design Codes are considered to provide a more user friendly document that will assist applicants, landowners and officers.

The proposed Policy will also bring the City's provisions into line with the current format and provisions of the 2013 Residential Design Codes, as well as Planning Bulletin 112/2016 – R-MD Codes.

NOTE:

- Refer ***Attachment 1*** ***Local Planning Policy 1 – Residential Design Codes***

RECOMMENDATION

That:

In accordance with Clause 4(4) of the *Deemed Provisions for Local Planning Schemes*, Council resolves to proceed with Local Planning Policy 1 – Residential Design Codes (dated August 2017) with modification and publish a notice in the local newspaper giving effect to the Policy.



**City of Mandurah
Local Planning Policy
LPP1 Residential Design Codes Policy**

**Final (Subject to Council Adoption)
August 2017**

1. Introduction

1.1 Policy Objectives

The objectives of this Local Planning Policy are to:

- (a) Provide further interpretation of the Residential Design Codes in the assessment of residential developments.
- (b) Provide the basis for consistent assessment and decision making.

1.2 Background

State Planning Policy 3.1 – Residential Design Codes (the R-Codes) includes provisions for decision-makers to prepare local planning policies to replace certain development standards of the R-Codes where a specific local need arises.

The R-Codes also acknowledge that applications with proposals which do not satisfy the deemed-to-comply provisions of the R-Codes may need to rely more specifically on local housing requirements and design objectives.

This policy provides variations to relevant deemed-to-comply provisions of the R-Codes to assist in their implementation.

This policy should be read in conjunction with the R-Codes, including Explanatory Guidelines which provide a guide for assessment.

1.3 Application of the Policy

- (a) This Local Planning Policy is prepared, advertised and adopted pursuant to Schedule 2, Part 2, Division 2 of the Deemed Provisions for Local Planning Schemes (*'deemed provisions'*)
- (b) Clause 3(5) and Clause 67(g) of the Deemed Provisions for Local Planning Schemes state that the local government is to have due regard to a local planning policy in making a determination under the local planning scheme and applications for development approval.
- (c) Development approval will not be required for a single dwelling that complies with the provisions of this policy (and all other deemed-to-comply requirements of the R-Codes), in accordance with clause 61(4)(c) of the Deemed Provisions.

2. Single Dwellings and Grouped Dwellings (Part 5 of the R-Codes)

Policy Reference	Acceptable Deemed-to-Comply Criteria
2.1 Street Setback (R-Codes: 5.1.2)	<p>Primary Street:</p> <p>(a) For lots R12.5-R25, a 5.4 metre average setback may be permitted.</p> <p>Secondary Street:</p> <p>(b) For lots R12.5 and higher, walls with an overall length of 9 metres or less are permitted to be setback 1 metre subject to:</p> <ul style="list-style-type: none">• The wall being setback a minimum of 3 metres from a side boundary, and,• The roof and gutter being setback a minimum of 500mm from the secondary street boundary. <p>(c) A patio with an overall length of 9 metres or less is permitted to have supporting posts up to a secondary street boundary subject to:</p> <ul style="list-style-type: none">• A maximum height of post and beam up to the boundary being 2.7m above the existing ground level on the property and the roof and gutter being setback a minimum of 500mm from the secondary street boundary;• Setback a minimum of 3m from a side boundary; and,• A 1.8 metre high fence, either solid or visually permeable, must be installed on the secondary street side of the posts. <p>Corner Truncations:</p> <p>(d) For lots R12.5 and higher, a minimum setback of 1 metre may be permitted to a corner truncation.</p>

Policy Reference	Acceptable Deemed-to-Comply Criteria
2.2 Lot Boundary Setback (R-Codes: 5.1.3)	<p>Boundary Setback</p> <p>(a) Lot boundary setbacks may be reduced by 1/3 to a minimum of 1m.</p> <p>Boundary Walls</p> <p>(b) For lots R20 and higher, more than one boundary wall may be considered subject to each wall adjoining a different property.</p> <p>(c) For lots R12.5-R17.5, a wall built up to a boundary may be considered in accordance with R20 requirements (R-Codes: 5.1.3, C3.2, ii.).</p> <p>(d) May be permitted up to the minimum setback required from the primary street. <i>For example: boundary wall at 3m for R20 and 2m for R40.</i></p> <p>(e) Nib feature walls with 350mm width and height of 3.5m are excluded from wall height average.</p> <p>Open Sided Structures (R12.5-R25)</p> <p>Open structures constructed with the supporting posts located up to one side boundary may be permitted to:</p> <p>(f) A maximum length of 18 metres for one open sided structure, providing there are no other walls up to the same boundary.</p> <p>(g) An aggregate length of 18m on a boundary for an open structure where there is another proposed or existing wall up to the same boundary.</p> <p>(h) A second side or rear boundary up to a length of 9 metres in addition to an existing boundary wall to a garage or section of an enclosed part of a dwelling on another boundary.</p> <p>(i) Should the aggregate walls up to a boundary be greater than 18 metres in length (whether as several open structures or open structures and walls) the aggregate walls up to a boundary shall be horizontally separated by an unroofed section along the boundary with dimensions 4.0 metres long by 1.5 metre wide; and</p> <p>(j) The poles/piers/posts of an open structure shall achieve a maximum and average wall height not greater than 2.7 metres, measured from natural ground level.</p> <p>Open Sided Structures (R30 and higher)</p> <p>Open structures proposed within 1.0 metre of a boundary may be permitted:</p> <p>(k) For an additional aggregate length of two-thirds the length of the balance of the boundary behind the front setback, to an alternate side or rear boundary that does not have an existing or proposed wall built up to a boundary.</p>

Policy Reference	Acceptable Deemed-to-Comply Criteria
2.3 Open Space (R-Codes: 5.1.4)	(a) Open space requirements may be reduced by 5% (excluding lots covered by a Local Development Plan that provides a reduction to open space requirements).
2.4 Building Height (R-Codes: 5.1.6)	(a) Category B of Table 3 is applicable where the R-Code Density is R30 and lower (b) Category C of Table 3 is applicable where the R-Code Density is R35 and higher (c) Skillion or Flat Roofs are assessed as per the Concealed Roof Requirements of Table 3.
2.5 Street Walls and Fences (R-Codes: 5.2.4)	(a) Fencing Local Law 2015 provides for approved materials. Porticos and Entry Gates (b) Wall permitted to a height of 2.4m and width of 3m, and total height of 3.5m. (c) Materials to be consistent with façade of the dwelling or front fence. (d) Minimum setback of 3m from side boundaries.
2.6 Outdoor Living Areas (R-Codes: 5.3.1)	(a) Outdoor Living Areas may be acceptable within the front setback area where located on the northern orientation or when overlooking a view of significance. (b) Where R-Code Density is R15-17.5, an outdoor living area of 36 square metres to the rear of the dwelling may be permitted in lieu of 6m rear boundary setback.
2.7 Site Works and Retaining (R-Codes: 5.3.7 & 5.3.8)	(a) Any excavation greater than 500mm is to be setback a distance equal to or greater than the depth of the excavation below the natural ground level. (b) Fill and retaining within the street frontage must not exceed 1.5 metres above Natural Ground Level.
2.8 Building Design Use of Sea Containers (R-Codes: 5.4)	(a) Sea containers and transportable buildings may be permitted for use as a dwelling, outbuilding, habitable room extension / addition or otherwise subject to being clad in materials consistent with the existing / proposed dwelling (Note: outbuildings may be clad in materials consistent with an outbuilding in a residential area).

Policy Reference	Acceptable Deemed-to-Comply Criteria
2.9 Outbuildings (R-Codes: 5.4.3)	<p>(a) For lots greater than 600 square metres, a 60m² outbuilding plus 5m² for every 100m² of land area in excess of 600m² is permitted.</p> <p>(b) Where R-Code Density is R10 and higher, wall height of 3m and building height of 4.5m may be permitted.</p> <p>(c) Where R-Code Density is R5 and lower, wall height of 5m and building height of 6m may be permitted.</p> <p>(d) A “lean to”, carport or similar structure that is open on at least two full sides and not less than 50% of its perimeter is excluded in calculating the area of an outbuilding.</p> <p>(e) Where R-Code Density is R2 and R2.5, setback to side rear boundaries may be considered against Table 2a (replacing Table 1), and setback from the front boundary either in accordance with Table 1 or concealed behind a dwelling.</p> <p>(f) External walls of outbuildings having materials and colours consistent with the dwelling and/or prevailing area.</p> <p>(g) Walls with a height of 1.8m or greater must not have a raw material finish such as fibre cement, uncoloured cement render or zincalume, uncoloured metal finish.</p> <p>Outbuildings on vacant ‘Residential’ lots</p> <p>(h) Where it is proposed that an outbuilding be erected on a vacant property, an application for development approval must be submitted and may be approved subject to:</p> <ul style="list-style-type: none"> • A temporary approval in accordance with clause 70 of the Deemed Provisions for a period of 12 months; and, • A condition being imposed that the owner will enter into an agreement stipulating that a dwelling will be completed within 12 months of the temporary approval, and/or remove the outbuilding and clear the property of all materials and building debris.
2.10 Utilities and Facilities (R-Codes: 5.4.5)	<p>(a) Store rooms may have a minimum internal dimension of 1 metre when accessible from the greater dimension (e.g. 1m x 4m store, with door on the 4m section of the store).</p> <p>(b) Store rooms may be located within a garage subject to a vehicle not being able to use the space indicated as the store.</p>
2.11 Ancillary Dwellings (R-Codes: 5.5.1)	<p>(a) Ancillary dwellings may have a maximum plot ratio area of 100 square metres where they are proposed on properties larger than 2000 square metres. The provisions of the R-Code applies otherwise;</p> <p>(b) Ancillary dwellings shall not be attached to an outbuilding/garage or otherwise when greater than the size permitted by the R-Codes.</p>

3. Canal Development

The following provisions outline acceptable alternatives to the deemed-to-comply criteria of the Residential Design Codes or provide clarifications and/or interpretations of the provisions of the local planning scheme as they apply to lots with boundary adjoining a canal:

Policy Reference	Acceptable Deemed-to-Comply Criteria
3.1 Street Setback (R-Codes 5.1.2)	(a) A side loaded garage may be setback 1.5 metres subject to the wall parallel to the street including at least two unobscured windows which match the dwelling.
3.2 Visual Privacy (R-Codes 5.4.1)	(a) Outdoor living areas, major openings and active habitable spaces that adjoin the canal waterway within the canal setback may be treated as if it were the street setback area.
3.3 Canal Setbacks (Scheme 3: 4.11.3.4)	<p>(a) A dwelling and structures (except swimming pools and retaining walls) are required to achieve a 4m minimum and 6m average canal setback. The exceptions are Port Mandurah Stage 1 and Waterside Estates, which shall maintain a minimum 6m canal setback.</p> <p>Note: the setback of a building from the outer side of the canal wall is to be measured from either:</p> <ul style="list-style-type: none">(i) The external wall of the building, or(ii) A supporting pillar/post of a verandah, patio or balcony, or(iii) The edge of a cantilevered balcony that has a floor level more than 500mm above the natural ground level. <p>(b) The canal setback is measured from the canal waterway face of the wall together with the following considerations:</p> <ul style="list-style-type: none">(i) Both sides of the building, setback between 6m and 12m from the canal wall (i.e. the compensatory area), may be used to calculate the average canal setback subject to neighbour consultation.(ii) Eaves may encroach up to 1m into the setback area without being included in the setback calculation;(iii) Unroofed balconies and decks (including suspended floors or areas that are filled and retained), that have a finished floor level of 500mm or less than the levelled part of the property established at the time of subdivision (determined by the City), may be setback 2m from the canal wall.

- (c) Properties with a two boundaries adjoining a canal require one nominated canal frontage to achieve the 6.0 metre minimum or average specified by the Scheme, with the other canal frontages to achieve the 4.0 metre minimum requirement. The City shall determine which canal frontage is not required to achieve the 6.0 metre average.

3.4 Pergolas and Shade Sails

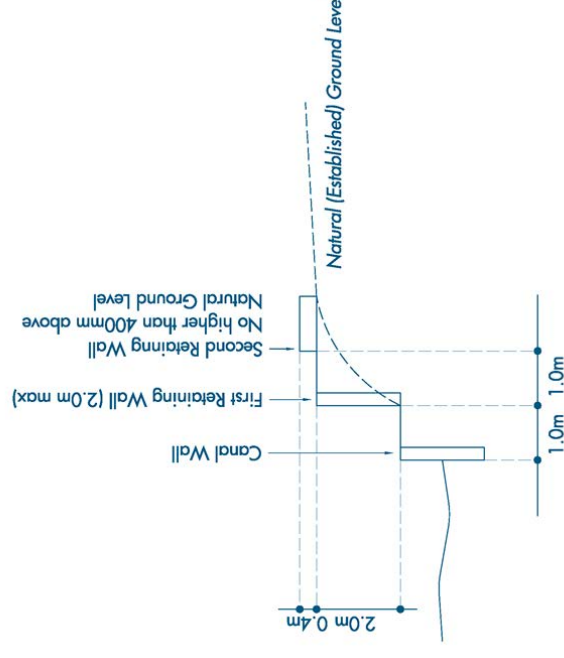
- (a) Unroofed pergolas (no roof cover of any form other than timber slats spaced a minimum of 500mm apart and/or shade cloth) and shade sails (with a maximum height of 3.5m) may be setback a minimum of 3m from the canal wall and will not be included in the canal setback.
- (b) A maximum of one structure (i.e. pergola or shade sail) per lot, limited to a maximum width of 50% of the canal frontage.

3.5 Decks

- (a) Decks may be permitted to a 2m minimum canal setback subject to it being no higher than 500mm above the established flat level of the lot (as determined by the City).

3.6 Retaining Walls

- (a) Retaining walls may be permitted to a 1m minimum canal setback subject to:
 - (i) First retaining wall adjacent to the canal having a maximum height of 1.5m;
 - (ii) Second retaining wall in from the canal wall is limited to being no higher than 500mm above the flat portion of the lot and canal setback a minimum of 2m as shown in the figure shown.
- (b) Terracing of walls should be used as a feature and utilise landscaping to break up large retaining wall faces.



Policy Reference	Acceptable Deemed-to-Comply Criteria
Storerooms/Undercrofts	<p>(a) Undercroft storage areas and cantilevered balconies or similar structures are excluded when calculating the rear average setback, where the roof or ground level above the store is a maximum of 500mm above the finished level part of the lot.</p> <p>(b) Size / Specifications shall be as follows:</p> <p>Minor (less than 5 square metres):</p> <ul style="list-style-type: none"> • 1.5m minimum setback from canal wall • 1.5m maximum depth • 1.5m maximum height • Accessible primarily from outside of storeroom only <p>Small (5-9 square metres):</p> <ul style="list-style-type: none"> • 1.8m minimum ceiling height • 3m minimum canal setback • 50% maximum width of lot • Sanitary facilities are not permitted (W/C, shower etc.) <p>Medium to Large (greater than 10 square metres):</p> <ul style="list-style-type: none"> • 2.1m minimum ceiling height • 4m minimum canal setback • (6m minimum in Port Mandurah Stage 1, Waterside Canals) <p>(c) The minimum finished floor level permitted for non-habitable undercroft stores is 1.14m Australian Height Datum (AHD) (referenced as 1 in 25 year flood level).</p> <p>(d) Where sanitary facilities are provided, notification under Section 70A of the Land Transfer Act 1892 required confirming that the store has been constructed at a level that is subject to flooding and is for non-habitable purposes only.</p> <p>(e) Should a stairway be provided from the residence directly into the store, a doorway must be provided at the top of the stairway to provide separation in the occurrence of flooding and prevent the door from being affected by floodwaters causing the door or door frame to swell.</p> <p>(f) Engineering certification where located within 6m of canal wall that will not place a surcharge load on the canal wall and adjoining property where located within side boundary setbacks of the R-Codes unless setback the equal distance of the height.</p>

Policy Reference	Acceptable Deemed-to-Comply Criteria
3.7 Fencing	<p>(g) The building wall and/or roof height is to be calculated from the greater of either:</p> <ul style="list-style-type: none"> • The level of the flat part of the lot created at the time of subdivision, or • The minimum finished pad level (i.e. minimum floor level minus 150mm) to achieve the required flood protection level required by the Building Codes of Australia and recommended by the Department of Water. <p>(h) Decks/floor area above storerooms/undercrofts are not permitted any higher than 500mm above the flat portion of the lot.</p> <p>(a) Front fences may incorporate infill panels of solid construction, provided that the width of the solid fence does not exceed 50% of the street frontage and provided that at least one visually permeable panel provides surveillance of the entry to the dwelling.</p>
	<p>3.8 Wall Height</p> <p>(a) The height of a wall is to be calculated from the greater of either:</p> <ul style="list-style-type: none"> • The level of the flat part of the lot created at the time of subdivision, or • The minimum finished ground level (i.e. minimum floor level minus 150mm) to achieve the required flood protection level required by the Building Codes of Australia and recommended by the Department of Water.

4. Medium Density Single Houses in Structure Plan Areas (RMD Codes)

These provisions will apply in Structure Plan areas where the plan identifies that the relevant RMD Codes local planning policy applies, providing for acceptable development outcomes as a replacement to the deemed-to-comply criteria of the Residential Design Codes (Reference Appendix 1 of Planning Bulletin 112/2015):

Policy Ref R-Code Reference	Acceptable Deemed to Comply Criteria		
	RMD-25	RMD-30	RMD-40 RMD-60
4.1 Street Setbacks and Front Fences (R-Codes 5.1.2 & 5.2.4)	<ul style="list-style-type: none"> 3m minimum no average 1.5m to porch/veranda (no max length) 1.5m minimum to secondary street 	<ul style="list-style-type: none"> 2m minimum no average 1.5m to porch/veranda (no max length) 1m minimum to secondary street 	<ul style="list-style-type: none"> 2m minimum no average 1m to porch/veranda (no max length) 1m minimum to secondary street
4.2 Lot Boundary Setback (R-Codes 5.1.3)	<ul style="list-style-type: none"> 1.2m for wall height 3.5m or less with major openings 1m for wall height 3.5m or less without major openings 	<ul style="list-style-type: none"> Front fences within the primary street setback area being a maximum height of 900mm above natural ground level, measured from the primary street side of the front fence 	
4.3 Walls to Boundary (R-Codes 5.1.3)	<p>To both side boundaries subject to:</p> <ul style="list-style-type: none"> 2/3 maximum length to one side boundary; 1/3 max length to second side boundary for wall height 3.5m or less. 	<p>To both side boundaries subject to:</p> <ul style="list-style-type: none"> 2/3 maximum length to one side boundary; 1/3 max length to second side boundary for wall height 3.5m or less. 	<p>To both side boundaries subject to:</p> <ul style="list-style-type: none"> No maximum length to one side boundary; 2/3 max length to second side boundary for wall height 3.5m or less. No maximum length to both side boundaries.

Policy Ref R-Code Reference	Acceptable Deemed to Comply Criteria			
	RMD-25	RMD-30	RMD-40	RDM-60
4.4 Open Space (R-Codes 5.1.4)	<ul style="list-style-type: none">• 50% open space (50% site cover)• 30m² courtyard• 1/3 of Outdoor Living Area (OLA) may be covered• Minimum dimension 4m	<ul style="list-style-type: none">• 45% open space (55% site cover)• 24m² courtyard• 1/3 of Outdoor Living Area (OLA) may be covered• Minimum dimension 4m	<ul style="list-style-type: none">• 45% open space (55% site cover)• 20m² courtyard• 1/3 of Outdoor Living Area (OLA) may be covered• Minimum dimension 4m	<ul style="list-style-type: none">• 40% open space (60% site cover)• 16m² courtyard• 1/3 of Outdoor Living Area (OLA) may be covered• Minimum dimension 4m
4.5 Garage Setback and Width and Vehicular Access (R-Codes 5.2.2, 5.3.3 and 5.3.5)	<p>Rear load</p> <ul style="list-style-type: none">• 0.5m garage setback to laneway <p>Front load</p> <ul style="list-style-type: none">• 4.5m garage setback from the primary street and 1.5m from a secondary street• The garage setback from the primary street may be reduced to 4m where an existing or planned footpath or shared path is located more than 0.5m from the street boundary• For front loaded lots with street frontages between 10.5 and 12m, a double garage is permitted to a maximum width of 6m as viewed from the street subject to:<ul style="list-style-type: none">- Garage setback a minimum of 0.5m behind the building alignment- A major opening to a habitable room directly facing the primary street- An entry feature consisting of a porch or veranda with a minimum depth of 1.2m; and- No vehicular crossover wider than 4.5m where it meets the street- Lots with a frontage less than 10.5m or not compliant with above require single or tandem garaging			
4.6 Parking (R-Codes 5.3.3)	<ul style="list-style-type: none">• As per R-Codes	<ul style="list-style-type: none">• As per R-Codes	<ul style="list-style-type: none">• As per R-Codes	<ul style="list-style-type: none">• One on-site bay where dwelling has two bedrooms or less

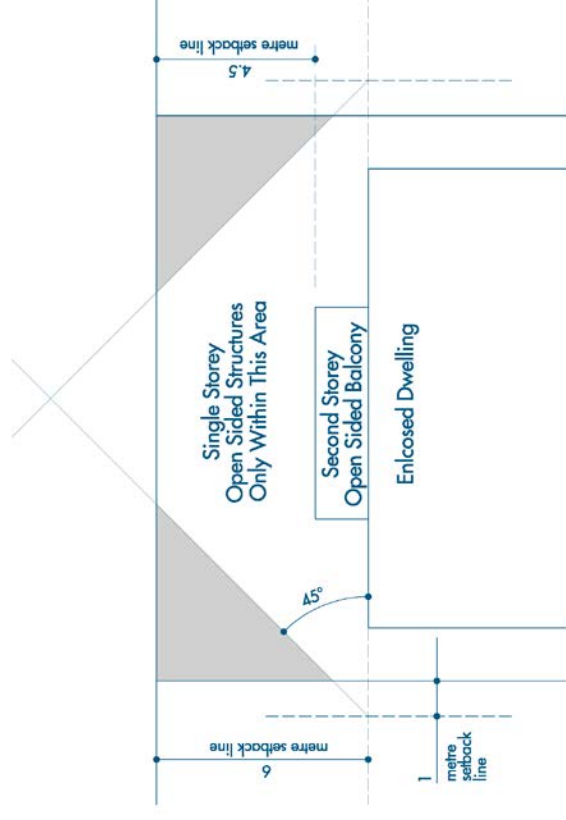
Policy Ref R-Code Reference	Acceptable Deemed to Comply Criteria			
	RMD-25	RMD-30	RMD-40	RDM-60
4.7 Overshadowing (R-Codes 5.4.1)	<ul style="list-style-type: none"> No maximum overshadowing for wall height 3.5m or less No maximum overshadowing for wall height greater than 3.5m where overshadowing is confined to the front half of the lot. If overshadowing intrudes into rear half of the lot, shadow cast does not exceed 25% 	<ul style="list-style-type: none"> No maximum overshadowing for wall height greater than 3.5m where overshadowing is confined to the front half of the lot. No maximum overshadowing for wall height greater than 3.5m where overshadowing is confined to the front half of the lot. If overshadowing intrudes into rear half of the lot, shadow cast does not exceed 35% 	<ul style="list-style-type: none"> No maximum overshadowing for wall height 3.5m or less No maximum overshadowing for wall height greater than 3.5m where overshadowing is confined to the front half of the lot. If overshadowing intrudes into rear half of the lot, shadow cast does not exceed 35% 	<ul style="list-style-type: none"> No maximum overshadowing
4.8 Privacy (R-Codes 5.4.2)	<ul style="list-style-type: none"> R-Codes clause 5.4.1 C1.1 applies, however the setback distances are: <ul style="list-style-type: none"> 3m to bedrooms and studies; 4.5m to major openings to habitable rooms other than bedrooms and studies and 6m to unenclosed outdoor active habitable spaces 	<ul style="list-style-type: none"> R-Codes clause 5.4.1 C1.1 applies, however the setback distances are: 	<ul style="list-style-type: none"> No privacy provisions apply 	

5. Scheme Provisions

The elements covered in this part provide clarification to a number of provisions contained in the Scheme.

5.1 Lots Adjoining Foreshore Reserves

- (a) Where a lot abuts onto a foreshore reserve, the minimum setback to a dwelling shall be 4.5m to an open balcony, verandah and/or the like, and 6m to the main building. A 45-degree visual truncation shall be maintained from adjoining properties at the 6m setback line.
- (b) For the purpose of this provision of the Scheme, a 'foreshore reserve' shall mean land reserved as 'Regional Open Space' in the Peel Region Scheme and as shown on the Scheme Maps.
- (c) The provisions apply unless otherwise varied through a Local Structure Plan and Local Development Plan.
- (d) For clarification, the adjoining figure below provides an interpretation of the Scheme development standards.



5.	SUBJECT:	Local Planning Policy No. 5 Telecommunications Infrastructure Notification and Advertising Guidelines – Adoption for Final Approval
	CONTACT OFFICER/S:	Ben Dreckow
	AUTHOR:	Ann Harrop
	FILE NO:	F6006

Summary

Council is requested to consider adopting for final approval Local Planning Policy No. 5 – Telecommunications Infrastructure Notification and Advertising Guidelines.

The objectives of the draft policy are to outline:

- the requirements of a proponent to notify the community of a proposal for telecommunications infrastructure where exempt from the need for planning approval: and
- the procedures that Council will follow in advertising an application for planning approval for telecommunications infrastructure.

The draft policy was adopted for advertising purposes by Council at its meeting held in December 2014 and subsequently advertised for public comment during August and September 2015. During the advertising period one submission was received suggesting minor modifications to the policy.

Council is now requested to consider the final adoption the policy with the inclusion of minor modifications in line with the submission received and to update references within the policy in accordance with current legislation.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G27/12/14 16 December 2014 Council adopted Amendment 125 for final approval and the Telecommunications Infrastructure Notification and Advertising Guidelines was adopted for advertising purposes.
- G35/4/14 22 April 2014 Council adopted Amendment 125 for advertising.
- G.24/3/14 25 March 2014 Council resolved that officers prepare an amendment to Town Planning Scheme 3 to exempt telecommunications infrastructure in certain locations from the need for planning approval.

Background

In March 2014, Council resolved to prepare an amendment to Town Planning Scheme No. 3 to allow for the exemption of telecommunications infrastructure in certain locations from the need to obtain planning approval. This included telecommunications infrastructure when located:

- (i) on land zoned 'City Centre Development' and 'Precinct Development' unless otherwise described within the applicable Precinct Plan adopted under the Scheme;
- (ii) on land zoned 'Service Commercial' and 'Industry';

(iii) on land zoned 'Commercial', subject to the designation of the site as a Strategic Centre, District Centre or Neighbourhood Centre within the Council's *Activity Centres Planning Strategy*;

(iv) on any other land where expressly described in an Outline Development Plan adopted under the Scheme;

subject to the following requirements being met;

(i) where the structure has a maximum height of 30 metres;

(ii) where the guiding principles for the location, siting and design of the structure is in accordance with the relevant State Planning Policy associated with telecommunications infrastructure; and

(iii) where the proponent has notified the local community of the proposed structure consistent with the Council's requirements.

In December 2014, Council adopted Amendment No. 125 for final approval and at the same time adopted the draft Local Planning Policy: Telecommunications Infrastructure Notification and Advertising for the purposes of advertising. The purpose of the draft policy was to clarify the notification and advertising requirements for telecommunications infrastructure required under the provisions proposed by Amendment No. 125.

Amendment No. 125 was granted Ministerial approval in July 2015, and the City subsequently commenced public consultation on the draft Local Planning Policy during which time one submission was received. The submission has been included as Attachment 1. The submission was generally supportive of the proposed policy, however did offer the following suggestions:

- Amend the clause requiring the inclusion of an Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) prepared brochure with the public notification of a proposed telecommunications structure to be more specific regarding the fact sheets required.
- Amend the clause requiring a public information session to only require a public information session where substantial public concern is generated.

In August 2015, the Planning and Development (Local Planning Schemes) Regulations 2015 came into effect, introducing Deemed Provisions for Local Planning Schemes which automatically formed part of every local planning scheme in WA. Where there is any inconsistency between the Deemed Provisions and a local planning schemes, the Deemed Provisions prevail.

Clause 61 of the Deemed Provisions identifies the types of development for which approval is not required. Whilst the Deemed Provisions do not specifically exempt Telecommunications infrastructure, the clause allows for a local government to exempt further forms of development through a local planning policy or local development plan (Clause 61(i)), or through the exemption of development elsewhere in the Scheme (Clause 61(j)). Advice from the Department of Planning has confirmed that the provisions introduced into Scheme No. 3 through Amendment No. 125 prior to the introduction of the Deemed Provisions, continue to apply in accordance with Clause 61(j).

In September 2015, State Planning Policy No. 5.2 – Telecommunications Infrastructure (SPP5.2) was finalised. SPP 5.2 outlines policy provisions that include guiding principles for the location, siting and design of telecommunication infrastructure that are centred around allowing for the provision of telecommunication facilities whilst minimising any adverse effects on the amenity, character and environment in the local area.

Within SPP5.2 Local Governments are encouraged to consider exempting telecommunications infrastructure where:

a) The infrastructure has a maximum height of 30m above finished ground level;

- b) The proposal complies with the policy measures outlined in SPP 5.2; and
- c) The proponent has undertaken notification of the proposal.

Where a development approval is deemed to be required SPP 5.2 states that Local Governments should give consideration to the need for services to be located to optimise coverage, the minimisation of visual impact where possible and specifies a public consultation period of no more than 21 days.

Comment

Minor modifications have been made to the advertised draft telecommunications LPP in response to the submissions received and changes in the planning framework surrounding the consideration and exemption of telecommunications infrastructure as outlined above. A copy of the revised policy with changes marked, has been included as Attachment 2.

In summary the following changes have been made;

- a) Amendments to the references to Town Planning Scheme No. 3 to update the procedures for preparing a Local Planning Policy as per the Deemed Provisions for Local Planning Schemes;
- b) Updated references to Structure Plans and Activity Centre Plans in accordance with the current planning framework;
- c) Removal of outdated references to the draft SPP 5.2. The clauses previously referred to in the draft LPP do not exist in the finalised SPP.
- d) Included the stipulation that a public information sessions is to be held where public concern is raised in accordance with the submission received.

The suggestion raised within the Mobile Carriers Forum to refer to specific brochures produced by the ARPANSA within the policy has not been included within the proposed modifications as it is considered that the wording of the policy should remain more general to allow for any modifications in the brochures prepared by the ARPANSA.

The modifications proposed to the Draft Local Planning Policy are considered to be minor in nature and the revised policy is not considered to need re-advertising.

Consultation

The Policy was advertised during August and September 2015, with one submission being received from Planning Solutions upon behalf of the Mobile Carriers Forum.

The submission was generally supportive of the policy, but did suggest that the policy be more specific when referencing the ARPANSA brochures, and that the requirement for a public information session to be held be limited to circumstances where public concern is raised. The brochures suggested in the submission are appropriate, however it is considered that the wording of the policy should remain more general to allow for any modifications in the brochures prepared by the ARPANSA.

Modifications have been proposed in accordance with the suggestions made regarding the requirement for a public information session.

Statutory Environment

Local governments may prepare Local Planning Policies under Part 2, Division 2 of the Deemed Provisions for Local Planning Schemes in respect to any matter related to the planning and development of the scheme area.

Under the Deemed Provisions for Local Planning Schemes, the draft policy is required to be advertised for a period of not less than 21 days prior to being brought back before Council for final approval.

Following the expiry of the submission period the local government may resolve to:

- a. Proceed with the policy without modifications; or
- b. Proceed with the policy with modifications; or
- c. Not proceed with the policy.

Should Council adopt the proposed Local Planning Policy for final approval, Clause 4(4) of the Deemed Provisions for Local Planning Schemes requires the publication of a notice in a newspaper circulating the Scheme Area. The policy will take effect from the date of publication.

Policy Implications

This policy seeks to provide clarity to the Scheme provisions and certainty over the City's consultation approach for telecommunication infrastructure.

Economic Implications

N/A

Strategic Implications

The following strategy from the *City of Mandurah Strategic Community Plan 2013 – 2033* is relevant to this report:

Identity:

- Encourage active community participation and engagement.

Conclusion

The proposed Local Planning Policy seeks to clarify the notification requirements for proponents of telecommunications infrastructure where exempt, by requiring them to follow the requirements for 'low impact facilities' as outlined in the *Communications Alliance Industry Code C564:2011*.

Where a planning approval is required the policy outlines the required public consultation process which will involve all landowners within 200 metres being notified and being provided with a City prepared information sheet outlining the proposal, the process and what would be a relevant planning comment to make on the proposal, information from the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and an invitation to an information session.

Council is therefore requested to adopt Local Planning Policy No. 5: Telecommunications Infrastructure Notification and Advertising Guidelines, as modified, for final approval.

NOTE:

- Refer **Attachment 1** **Local Planning Policy: Telecommunications Infrastructure Notification and Advertising Guidelines**

RECOMMENDATION

That:

In accordance with Schedule 2, Part 2, Clause 3 of the Deemed Provisions for Local Planning Schemes) Regulations 2015, Council resolves proceed with Local Planning Policy No. 5: Telecommunications Infrastructure Notification and Advertising Guidelines (dated August 2017) and publish a notice in the local newspaper giving effect to the Policy.

**City of Mandurah
Local Planning Policy**

LPP5 Telecommunications Infrastructure

**Final (Subject to Council Adoption)
August 2017**



1. Introduction

1.1 Policy Objectives

The objectives of this Local Planning Policy are to:

- (a) Outline the requirements of a proponent to notify the community of a proposal for telecommunications infrastructure where Town Planning Scheme No 3 exempts the development from the need for planning approval; and
- (b) Outline the procedures that Council will follow in advertising an application for planning approval for telecommunications infrastructure.

1.2 Application of the Policy

- (a) This Local Planning Policy is prepared, advertised and adopted pursuant to Part 2 Division 2 of the Deemed Provisions for Local Planning Schemes (as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2*). (**'deemed provisions'**)
- (b) Clauses 61(1)(i) and 61(2)(e) of the Deemed Provisions outline that Development Approval is not required for development works or the use of land where specified in a Local Planning Policy.

This Local Planning Policy does specify forms of development that do require development approval.
- (c) Clause 3(5) and Clause 67(g) of the Deemed Provisions state that the local government is to have due regard to a local planning policy in making a determination under the local planning scheme and applications for development approval.

1.3 Interpretations

Unless otherwise stated, interpretation and definition of terms shall be as provided in the Local Planning Scheme and/or State Planning Policy 5.2.

2. Exempt Development

Pursuant to clause 61(1)(h) of the Deemed Provisions, the prior development approval of the Council is not required for the erection of telecommunications infrastructure in the following circumstances:

- (a) on land zoned City Centre Development and Precinct Development unless otherwise described within the applicable Activity Centre Plan;
- (b) on land zoned Service Commercial and Industry;
- (c) on land zoned Commercial, subject to the designation of the site as a Strategic Centre, District Centre or Neighbourhood Centre within the Local Planning Strategy;
- (d) on any other land where expressly described in an Structure Plan or Activity Centre Plan;

where the proposed development is consistent with the following criteria:

- (a) the structure has a maximum height of 30 metres;
- (b) the guiding principles for the location, siting and design of the structure is in accordance with the relevant State Planning Policy associated with telecommunications infrastructure; and
- (c) the proponent has notified the local community of the proposed structure consistent with the Council's requirements.

3. Notification Requirements

As outlined in Clause 2, there may be circumstance where proposed telecommunications infrastructure does not require development approval.

One of the criteria requires a proponent to notify the local community of a proposed structure consistent with Council's requirements.

For the purposes of the Policy and the Scheme, the Council's requirements for notification shall be as outlined in the *Communications Alliance Industry Code C564:2011 – Mobile Phone Base Station Deployment* in a similar manner to proposals being developed in accordance with Federal Government's *Telecommunications Act, Low Impact Facilities Determination (1997)*.

4. Advertising Requirements

Where an application for development is required for a telecommunication structure, the application for development approval will be advertised for public comment in accordance with the following:

All landowners within a 200 metres radius of the application site be notified by letter and be provided with the following information:

- (a) A City of Mandurah prepared Question and Answer information sheet;
- (b) An Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) prepared brochure on the scientific assessment of the impacts of such facilities on people's health;
- (c) A public information session where public concern is raised;
- (d) All submitters be invited to the Committee and Council meetings, and be informed of the decision, with further correspondence in the event of an appeal to the SAT, and
- (e) The letter advising of the decision will include a summary of the key issues raised during the consultation period and the City's consideration of those issues.

- 6. SUBJECT:** Short-term Rental Accommodation and the Shared Economy
Discussion Paper
CONTACT OFFICER/S: Ben Dreckow/Tony Free
AUTHOR: Ann Harrop/Ben Dreckow/Tony Free
-

Summary

The Western Australian Local Government Association (WALGA) has released a discussion paper on Short Term Accommodation and the Shared Economy and local government's responsibilities in governing their activities in order to consult with Local Government members on this matter.

Council has previously considered this matter in some detail in March and June 2015.

The WALGA discussion paper outlines the current planning framework in WA dealing with short-term accommodation, including the WAPC Planning Bulletin 99 - Holiday Homes Guidelines. The paper also highlights how local governments from across the State are currently dealing with the short term accommodation. Examples of other Australian States and their approach is highlighted in the discussion paper. The NSW government has held an inquiry into the matter of short-term accommodation and it is understood by officers some other States are also reviewing the matter.

The recommendation of this report is that the City continue to take an approach which limits their involvement in the approval process, but that the City remains responsive to complaints received. This is consistent with the Council position of 2015.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G.19/6/15 23 June 2015 Council adopted a 'Responsive Action' approach to Holiday Homes
- G.17/03/15 24 March 2015 Council resolved that Officers report back to Council to initiate a Local Law and relevant town planning amendment in addition to detailing observations over Easter and complaints received in relation to Holiday Homes.

Background

Historically in Mandurah, properties have been used as Holiday Homes, either by families in family owned properties, or by owners renting properties on a short term basis. There appears to be an increasing number of Holiday Homes that are more business based than has previously been the case and these properties are more easily accessible via the many national and international Holiday Home websites that are available.

The Tourism Council WA report, *Destination Perth – Developing Perth's Visitor Economy 2014* reported that in 2012, tourists visiting the region, staying in either a rented house, apartment, flat or unit represented nearly 34% of the total visitor nights. In addition, figures produced by Tourism Western Australia estimated that 51% of visitors to Mandurah (2011/13) stayed in a friends or relatives property whilst 17% stayed in a hotel or resort. The report advises that visitors require a broad range of accommodation depending on the purpose of their visit.

Council in March and June 2015 considered reports in relation to issues surrounding the operation of Holiday Homes within the City.

A number of options for the management of Holiday Homes were considered including:

1. The introduction of a Local Law similar to the City of Busselton model which would require all Holiday Homes to obtain an approval under the Local law and the planning scheme.
2. Amending the Town Planning Scheme to introduce definitions for Holiday Homes an approval process akin to that which is currently in place in relation to the operation of Home Occupations.
3. Improving the City's response procedures to address community concern.

As part of that process, officers assessed the performance of approximately sixty known holiday homes over the 2015 Easter holiday period during which no direct noise or parking complaints were lodged with the City. From 1 January 2015 to 22 April 2015, the City received 74 Noise Service Requests (excluding dog barking) of which, there were no registered complaints against known Holiday Homes. In relation to car parking, there were a total of 332 complaints from 1 January to 22 April 2015, with two of these complaints linked to known Holiday Homes.

Officers attended properties on 4 April 2015 (Easter Saturday) and 6 April 2015 (Easter Monday), which involved visits to 48 properties between the hours of 9:00pm to midnight on Easter Saturday and 9:00pm to 11:00pm on Easter Monday. During the visits, Officers made an assessment as to whether any obvious noise issues were present from the street, if there appeared to be street parking proliferation and any other amenity issues such as overflowing bins.

It was noted that during the assessments that five properties had greater than three cars with two properties having five cars. On these occasions the cars were parked behind the property line. No other notable issues were identified during the visits. Clearly there are limitations in this approach. It is very difficult to know if the property has been let out to an external person during these times or is being utilised by the owner. The assessments are also only a snap shot in time and may not represent the overall performance of the venue.

As acknowledged, it is difficult to determine whether a dwelling is being utilised for holiday purposes or by the owners. It was found that many of these dwellings had no visual differentiation between each other and other residential properties on the street, with car proliferation being minimal and in keeping with expectations for standard residential properties.

Following consideration of the various options for addressing Holiday Homes within the City of Mandurah, Council resolved to adopt a 'Responsive Action' response that included recording known Holiday Home locations, giving complaints in relation to noise, vehicle parking and refuse associated with known Holiday Homes a high priority, and preparing a brochure outline procedures to be followed if issues in relation to the operation of a Holiday Home should arise.

Comment

The WALGA discussion paper (see **Attachment 1**) is timely as there is much discussion with respect to the impact of the shared economy on traditional services. Short-term accommodation has generated interest from various levels of government across the world, for various reasons ranging from taxation, impact on affordable housing stock, to amenity and strata management issues.

The WALGA discussion paper makes it clear that the discussion paper focusses on Local Government responsibilities governing short-term rental accommodation considered to be the rental for a period of up to three months of properties consisting of, or similar to:

- Bed and breakfast accommodation
- Cabins and chalets (and similar units)
- Holiday homes
- Serviced apartments rental of a room within a home.

The discussion paper highlights a lack of clarity over the definitions used in the planning system to define permanent and short stay residential/tourist accommodation.

The WAPC published Planning Bulletin 99 - Holiday Homes Guidelines in 2009 (see **Attachment 2**) in order to set out the Commissions interim position in relation to the planning and regulation of holiday homes in WA. The Planning Bulletin effectively delegates responsibility for managing short-term rental accommodation to Local Governments and states that 'ideally holiday homes should be located within preferred areas'.

The Bulletin proposes the inclusion of two definitions in local planning schemes and the Model Scheme Text being Holiday Home (Standard – up to 6 guests) and Holiday Home (Large – between 6 and 12 guests). The Bulletin goes on to state that the use of grouped or multiple dwellings for holiday accommodation is not supported, unless all owners are in agreement. It is important to recognise that development does not have to conform to Planning Bulletin 99 as it purely offers guidance and is not a statutory requirement.

The Model Provisions for Local Planning Schemes introduced through the *Planning and Development (Local Planning Schemes) Regulations 2015* includes three definitions relating to short term accommodation being:

- Bed and Breakfast – a *dwelling* (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial bases for not more than 4 adult persons or one family and (b) containing not more than 2 guest bedrooms.
- Holiday accommodation – 2 or more *dwellings* on one lot use to provide short term accommodation for persons other than the owner of the lot.
- Holiday House – a *single dwelling* on one lot use to provide sort-term accommodation but does not include a bed and breakfast.

A dwelling is defined separately in the Residential Design Codes as “*a building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by single person, a single family, or no more than six persons who do not comprise a single family*”.

The discussion paper suggests that the Planning Bulletin prepared in response to Holiday Houses is outdated and does not reflect the definitions provided within the Deemed Provisions for Local Planning Schemes. In addition, together with the status of a Planning Bulletin as 'guidance only' many Local Governments have adopted various responses to short term accommodation. The Planning Bulletin nor the definitions provided within the Deemed Provisions also do not address short-term accommodation and guesthouses where let on a room by room bases. As such, the Guidelines do not offer advice concerning all products offered by platforms such as Airbnb, for example, whereby a room within a house is let for short stay accommodation purposes.

WALGA is seeking the view of Local Government on the need to review current guidance provided on Holiday Houses, including the inclusion of 'deemed provisions' relating to the control of holiday houses, and provide clarity on the definitions used to define short term accommodation.

The City has had a long held view that the use of holiday homes within Mandurah is part of Mandurah being a regional city, with a significant tourism industry.

Notwithstanding concerns expressed about online service providers advertising short-term accommodation options within strata developments, officers remain of the view that the need for an approval to use a dwelling as either a long-term rental, a short-term rental, or a permanent owner occupied residence, should not need an additional approval beyond the original to build the dwelling whether in a single dwelling or grouped or multiple dwelling circumstance. A further approval is not seen as adding additional value to the process, nor seen to adequately address amenity issues.

Where a specific strata company wishes to exclude the ability for grouped or multiple dwellings to be used for short term accommodation purposes, this can be dealt with through the strata company's by-laws and managed through the strata management process.

Council's new planning scheme – Local Planning Scheme No 12 has used the Model Provisions for Local Planning Schemes definitions listed above which include a 'Holiday House' being a 'single dwelling being used ...'. Modifications will be required to the scheme at the appropriate time to remove the word 'single' so the definition only refers to dwellings so as to not differentiate between single dwelling or grouped or multiple dwelling to address the above concern. Further, it is recommended that Council support the Model Provisions for Local Planning Schemes being amended to achieve the same outcome to ensure consistency across local government.

With respect to provision of further guidance on the control of short term accommodation, as detailed above, Council has adopted a 'responsive action' approach to holiday houses and prepared Holiday Homes Complaint Handling Procedure (see **Attachment 3**), to address any anti-social behaviour, noise, parties or rubbish disposal issues.

Officers are of the view that the City's approach is appropriate as it is supportive of tourism, while protecting the amenity of residential areas and would not be supportive of the introduction of 'deemed provisions' to govern the control of holiday houses.

WALGA's discussion paper further questions the need for the introduction of 'party house' laws in WA to tackle problems with individual properties. Council has previously considered in the March 2015 report which dealt with the matter as follows:

In 2010, Gold Coast City Council established a Short Term Accommodation Task Force to develop and consider options to respond to the issue of anti-social behaviour by occupants of short-term accommodation in residential areas and to recommend to Council a suitable response. Subsequently a Local Law was introduced (Control of Party House Noise) which sought to control the emission of noise excessive noise via various penalties. In this instance, a 'party house' means a dwelling that is used to provide accommodation or facilities for guests if the premises is regularly used for parties including bucks nights, hens nights raves, wedding receptions or similar parties, and does not therefore include bone fide holiday/tourist accommodation.

At the time the position of officers was that the Gold Coast Party House issue is not considered to be currently relevant to Mandurah. This remains the position of officers.

In order to assist WALGA in the finalisation of its discussion paper, it is recommended that a copy of the Council reports and minutes from March and June 2015 be forwarded to WALGA along with the City's position being that;

- The City adopts a responsive approach to holiday houses and considers that an additional approval for short stay accommodation beyond the original to build the dwelling whether in a single dwelling or grouped or multiple dwelling circumstance does not add additional value to the process.
- The City considers that holiday houses in grouped or multiple housing should be dealt with in the same manner as for a single house, and that definitions with the Deemed Provisions for Local Planning Schemes should reflect this position.
- Home sharing, if ultimately defined, should be treated in the same manner as Holiday Houses.
- Party houses are not considered to be an issues within the City of Mandurah.

Consultation

In May 2015 the City wrote to Holiday Home operators following direction from Council with some of the feedback from operators being:

- Query whether there is actually a problem with unruly behaviour at holiday homes;
- The proposed changes will add a layer of bureaucracy which will have unforeseen negative repercussions, and
- The proposal is an overreaction to a small number of complaints.

Statutory Environment

- Town Planning Scheme No. 3
- Planning Bulletin 99 – Holiday Home Guidelines (Sept 2009)
- Public Health Act 2016

While Town Planning Scheme No 3 remains in operation, it is recommended that Council formalise its approach to holiday homes consistent with the 'Responsive Action' approach to determine that Holiday Homes are an unlisted use in the Scheme, and that they are consistent with the objectives of the zones in which they are located, and therefore, as a 'permitted (P)' use, are exempt from development approval in the Scheme. This would aid in confirming to the community that approval is not required to operate a holiday home, consistent with the Council's position statement.

Policy Implications

Nil

Economic Implications

The tourism industry is important to Mandurah and any additional regulations will add costs to the industry.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2013-2033* are relevant to this report:

Leadership:

- Develop and empower our community leaders to determine, guide and advocate for the City's future
- Ensure that the City as an organisation behaves as a model corporate citizen
- Demonstrate leadership on major regional, state and national issues

Organisational Excellence:

- Ensure the City has the capacity and capability to deliver services and facilities that meet community expectations.
- Deliver excellent governance and financial management
- Develop a strong brand of leading local government that meets community expectations

Conclusion

The use of residential properties in Mandurah for holiday accommodation has occurred for many years. Tourism is an important industry for Mandurah's future, with holiday accommodation in residential areas likely to continue to play an important role into the future. The City has previously adopted a responsive approach to dealing with holiday houses and this approach has been an effective method of ensuring holiday houses do not impact on the amenity of adjoining neighbours.

NOTE:

- Refer **Attachment 1** *WALGA Short-term Rental Accommodation and the Shared Economy Discussion Paper*
Attachment 2 *WAPC Planning Bulletin 99, Holiday Homes Guidelines*
Attachment 3 *City of Mandurah Holiday Homes Complaint Handling Procedure*

RECOMMENDATION

That Council

1. Advise the Western Australian Local Government Association that Council has previously considered this matter in March and June 2015.
2. Advises the Western Australian Local Government Association that:
 - (a) Tourism is important to regional Western Australia;
 - (b) Significant numbers of visitors to Mandurah stay in a friends or relatives property (i.e. in residential areas); and
 - (c) Commercial activities are permitted and do occur in residential areas, via Bed and Breakfasts and home occupancies
3. Advises the Western Australian Local Government Association that Council's position is that:
 - (a) The City has adopted a responsive approach to holiday houses and considers that an additional approval for short stay accommodation beyond the original to build the dwelling whether in a single dwelling or grouped or multiple dwelling circumstance does not add additional value to the process;
 - (b) With regard to definitions that the City considers that:
 - Holiday houses in grouped or multiple housing should be dealt with in the same manner as for a single house;
 - Definitions with the Model Provisions for Local Planning Schemes should reflect this position; and
 - All 'land use' definitions should be within the Deemed Provisions for Local Planning Schemes and not the Residential Design Codes;
 - (c) Home sharing, if ultimately defined, should be treated in the same manner as Holiday Houses;
 - (d) Party houses are not considered to be an issue within the City of Mandurah
4. Acknowledges that any changes to the planning scheme requirements will require the involvement of the Western Australian Planning Commission.
5. Modifies draft Local Planning Scheme 12 at the appropriate stage in the progression of the Scheme to address Part 3(b) above by ensuring that holiday homes that holiday houses in grouped or multiple housing should be dealt with in the same manner as for a single house.
6. That under the provisions of Town Planning Scheme No 3 that in the absence of any reference to 'Holiday House' in the Scheme that the following applies as an interim measure:
 - (a) A 'Holiday House' is defined as "*means a dwelling used to provide short stay accommodation*";

- (b) That a 'Holiday House' is treated as an 'unlisted use' under Clause 3.2.2 of the Scheme, and that Council determines that for all zones where dwelling is a permitted or discretionary use, determines that a Holiday House is consistent with the zone and is therefore permitted; and
- (c) By virtue of being a 'permitted use' are exempt from the need for development approval under Clause 61(2)(b) of the Deemed Provisions for Local Planning Schemes.



Short-term Rental Accommodation and the Sharing Economy **Discussion Paper**

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1.0 Introduction

In recent years there has been an emergence and rapid rise in the ‘sharing economy’ with peer to peer platforms connecting customers and the providers of services such as ride sharing and short-term rental accommodation. In the context of short-term rental accommodation, the key distinction between peer to peer platforms and more traditional forms of tourist accommodation, is that these platforms do not own the properties listed, rather they simply connect customers and providers, facilitating the financial transaction between the two parties. As a result, many of the listings on these platforms have been located in residential buildings and neighbourhoods that have not traditionally contained short-term rental accommodation.

Further, peer to peer platform’s such as Airbnb and Stayz have introduced new forms of short-term rental accommodation with people able to book a spare bed or room within a home as well as an entire home, this is commonly called ‘home sharing’. These new rental accommodation types has led to community concerns arising from issues such as noise, car parking issues and other forms of anti-social behaviours, as well as some strata issues like increased building maintenance.

Whilst the appearance and growth in these platforms has been rapid, legislation governing short-term rental accommodation in Western Australia has not been revised since 2009. The absence of any clear guidance from the State Government about how to manage the sharing economy has been challenging for some Local Governments. Therefore the purpose of this discussion paper is to review the effectiveness of current policy responses concerning short-term rental accommodation with a particular focus on the emerging practices and services offered by online organisations and to identify possible improvements for further consideration.

It is important to note that this report focuses on Local Government responsibilities governing short-term rental accommodation. The intention is not to examine issues beyond this. For example, many have questioned the appropriateness of allowing short-term rental accommodation within apartment developments. The purpose of this report is not consider this issue or whether the powers available to Strata companies to manage and respond to adverse impacts of short-term rental accommodation are appropriate or not. Likewise, the report does not examine the appropriateness of renters offering short-term rental accommodation with or without the consent of the landlord. Rather the focus of the report is on Local Government responsibilities concerning the management of short-term rental accommodation.

For the purposes of this paper, short-term residential accommodation is considered to be the rental for a period of up to three months of properties consisting of, or similar to:

- Bed and breakfast accommodation
- Cabins and chalets (and similar units)
- Holiday homes
- Serviced Apartments Rental of room within a home.

2.0 Existing Short-term Rental Accommodation Controls in Western Australia

2.1.1 State Government Land Use Planning Guidance

The land use planning framework operating in Western Australia offers limited and somewhat contradictory guidance concerning the management of short-term rental accommodation. Local planning schemes are governed by the *Planning and Development (Local Planning Schemes) Regulations 2015*, which contain a series of ‘deemed provisions’ that are automatically applied to all local planning schemes. Amongst the deemed provisions is set of defined land use terms, three of which relate to short-term rental accommodation, these are;

Table 1: Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed provisions for local planning schemes.

Land use terms used
If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —
bed and breakfast means a dwelling — (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms;
holiday accommodation means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot;
holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

Given the land use terms set out by the Regulations and the type of accommodation offered by peer to peer platforms, there has been some confusion about the validity of ‘home sharing’. As the table above highlights, the difference between providing breakfast or not can be significant and adds further uncertainty for all stakeholders involved. For example, within the City of Busselton, ‘bed and breakfast’ uses are permitted in the Tourist Zone whilst holiday homes are listed as a ‘X’ use and therefore not permitted within this Zone by the Scheme. Issues such as these are discussed in more detail in section 2.1.2 Local Government Responses.

It is also important to note that there is no definition of a ‘dwelling’ provided by the Regulations. However ‘dwelling’ is defined in the Residential Design Codes (R-Codes) as;

“A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.”¹

This definition provides clearer guidance in relation to the ‘permanent’ use of a dwelling. Including such a definition, or a cross reference to the R-Codes definition within the

¹ WA Planning Commission (2015) State Planning Policy 3.1 Residential Design Codes

Regulations could add clarity as to whether or not short-term rental accommodation, particularly where the renting of a part of a dwelling, is valid or not.

As well as definitions, the Regulation's deemed provisions also prescribe a variety of objectives for various land use zones. The Regulations state that the objectives of the residential zone are to *"provide for a range of non-residential uses, which are compatible with and complementary to residential development"*. This leaves the question of whether or not, short-term rental accommodation is appropriate in residential areas unresolved.

Beyond the Local Planning Scheme Regulations, there is no State Planning Policy, or Development Control Policy to set out controls or to provide strategic advice concerning the management of short-term rental accommodation. The guidance that is available is provided by [Planning Bulletin 99, Holiday Homes Guidelines](#), however this guidance is limited and having being adopted in 2009, the Guidelines do not respond to the contemporary practices of home sharing organisations. The Guidelines state that *"the policy excludes short-term accommodation where there is an onsite manager or owner such as bed and breakfast accommodation and guesthouses."*² As such, the Guidelines do offer not advice concerning all products offered by platforms such as Airbnb, for example whereby a room within a house is let for short stay accommodation purposes.

The Planning Bulletin effectively delegates responsibility for managing short-term rental accommodation to Local Governments, referring decision makers to the provisions of local planning schemes, local planning policies, tourism strategies and any relevant standards. The Guidelines do however state that *'ideally holiday homes should be within preferred areas'* which;

*"As a guide, holiday homes are most appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas. Suburban locations may not be appropriate. In general, holiday homes should be residential dwellings on freehold lots and not units or apartments unless the entire complex is established for this purpose."*³

The Bulletin goes on to state that the use of grouped or multiple dwellings is not supported, unless all owners are in agreement.

Despite the general lack of guidance, the Bulletin does state that a holiday home management plan should be submitted as part of a planning application, or may be required as a condition of approval. Such a plan may include details of how nuisances such as noise will be managed, the nomination of a property manager and a fire and emergency response plan.

Nevertheless, it is important to recognise that development does not have to conform to Planning Bulletin 99 as it purely offers guidance and is not a statutory requirement. The

² WA Planning Commission (2009) Planning Bulletin 99, Holiday Homes Guidelines.

³ Ibid

Local Planning Scheme Regulations do not ‘require due regard’ to be given to Planning Bulletins. This status, together with the fact that the Bulletin offers limited guidance, has resulted in Local Governments developing their own individual responses to issues associated with short-term rental accommodation and the sharing economy.

2.1.2 Local Government Responses

Local Governments are, by their nature reflective of their communities aspirations each with their own and often unique development pressures and community expectations. Given these differing pressures and the limited State Government guidance relating to short-term rental accommodation, not all Local Governments have adopted Local Planning Scheme provisions or Local Planning Policies (LPP) concerning short-term rental accommodation. However, in areas where short-term rentals are more prevalent, Local Governments are more likely to have adopted a LPP.

LPPs generally focus upon a specific type of development rather than dealing with the issue of short-term rental accommodation more generally. For the purposes of this study, a sample of LPPs relating to short-term rental accommodation has been examined.

Table 2: Local Planning Policy Responses Regarding Short-term Rental Accommodation

Local Government and Local Planning Policy Title	Augusta-Margaret River: Holiday Houses	Bridgetown-Greenbushes: Holiday Accommodation	Broome: Tourist Accommodation Development in Tourist Zone	Capel: Bed & Breakfast Accommodation	Chapman Valley: Rural Tourism Development	Donnybrook-Balingup: Chalet(s) Development & Bed & Breakfast	Exmouth: Bed & Breakfast Accommodation	Exmouth: Holiday Accommodation	Esperance: Holiday Homes – Development Requirements	Geraldton: Holiday Houses	Joondalup: Short-term Accommodation	Perth: Special Residential (Serviced & Short-term Accommodation)	South Perth: Serviced Apartments
Definitions													
Holiday House (or Home)	Y		Y					Y	Y		Y		
Holiday House (Large)	Y							Y					
Holiday Accommodation		Y		Y	Y		Y	Y			Y		
Bed & Breakfast					Y	Y		Y					
Dwelling / Residential						Y	Y	Y			Y	Y	
Guesthouse			Y	Y	Y								
Serviced Apartments			Y									Y	Y
Short-term Accommodation									Y		Y	Y	Y
Other Definitions			Y	Y	Y	Y		Y	Y			Y	Y
Requirements													
Restricted to Certain Zones	Y			Y				Y		Y			Y*
Minimum Lot Sizes / Density Restrictions	Y	Y	Y										
Maximum Occupancy / No. Rooms	Y			Y		Y		Y		Y			
Management Plan			Y	Y	Y			Y	Y	Y	Y	Y	Y
Emergency Response Plan		Y						Y	Y				Y
Annual Renewal of Approval				Y				Y	Y				
Design Provisions	Y	Y			Y		Y	Y		Y		Y	Y
Car Parking		Y	Y	Y	Y		Y	Y		Y	Y	Y	
Landscaping/Screening		Y	Y										
Concentration of Uses		Y											
Strata Restrictions / Evidence of Strata Approval			Y		Y							Y	Y
Maximum Length of Stay		Y							Y	Y			
On-site manager / Located Close by							Y	Y	Y				

Note: Y* Use restricted to grouped and multiple dwellings

Table 2 shows that there is a range of different LPPs dealing with the management of different forms of short-term rental accommodation. Whilst a variety of descriptions and definitions are used, as you would expect, the definitions used closely align with the specific form of development that the LPP seeks to manage. Where the same term or a similar term is used by different Local Governments, there is often a lot of consistency and commonality in the definition adopted to describe the particular form of development.

In line with the definition provided by the R-Codes, all but one of the 13 LPPs examined consider short-term rental to be a different form of development to a residential land use. Bridgetown-Greenbushes definition of holiday accommodation states that *“the short-term rental of residential dwellings to single parties shall not be classified as Holiday Accommodation. Council considers such a use as merely another form of landlord – tenant rental”*. The policy is aligned to developments of up to five chalets and cabins for short-term use of no more than three months by the same occupier.

Table 2 shows that the most popular forms of controls relate to car parking standards and the requirement for a management plan, with almost two-thirds of the local planning policies examined containing provisions relating to these. Following these controls, over half of the policies examined contain provisions relating to development design. Whilst these are somewhat varied, they generally relate to ensuring that the design of development is such that its use for short-term rental accommodation purposes does not adversely impact upon neighbouring land uses. Other common features include the restriction of development to certain zones or areas and the limitation of the number of occupants to six persons.

Typical examples of these controls are set out in table 3 below, whilst a summary of Local Government, LPP provisions relating to short-term rental accommodation is provided in Appendix A. It should also be noted that other Local Governments, such as the City of Fremantle have developed ‘Local Laws’ in relation to the management of short-term rental accommodation. The City’s Local Law contains similar provisions to those included within sample of LPPs examined, requiring short stay dwellings to be registered, with controls relating to the number of occupants, the provision of car parking and a contactable accommodation manager.

Table 3: Examples of Typical Local Planning Policy Definitions and Requirements

Definitions	
Bed & Breakfast Accommodation	Accommodation provided for hire or reward under the main roof of a dwelling house for not more than four (4) adults or one family in the form of a maximum of two (2) guest bedrooms and one (1) guest bathroom.
Holiday House (or Home)	<p>A single house or grouped dwelling which might also be used from time to time for short stay accommodation for no more than six (6) people but does not include a bed and breakfast.</p> <p>“Holiday House (Large)” means premises conforming to the definition of “Holiday House” with the exception that the premises provide short stay accommodation for more than six (6) people but not more than 12 at any one time.</p>

Serviced Apartment	An apartment which is one of a group of two or more apartments on the same lot, used, furnished and equipped to be used on a temporary basis in a manner similar to a Grouped Dwelling or Multiple Dwelling, for which laundry and cleaning services are provided, with or without other ancillary amenities.
Short-term Accommodation	Temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three (3) months in any 12 month period.
Requirements	
Concentration of Uses	<ul style="list-style-type: none"> • More than two Bed and Breakfast Accommodation uses within cul-de-sac or small residential streets may not be supported. • Developments should not contribute to a concentration of similar land use activities that would alter the established character of the surrounding area.
Design Provisions	<ul style="list-style-type: none"> • Decks and balconies are located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided. • The minimum distance between the external walls of any building and another on the land shall be 10 metres for the purposes of privacy and amenity. • Developments that adjoin residential zoned land shall be designed so as not to impact negatively on the privacy and amenity of the adjoining residents.
Landscaping / Screening	<ul style="list-style-type: none"> • The site shall contain tree cover adequate to provide visual screening.
Management Plan	<ul style="list-style-type: none"> • The Management Plan is to include; <ul style="list-style-type: none"> ○ a code of conduct detailing the expected behaviour and obligations of guests which is to be displayed in a prominent position within the premises ○ a Complaints Management Procedure ○ details regarding guest check-in and check-out procedures ○ details regarding waste management
On-site Manager / Located Close by	<ul style="list-style-type: none"> • Manager or a contactable employee of the manager that permanently resides no greater than 1 hour's drive from the site. • The host is to permanently reside in the dwelling approved for a 'bed and breakfast' establishment. • All Holiday Accommodation is to be managed by local real estate agents, or have a local caretaker / manager living and readily contactable within 10 minutes of the property
Strata Restrictions / Evidence of Strata Approval	<ul style="list-style-type: none"> • The applicant is to provide evidence that: <ul style="list-style-type: none"> (a) the owners of all dwellings on that site have given written consent for the proposed use of particular dwellings as serviced apartments; (b) by-laws have been adopted by the strata company approving the proposed use and requiring the vendor of any existing dwelling on the site to inform all prospective purchasers of the approved use of particular dwellings as serviced apartments; and (c) the strata company has given consent to the management plan.
Other	<ul style="list-style-type: none"> • Amplified music is only played outside of the Holiday House or Holiday House (Large) between the hours of 10am and 10pm. • Written evidence demonstrating that the operator of the special residential use has valid membership to an appropriate professional board or body, which operates within a code of practice or licensing system • A proportion of the short-term and serviced apartments should be designed to accommodate people with a disability.

2.1.3 Building Act

In addition to land use planning controls, it is useful to note the ‘construction’ standards relating to residential and hotel uses. Under the Building Code of Australia, a residential building is either a Class 1 building, a single dwelling, or a Class 2 building, a multiple dwelling whilst a hotel or motel is a Class 3 building. Class 3 buildings are required to have fire-safety and disability access features not required for either Class 1 or 2 buildings. This distinction has added to the confusion and perhaps some of the inconsistency in how Local Governments treat short-term rental accommodation.

The differing construction requirements has created some resentment amongst traditional short stay accommodation providers such as the hotel industry. Some of these operators have argued that these different requirements adds an additional operating costs to their business that short-term rental accommodation providers in dwellings do not experience. Whilst the focus of this paper is not to examine this issue, it should be noted that the State Governments proposed State Planning Policy concerning Apartment Design includes universal design access requirements, which may remove this difference.

In 2012 the Australian Building Code Board stated that it had undertaken an extensive consultation on the issue of whether Class 2 buildings should exclude short-stay accommodation, however it found that the results of the consultation process provided no clear way forward. It was considered that the issue appeared to be focused on amenity issues and commercial interests. The Board concluded that there was no evidence to justify the application of Class 3 building provisions to apartments without imposing significant costs on the design and construction of all apartments for little or no life-safety gains.⁴

3.0 Controls in Other Australian States and Territories

Across Australia, there is very little consistency with regard to how each State, and Local Governments within each State, regulate short-term rental accommodation. The approaches taken are generally split between either the State Government adopting a clear position on short-term renting, or leaving Local Government to choose themselves how to manage short-term rentals.

Nevertheless, there has been an increasing and wide spread acknowledgement that ‘doing nothing’ has created several issues and inconsistencies in the management of short-term rental accommodation. This, alongside growing community concerns has led to both New South Wales and Victoria holding reviews to examine the adequacy of short-term rental accommodation regulations operating in both States. Likewise, the Tasmanian Government included a review of the adequacy of its short-term rental accommodation controls as part of a wider review of the planning system operating within Tasmania. Although these State Governments have yet to adopt a final policy response, the commonality of the issues experienced mean that lessons can be learnt from the findings of each of these reviews.

⁴ Victorian Government, Independent Panel on Short-Stay Accommodation in CBD Apartment Buildings Final Report

Before examining the various policy responses adopted by the other States, for the purposes of comparison, it is worth highlighting the number impact of short-term rental accommodation across Australia. This is highlighted by Table 4, below which shows that in 2015-16, WA recorded the fourth highest number of Airbnb bookings by State. Using the data, the average length of stay per booking is 4.7 nights and the average number of guests per booking is 2.8 guests.

Table 4: Airbnb bookings, by state or territory, 2015-16

State or Territory	Total bookings	Total guests	Total nights booked
New South Wales	289,600	742,800	1,418,900
Victoria	235,900	651,600	1,134,300
Queensland	133,300	343,800	586,700
Western Australia	62,100	171,500	292,900
Tasmania	46,800	124,500	126,300
South Australia	24,400	64,100	109,000
Australian Capital Territory	9,200	20,000	47,300
Northern Territory	4,200	8,800	18,000
Total	805,500	2,127,100	3,733,300

Source: Airbnb cited in Deloitte Access Economics⁵

3.1.1 New South Wales

In New South Wales, the *Environmental Protection Act 1979* (NSW) (EPA) allows Local Government to require or not require, a development approval to let a property as a holiday home. As a result, there is some inconsistency in the application of controls between individual Local Governments across the State. Perhaps as a result of this inconsistency and also given the prevalence of short-term rental accommodation within New South Wales, in 2015, an inquiry was established to inquire into the adequacy of the regulation of short-term holiday letting in New South Wales. This inquiry made a total of twelve recommendations with those relevant to this report set out in Table 5. Although the NSW Government has yet adopt policies concerning the management of short-term rental accommodation, the Government has announced that it is supportive of the majority of the Inquiry's recommendations.

⁵ Deloitte Access Economics (2017) Economic effects of Airbnb in Australia Airbnb Australia www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-effect-airbnb-in-australia-240317.pdf

Table 5 NSW Inquiry into Adequacy of the Regulation of Short-Term Holiday Letting, Relevant Recommendations

New South Wales' Legislative Assembly Committee on Environment and Planning: Inquiry into Adequacy of the regulation of short-term holiday letting in New South Wales	
Relevant Recommendations:	NSW Government Response
1 Amend Planning Laws to Regulate Short-Term Rental Accommodation That the NSW Government amends: <ul style="list-style-type: none"> a) the Standard Instrument - Principal Local Environmental Plan to include a definition of short-term rental accommodation in the category of tourist and visitor accommodation b) the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow short-term rental accommodation. 	Qualified Support Options paper to be developed
2 Allow Home Sharing and Letting a Principal Place of Residence as Exempt Development That short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development.	Qualified Support Options paper to be developed
3 That short-term letting of a principal place of residence be permitted as exempt development.	Qualified Support Options paper to be developed
7 Develop a Compliance System That the NSW Government develops a compliance system for short-term rental accommodation under the Environmental Planning and Assessment Act 1979 which considers: <ul style="list-style-type: none"> a) the use of the investigative powers in Division 1C of the Act b) streamlined development assessment (Complying Development Certificates) c) the Holiday and Short-Term Rental Code of Conduct d) 'party house' provision 	Qualified Support Current legislation considered sufficient however will investigate if further regulation is required.
8 Issue Guidance and Provide Education For Councils and the Community That the NSW Government prepares advice to councils and the community outlining the changes which will apply to short-term rental accommodation, and implements a communication and monitoring program.	Support
9 That local councils be responsible for communicating with all landowners about their rights and obligations.	Support

Source: Parliament of New South Wales

3.1.2 Queensland

In 2014, amendments were made to the Sustainable Planning Act 2009 in order to regulate 'party houses'. The Act defines party houses as *"a dwelling that is used to provide accommodation or facilities for guests if*

- a) the premises, or any part of the premises, is regularly used by guests for parties, including, for example, bucks nights, hens nights, raves, wedding receptions or similar parties; and*
- b) the accommodation or facilities are provided for a period of less than 10 days; and*
- c) the accommodation or facilities are provided for a fee; and*
- d) the premises is not occupied by the owner of the premises during the period mentioned"*⁶

The Act provides Local Government the power to require development approval for residential properties regularly leased, hired or rented on a short-term basis for housing parties and set a for assessing such development applications. Local Governments may also identify areas within, or all of its areas covered by its planning scheme as a 'party house restriction area'.

In accordance with these provisions, the City of Gold Coast has adopted a local law to control party houses. In summary, the City's local law seeks to *"ensure that excessive noise is not regularly emitted from a residential property which is made available for short-term rental accommodation."*⁷ The City has declared the entire Local Government area a party house restriction area, thereby requiring development consistent for a party house. Under the provisions of the Local Law, owners of short-term rental accommodation commit an offence if excessive noise is regularly emitted, which is defined as more than twice within a twelve month period.

The New South Wales Inquiry noted, whilst these provisions *"distinguish party houses from short-term rental accommodation, the evidence received by the Committee suggests that similar provisions may be usefully applied to short-term rental accommodation properties in which a predominant or recurring use by renters is the type of functions listed in the Queensland legislation"*.⁸

⁶ Government of Queensland (2009) Sustainable Planning Act 2009

⁷ City of Gold Coast (2013) Local Law No. 19 (Control of Party House Noise) 2013
www.goldcoast.qld.gov.au/local-law-no-19-control-of-party-house-noise-2013-14438.html

⁸ Parliament of New South Wales (2016) Adequacy of the regulation of short-term holiday letting in New South Wales (inquiry)

3.1.3 Victoria

Parallel to the New South Wales Inquiry, in 2015, the Victorian Government established an independent panel to examine the adequacy of regulations concerning [short-stay accommodation in CBD apartment buildings](#). In its report, the Panel noted that the Victorian Civil and Administrative Tribunal (VCAT) consider the Victorian Planning Provisions (VPP) to permit short-term rental accommodation in residential buildings providing that the dwelling is located in an area zoned for housing, the accommodation is self-contained and does not contain more than 10 habitable rooms.

The Panels' report presents a total of 13 options for regulatory reform, however it was somewhat unsurprising that the seven members of the Panel (which each represented a different industry groups) could not all agree on the merit of each of the options presented. Nevertheless, in response to the panel's report, in 2016 the Victorian Government announced that it would introduce new laws seeking to curb bad behaviour within short-term rental accommodation. The proposed measures will make apartment owners and their short-stay guests potentially liable for any damage, noise or loss of amenity caused by their guests. The proposal includes providing VCAT with powers to award compensation of up to \$2,000 to neighbours and ban short stay apartments which are repeatedly used for unruly parties. Guest could be fined up to \$1,100 for a range of anti-social behaviors including, creating unreasonable noise, health, safety or security hazards, damaging property.⁹

On a separate issue, it should also be noted that the Victorian Government signed an agreement with Airbnb to provide housing options for displaced community members and emergency workers during emergency events. A similar agreement was activated during the recent wildfires at Fort McMurray in Alberta, Canada when around 90,000 people were displaced. During the event, Airbnb automatically emailed hosts in surrounding areas asking them to consider listing their property for free. The company also waived all service fees for those affected by the fire.

3.1.4 South Australia

In 2016, a Victorian court decision raised questions as to whether home sharing constituted a change of use and therefore required development approval. In response, the South Australian Government issued a statement announcing that that it was supportive of home sharing and offered clarification that the use of a residential property for short-term stays did not constitute a 'change in use' under the Development Act.¹⁰ This statement appears to be founded upon the existing provisions contained within the South Australian statutory planning legislation as there has been no recent policy response to the issue of short-term rental accommodation.

⁹ Victorian Minister for Consumer Affairs, Gaming and Liquor Regulation, Jane Garrett, Media Release May 2016 www.premier.vic.gov.au/new-laws-for-short-stay-apartments/

¹⁰ South Australian Minister for Planning, John Rau 7 June 2016 Media Release www.premier.sa.gov.au/index.php/john-rau-news-releases/664-airbnb-boost-to-sa-tourism (Accessed 8/5/2017)

3.1.5 Tasmania

The Tasmanian Government is currently undertaking a series of planning reforms that will see the adoption of a State wide planning scheme. As part of the reform measures, the Government announced that up to four rooms can be rented in a home with the need for a permit.

The draft State Planning Provisions identify 'Visitor Accommodation in a dwelling (including a secondary residence)' as an exempt use if the following requirements are satisfied:

(a) the dwelling is used by the owner or occupier as their main place of residence, and only let while the owner or occupier is on vacation; or

(b) the dwelling is used by the owner or occupier as their main place of residence, and visitors are accommodated in not more than 4 bedrooms.¹¹

It is notable that a previous iteration of the draft State Planning Provision included an exemption for 'Visitor Accommodation' in a dwelling for 'no more than 42 nights in any calendar year'. This was removed following public consultation with the Tasmanian Planning Commission noting that *"that enforcement of the 42 day threshold set in the exemption would be difficult, if not impossible, particularly as properties may be multi-listed."*¹² This amendment was supported by the Tasmania Local Government Association who considered that the draft provision would have been difficult for Local Government to manage, however the proposed regulations "finds a good balance between the needs of private individuals and business"¹³

Following the Commission's recommended amendments, the Minister has directed the Commission to amend the 'Acceptable Solution' contained within the draft State Planning Provision, to increase the *"gross floor area from 160m² to 300m² for permitted visitor accommodation within an existing building in the relevant residential zone standards, to provide a better reflection of the size of an average 4 bedroom dwelling"*.¹⁴

¹¹ Tasmanian Government (2017) Tasmanian Planning Scheme www.justice.tas.gov.au/_data/assets/pdf_file/0007/370294/State_Planning_Provisions.PDF (Accessed 8/5/2017)

¹² Tasmanian Planning Commission (2016) *Draft State Planning Provisions Report* http://iplan.tas.gov.au/Temp/TrimDownload_906179.PDF (Accessed 8/5/2017)

¹³ ABC News 3 February 2017 *Tasmania eases Airbnb regulations for renting out rooms in sharing economy* www.abc.net.au/news/2017-02-03/tasmanian-government-lifts-red-tape-on-airbnb-rentals/8239486 accessed 10/4/2017

¹⁴ Minister for Planning and Local Government, (2017) Modifications to the Provision of the draft State Planning Provisions. www.justice.tas.gov.au/_data/assets/pdf_file/0008/370295/Ministers_Statement_of_Reasons_for_modifications_to_the_provisions_of_the_draft_State_Planning_Provisions.pdf accessed 22/5/17

4.0 International Experience

Opposition to short-term rental accommodation is not confined to Australia. In North American, Local Government concerns with broadly fall into two categories, the impact of short-term rentals on housing affordability as a result of the loss of housing to tourism uses and also the impact of short-term rentals on neighbouring residential properties. There, as within Australia, different responses have been adopted in different jurisdictions.

However, what is important to note from the North American experience is that the management of issues associated with short-term rental accommodation has led to the development of a software, data and consulting services provider, HostCompliance.com. Services provided by the company include the monthly monitoring of short-term rental listings at Local Government level and address identification. Whilst these services have to date only been provided within the United States of America, as a result of the rapid growth experienced by 'home sharing' providers, it is likely that such services will appear within Australia.

4.1 Operators Practices

The two leading platforms offering short-term rental accommodation in Australia are 'Airbnb' and 'Stayz'. In 2015-16 there were some 62,000 bookings were made via Airbnb in WA and there are currently 3,879 properties listed on Stayz¹⁵ across the State.

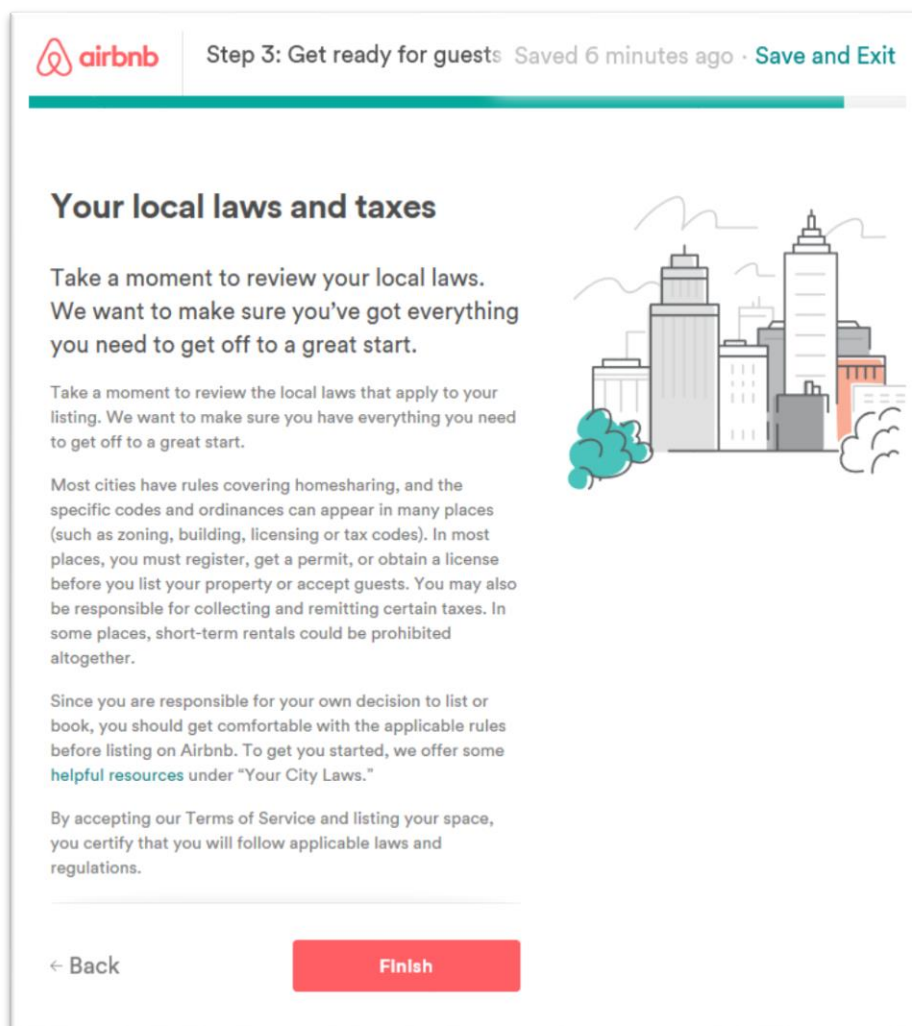
Airbnb invites tourists to 'live like a local' with the theme, "*don't go there. Live there*" running through the company's website and the services that it offers¹⁶. It has been suggested that this notion implies that tourist guests impose no addition burdens on neighbours and communities.¹⁷

In order to make a booking or to list a property on Airbnb, a terms of services agreement 'tick box' requires users to agree to Airbnb's 'Non-discrimination Policy'. This policy relates to non-discrimination by means of ethnicity, religion, sexual orientation, gender or marital status. As part of the home listing process, 'hosts' are not required to demonstrate that they are the property owner, or have their permission or provide evidence that they have any obtained any relevant planning or other necessary approvals. However, Airbnb does ask:

¹⁵ Stayz (2017) www.stayz.com.au/accommodation/wa?page=2 Accessed 31/5/2017

¹⁶ Airbnb (2017) www.airbnb.com.au/livethere 30/5/2017

¹⁷ N Gurran and P Phibbs Journal of the American Planning Association Volume 83, 2017. *When Tourists Move In: How Should Urban Planners Respond to Airbnb?*



Source: Airbnb www.airbnb.com.au/become-a-host/19002297/local-laws

Airbnb's 'helpful resources' link provides users with no further information about any relevant planning and other legislation that they may need to satisfy. Further, it is also important to note that Airbnb's website carries the following disclaimer:

*"Please note that Airbnb has no control over the conduct of Hosts and disclaims all liability. Failure of Hosts to satisfy their responsibilities may result in suspension of activity or removal from the Airbnb website."*¹⁸

As part of the online accommodation booking process, Airbnb guests are required to provide a variety of information including an email, phone number, payment information and confirm how many people are staying together with a check in time. Guest also need to agree to 'house rules', some of which are standard rules selected from a list by a property host whilst

¹⁸ Airbnb (2017) www.airbnb.com.au/help/article/1377/responsible-hosting-in-australia Accessed 31/5/17

bespoke rules can also be added and set by the property host. In addition, Airbnb hosts can also request that guests provide government-issued ID to Airbnb and that they have no negative reviews from other Airbnb hosts. It is not clear if this information would be passed on to any relate authorities should any antisocial behaviour issues arise from the short-term rental of a property.

Similarly ‘Stayz’ also offers limited advice concerning any approvals that may need to be satisfied in order to list a property for short-term rental accommodation. The company’s website does offer detailed advice concerning the management of a property including how to monitor and record damage to a listed property. With regards to land use planning requirements the website states that *“some councils may require you to seek approval for short-term leasing (i.e. less than 3 months) of your property. Contact your local council for guidelines and further information on approving your holiday rental”*.¹⁹

Nevertheless, as part of the property listing process, Stayz users are required to agree to the the ‘[Owner Terms and Conditions](#)’, the [Privacy Policy](#) and the [Holiday Rental Code of Conduct](#). Section 2.2.3 of the Holiday Rental Code of Conduct includes the requirement that *“The Property offered must: a) Be offered in a clean, safe and habitable state of repair; and b) Comply with relevant planning, building and fire safety and health regulations.”*²⁰ Whilst users agree to this requirement, they are not required to provide any such evidence in order to list a property.

5.0 Findings and Points for Further Discussion

Managing short-term rental accommodation is challenging for all tiers of Government however given the compliance responsibilities, it is particularly challenging for Local Government to manage. The challenges faced by Local Government are compounded by a lack of guidance from the State Government on the issue. The Local Planning Scheme Regulations fail to clearly define all types of short-term rental accommodation. Further, even though the statutory status of *Planning Bulletin 99, Holiday Homes Guidelines* means that it is somewhat toothless, in any case, it does not respond to the contemporary practices of the ‘home sharing’ industry and therefore fails to offer any meaningful guidance for decision makers. For these reasons it is evident that the current regulatory framework governing the management of short-term rental accommodation in WA should be improved.

Whilst amendments to the current arrangements may be required, it is important that the introduction of any controls governing short-term rental accommodation, either by the State or Local Government, are carefully considered to ensure that requirements are enforceable as well as reasonable. To assist this, another important trait of any legislation is that it should be simple for both the community and providers of short-term rental accommodation to

¹⁹ Stayz (2017) http://support.stayz.com.au/articles/en_AU/Article/How-do-I-list-my-property-on-Stayz-Your-guide-to-holiday-rentals?category=Advertise_a_Property Accessed 31/5/17

²⁰ Holiday Rental Industry Association (2015) *Holiday Rental Code of Conduct*

understand. If requirements are overly complicated and difficult to understand, they are unlikely to achieve appropriate levels of compliance.

Discussion Points:

- Would you support a review of *Planning Bulletin 99, Holiday Homes*?
- If so, should any review also seek to elevate the status of the Bulletin?
- Should the Local Planning Scheme Regulations provide a definition of 'short-term rental accommodation' and a definition, or a cross reference to the definition of a 'dwelling' provided in the R-Codes?

In summary, this study has found that LPP controls relating to short-term rental accommodation generally seek to ensure that development does not adversely impact upon surrounding uses. LPP provisions typically seek to control issues such as car parking and other features relating to design. It is also telling that a number of WA Local Governments differentiate between 'holiday homes' and 'large holiday homes'. The Tasmanian Government, whose policy controls governing short-term rental accommodation are the most progressed, also has a similar scale threshold. Tasmania's 'home sharing' threshold, a maximum of 4 bedrooms or 300m², is generally consistent with that of WA Local Governments who typically permit short stay accommodation for no more than six people.

Another common feature of Local Government controls is the requirement for a management plan. Similarly the Tasmanian requirements are also based on the premise that "*the dwelling is used by the owner or occupier as their main place of residence*". On this basis it is considered that the current controls set out by the R-codes may provide appropriate design controls for home sharing in smaller dwellings where the dwelling is used as main place of residence. Where a property is not a main place of residence or where a property exceeds a scale threshold, operations may be considered to be more commercial in nature and thereby constitute development which requires a development application.

It is also notable that some online short-term rental accommodation listing companies require users listing a property to agree to certain codes of conduct whilst other companies do not have the same requirements. Further these online platforms do not generally require users to provide any evidence that they obtained any necessary approvals to list a property for short-term accommodation purposes.

Discussion Points:

- Would you support the introduction of greater guidance or 'deemed provisions' relating to the control short-term rental accommodation?
- If so what controls would you like to see?
- Should the introduction of short-term rental accommodation controls be 'scale' based? And if so what should the threshold be?
- Should 'home sharing' (the rental of a room(s) within a person's primary residence) be managed differently to the rental of holiday homes (the rental of properties which are not a primary residence)?
- Should online short-term rental accommodation providers specify that all relevant government approvals have been satisfied and that if required, evidence of this is provided?

Understandably, land use planning controls will not be able to totally resolve the anti-social behaviour issues that have sometimes become associated with short-term rental accommodation. To help overcome the community concerns relating to noise, property damage and other anti-social behaviours Queensland have adopted 'party house' laws, whilst the Victorian Government have similarly announced their intention to adopt laws to curb anti-social behaviour within short-term rental accommodation.

The Victorian Government's Independent Panel investigation into short-term rental accommodation matters was primarily focused on issues within apartment buildings in Melbourne. Although the purpose of this study was to examine wider concerns rather the narrow issue of the appropriacy of short-term rental accommodation within apartment buildings, or strata schemes, it is evident that problems do exist within these forms of development. Accordingly, the Association queries whether the adoption of 'party house' laws alongside clearer parameters about what constitutes development would be an appropriate response to the issue. Likewise, it is queried whether it should be at the discretion of individual strata schemes to determine whether or not short-term residential is permitted within a strata scheme, or whether such discretion add further confusion about the validity of home sharing.

Discussion Points:

- Would you support the introduction of 'party house' laws in WA to tackle problems with individual properties?
- Should the appropriacy of short-term rental accommodation within strata schemes be solely at the discretion of strata companies?

Feedback in relation to these discussion points or this discussion paper more generally should be provided to Association by **31 July** to planning@walga.asn.au, or to discuss please call 9213 2000.

Appendix 1: Summary of a Selection Local Planning Policy Provisions

Summary of Local Government, Local Planning Policy Provisions

Shire of Augusta-Margaret River

Local Planning Policy: Holiday Houses

“Holiday House” means a single house or grouped dwelling which might also be used from time to time for short stay accommodation for no more than six (6) people but does not include a bed and breakfast.

“Holiday House (Large)” means premises conforming to the definition of “Holiday House” with the exception that the premises provide short stay accommodation for more than six (6) people but not more than 12 at any one time.

Objective: Holiday Houses are located in areas of high tourist amenity and attraction and in proximity to relevant services.

Summary of Requirements

- Located in coastal settlements or low density residential and rural lands.
- Holiday Houses and Holiday Houses Large (limited to 8 persons only) located in urban areas where the property either adjoins, fronts or is within an ‘area of significant tourist attraction’; or comprises an area of not less than 1000m².
- Grouped dwellings are limited to a maximum of 6 occupants (Holiday House).
- Decks and balconies are located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided.
- Proposals require an Emergency Response Plan and Fire Management Plan, Management Plan with a manager or a contactable employee of the manager that permanently resides no greater than 1 hour’s drive from the site.
- Amplified music is only played outside of the Holiday House or Holiday House (Large) between the hours of 10am and 10pm.
- Renewals of approvals granted under previous Schemes shall be granted for a one year period unless the Local Government determines otherwise.

Bridgetown-Greenbushes

Local Planning Policy: Holiday Accommodation

“Holiday Accommodation” means accommodation which, by way of trade of business or for the purposes of any trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor.

Holiday Accommodation should conform to either;

- A cabin unit constructed with cooking, toilet, ablution or laundry facilities provided as a communal facility and having a minimum floor area of 9.2m² and a maximum of 40m².
- A chalet – a detached self-contained unit including cooking, toilet and ablution facilities, with optional self-contained laundry facilities, and having a minimum floor area of 40m² and a maximum of 120m²

The short-term rental of residential dwellings to single parties shall not be classified as Holiday Accommodation. Council considers such a use as merely another form of landlord – tenant rental.

Summary of Requirements for Holiday Accommodation

- A site area of not less than 2 hectares.
- The site shall contain tree cover adequate to provide visual screening.
- Developments should not contribute to a concentration of similar land use activities that would alter the established character of the surrounding area.
- The minimum distance between the external walls of any building and another on the land shall be 10 metres for the purposes of privacy and amenity.
- Suitable car parking facilities (minimum 2 bays per unit) shall be provided.
- The same person is limited to stays of no more than three months in any consecutive twelve months

Shire of Broome

Local Planning Policy: Tourist Accommodation Developments (Excluding Caravan Parks) within the Tourist Zone

All accommodation development within a Tourist Zone shall comply with the objectives and guidelines of this policy.

Summary of Requirements

Development principles - Accommodation shall occur in a holiday atmosphere, and will also provide for permanent residents who prefer a more diverse and vibrant environment.

- Long Stay and Permanent Residential development shall be separated from short stay accommodation, so not to impact negatively on short stay holidaymakers.
- Developments that adjoining residential zoned land shall be designed so as not to impact negatively on the privacy and amenity of the adjoining residents.

Shire of Capel

Local Planning Policy: Bed and Breakfast Accommodation

Scheme defines 'Bed & Breakfast Accommodation' as "...accommodation provided for hire or reward under the main roof of a dwelling house for not more than four (4) adults or one family in the form of a maximum of two (2) guest bedrooms and one (1) guest bathroom".

Policy adds 'Bed and breakfast accommodation' means a detached single dwelling, used by a resident of the dwelling to provide short-term accommodation, and which may include the provision of breakfast.

Summary of Requirements

- Annual renewal of planning approval.
- Maximum number of three guest rooms.
- Requirement for on-site management of the establishment is implicit in any approval.
- Single dwellings only – grouped (or strata-subdivided) dwellings is not appropriate. Two (2) spaces for the dwelling and one (1) additional space per guest bedroom
- More than two Bed and Breakfast Accommodation uses within cul-de-sac or small residential streets may not be supported.
-

Shire of Donnybrook-Balingup

Local Planning Policy: Chalet(s)/Chalet Development & Bed and Breakfast Policy

Bed and Breakfast means a dwelling, used by a resident of a dwelling to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

Summary of Requirements

- Bed and breakfast establishment providing accommodation for a maximum of six persons. (Beyond six persons establishments are considered to be lodging houses)
- Planning consent is required for a bed and breakfast establishment.

Shire of Exmouth

Local Planning Policy: Bed & Breakfast Accommodation

Dwelling' means (as per the Residential Design Codes) a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:

- a single person
- a single family
- no more than six (6) persons who do not comprise a single family

Summary of Requirements

- Guest access to a kitchen for preparation of meals is not permitted;
- The host is to permanently reside in the dwelling approved for a 'bed and breakfast' establishment;
- 'Bed & Breakfast' accommodation must be for short-term guests only and not considered as long term permanent accommodation;
- On-site car parking is to be provided at a ratio of one (1) car bay per guest bedroom
- In the case of an existing dwelling (ie, Class 1a building) being granted planning approval for use as a bed and breakfast, the proponent shall make a separate application to the Shire for a 'change of use' to a Class 1b subject to Regulation 22 of the Building Regulations 2012. All works required to satisfy compliance with the Building Code of Australia Volume 2 – Part 3.7.2 Smoke Alarms relating to a Class 1b building shall be completed prior to the 'Bed and Breakfast' use commencing;

Local Planning Policy: Holiday Accommodation

'Holiday Home (standard)' means a single house, which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

'Holiday home (large)' means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

Summary of Requirements

- All Holiday Accommodation is to be managed by local real estate agents, or have a local caretaker / manager living and readily contactable within 10 minutes of the property.
- All planning applications for holiday accommodation shall include a Management Statement that includes a Code of Conduct that outlines occupant rules.
- An emergency response plan is also required.
- Annual permit required.
-

Shire of Gnowangerup

Local Planning Policy: Tourism Based Land Use Requirements

Bed and Breakfast - A dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes provision of breakfast.

Summary of Requirements

- Permitted within the Town Centre zone.
- May be considered by Council in the Residential, General Agriculture or Rural Residential Zones.
- Maximum of three bedrooms being used for accommodation purposes and a total number of guests shall not exceed six.
- Off street car parking to be provided at the ratio of one bay for each guestroom.
- A separate toilet, shower or bath and hand basin is to be supplied for guests.

Permit is valid for twelve months and renewable annually by the Shire subject to no complaints being received by the Shire

City of Joondalup

Local Planning Policy: Short-term Accommodation

"Bed & Breakfast" is a dwelling used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than four (4) adult persons or one family; and containing not more than two (2) guest bedrooms.

"Dwelling" as defined by the Residential Design Codes of Western Australia means a building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.

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

“Holiday accommodation” as defined by Local Planning Scheme No. 3 means two (2) or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot.

“Short-term accommodation” as defined by Local Planning Scheme No. 3 means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three (3) months in any 12 month period.

Summary of Requirements

- All parking is to be provided on-site
- Management Plan to be provided and will be included as a condition of any development approval issued. The Management Plan is to include;
 - a code of conduct detailing the expected behaviour and obligations of guests which is to be displayed in a prominent position within the premises
 - a Complaints Management Procedure
 - details regarding guest check-in and check-out procedures
 - details regarding waste management
 - compliance with Strata By-Laws (if applicable)
- Guest register, detailing names, addresses and period of stay to be maintained and available for inspection by the City.
- Proposals within residential zones require public consultation and if within a Strata title scheme, the strata body will be consulted. Applicants are encouraged to seek clarification as to whether or not the operation of short-term accommodation is compliant with any by-laws.
- Development applications for a holiday house within an existing dwelling will be processed as a change of use. Development applications for a purpose built holiday house are required to meet the relevant single house requirements.

City of Perth

Local Planning Policy: Special Residential (Serviced and Short-term Accommodation) Policy

Residential Use: means premises providing for long term or permanent residential accommodation including: aged persons dwelling, caretaker’s dwelling, grouped dwelling, single house, multiple dwelling.

Special Residential Use: means premises providing short-term, temporary or specialised residential accommodation including a lodging house, hotel and serviced apartment.

Requirements

- Written evidence demonstrating that the operator of the special residential use has valid membership to an appropriate professional board or body, which operates within a code of practice or licensing system.
- A management plan.
- Applications will need to demonstrate how the amenity and security of all occupants will be protected through the design and management of the development.
- A proportion of the short-term and serviced apartments should be designed to accommodate people with a disability.

City of South Perth

Local Planning Policy: Serviced Apartments

A serviced apartment is an apartment which is one of a group of two or more apartments on the same lot, used, furnished and equipped to be used on a temporary basis in a manner similar to a Grouped Dwelling or Multiple Dwelling, for which laundry and cleaning services are provided, with or without other ancillary amenities.

Summary of Requirements

- Cul-de-sac streets are generally not favoured for serviced apartments.
- A serviced apartment is not permitted to be occupied by the same temporary tenant for more than 6 months within any 12 month period with notice placed on title to inform prospective purchasers of this requirement.

- When the owner of a serviced apartment no longer intends to provide any laundry or cleaning services for temporary tenants; and wishes to extend the period of occupancy beyond the limit referred to in paragraph a planning approval for a change of use of the premises is required.
- Management Plan required.
- Where an application for planning approval is lodged for proposed serviced apartments on a site containing dwellings for long-term occupancy held on strata titles, the applicant is to provide evidence that:
 - (a) the owners of all dwellings on that site have given written consent for the proposed use of particular dwellings as serviced apartments;
 - (b) by-laws have been adopted by the strata company approving the proposed use and requiring the vendor of any existing dwelling on the site to inform all prospective purchasers of the approved use of particular dwellings as serviced apartments; and
 - (c) the strata company has given consent to the management plan.

1 Introduction

Holiday homes are a component of the short stay accommodation sector in some parts of Western Australia and an important aspect of the overall mix of tourism accommodation, particularly in popular tourist destinations within the State. Over the past decade a growing number of holiday homes have been made commercially available, resulting in an increasing trend to purchase or build homes for holiday home use.

The informal development of this section of the tourist accommodation market has meant that holiday homes have so far operated with minimal regulation, resulting in an uncertain legal environment, issues of inequity with other service providers and land use conflict. The issue of impact on neighbouring residential amenity has caused particular concern in the community.

In response to these issues the Minister for Planning and Infrastructure formed the Holiday Homes Working Group in 2005. The role of the working group was to investigate issues surrounding the operation of holiday homes and matters raised by the group have been taken into consideration in the preparation of this bulletin.

2 Background

This bulletin sets out the interim position of the Western Australian Planning Commission (WAPC) in relation to the planning and regulation of holiday homes in Western Australia. The bulletin provides guidance to local governments when dealing with issues associated with holiday homes in the local government planning framework.

The bulletin proposes possible changes to local planning schemes and the preparation of local planning policies, tailored to address the specific issues encountered by local governments.

3 Objectives

The objectives of this planning bulletin are:

- To facilitate a consistent, equitable and efficient planning process for the regulation of holiday homes in Western Australia.
- To support the tourism industry by the promotion of voluntary accreditation of holiday homes.
- To encourage good quality, well managed holiday homes for use by short-term visitors generally in locations that will enhance the tourism experience while minimising potential impacts on adjoining residents.
- To support the role of holiday homes as part of the tourism industry.

4 Proposed guidelines

4.1 Overview

Given that holiday homes are a legitimate part of the tourist accommodation industry and a desirable use in areas of high tourism amenity, it is recommended that holiday homes be formalised as a land use and dealt with via the local planning framework in the following ways:

- Introduction of a Model Scheme Text definitions for holiday homes.
- Introduction of holiday homes as a use class in the zoning table of local planning schemes.
- Identification of preferred areas for holiday homes in local planning strategies based on sound planning principles.
- The preparation of local planning policies to deal with the potential issues associated with holiday homes.

These guidelines may be applied in different ways by different local governments depending on the

local planning scheme and policies already in effect.

4.2 Local planning schemes

4.2.1 Definitions

It is proposed that the following definitions for holiday homes should be used in local planning schemes and adopted in the Model Scheme Text:

Holiday home (standard) means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday home (large) means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

4.2.2 Holiday homes as a use class

It is recommended that holiday homes be introduced as a use class in the zoning table of local planning schemes, and be made a D or an SA use (discretionary or discretionary subject to advertising).

Initial approval should be granted for a limited period of one year, and renewed on a three year to five year period subject to compliance as determined by a local government, to ensure that there is minimal impact on the amenity of neighbouring properties. This is designed to provide a degree of certainty to operators, while also enabling the local government flexibility to terminate approvals of non compliant operators.

Existing holiday homes (where it can be demonstrated that there is a history of operation with minimal or no conflicts) should be considered for the identified longer approval subject to the requirements of the relevant local government.

In general, holiday homes should be residential dwellings on freehold lots.

4.3 Local planning policy

As well as including holiday homes as a controlled use in local planning schemes, local governments are encouraged to develop a local planning policy on holiday homes.

The content of a local planning policy may include:

- objectives
- definitions
- planning application and approval considerations
- conditions of approval
- establishment of a holiday homes register
- non compliance
- voluntary accreditation

The Department of Planning has prepared guidelines to assist local governments in the preparation of local planning policies.

4.4 Preferred locations for holiday homes

To reduce conflict between holiday homes and ordinary dwellings, particularly in residential zones, ideally they should be located in preferred areas identified either through the tourism component of the relevant local planning strategy, or in a local planning policy. As a guide, holiday homes are more appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas, but may not be appropriate in suburban locations.

4.5 Holiday homes register

A register of approved holiday homes should be established and maintained by the local government. The register should record basic details of the property including the contact details of the owner and/or manager; property address; and configuration (bedroom number, number of beds, bathrooms, car parking spaces etc). These matters should be considered for inclusion in the approved management plans for the operation of the holiday home.

4.6 Voluntary accreditation

Local governments are encouraged to promote voluntary accreditation of holiday homes from the Tourism Council of Western Australia. Accreditation is a non regulatory, voluntary means of addressing identified customer service and consumer protection issues. The benefits of accreditation include improvements in the quality of accommodation product through the application of standards, capture of accommodation provider details.

4.7 Transitional arrangements

It is recommended that local governments allow owner operators up to 12 months, after a local planning policy has been adopted, to apply for and obtain approval for the operation of existing holiday homes and implement the recommended regulatory measures.

6 Comment

Any comment on this bulletin should quote the title: Holiday Homes Guidelines and reference number: 801/6/1/44 V2 and be directed to:

Western Australian Planning Commission
469 Wellington Street
Perth WA 6000

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This document is available in alternative formats on application to WAPC Communication Services



Parking

The majority of Holiday Homes provide sufficient on-site parking however occasionally, parking may occur outside of the property boundary. Should you experience issues associated with parking, you are advised to contact the City on 9550 3777 or council@mandurah.wa.gov.au. The complaint will be referred to the City's Ranger Services Section who monitor parking throughout the city.

Please advise if you suspect the property as being a holiday home as this assists in making the owner of the property aware of the situation and seek their assistance.

Rubbish Disposal

Domestic waste should not be placed in public litter bins and the duty of care to dispose of waste appropriately lies with guests of Holiday Homes and/or the property manager.

The City's Ranger Services enforce the Litter Act 1979 in the district and penalties apply if litter is not disposed of appropriately. The City has other local laws relating to the appropriate filling and presentation of bins. Should you experience issues in association with litter and waste disposal, please contact the City on 9550 3777 or council@mandurah.wa.gov.au

Please advise if you suspect the property of being a holiday home as this will assist in early notification to the property owner to seek their assistance in resolving the issue.



City of Mandurah
3 Peel Street,
Mandurah WA 6210

Phone: 9550 3777

Email: council@mandurah.wa.gov.au
www.mandurah.wa.gov.au



Holiday Homes Complaint Handling Procedure



Introduction

The City of Mandurah has adopted a 'Responsive Approach' in dealing with complaints that relate specifically to properties that are being operated as Holiday Homes.

The City recognises Holiday Homes as playing a part in supporting the tourist industry in Mandurah, and encourages well managed Holiday Homes for short-term visitors that will enhance the tourism experience while minimising potential impacts on adjoining residents.

Unfortunately however, it is acknowledged that the behaviour of guests staying in such accommodation may give rise to issues which impact on the amenity of adjacent residents, and this brochure therefore provides information relating to the procedures to follow should such a complaint arise.



Commitment to successfully resolving disputes

The City of Mandurah takes complaints very seriously and through the Service Charter we will ensure that:

- You are dealt with by professional City Officers, identifiable through their general appearance and/or greeting.
- Your enquiry will be handled in a professional, polite, respectful and attentive manner at all times.
- Your issues and matters will be dealt with by the appropriate City Officer in a timely manner.
- We will communicate in clear and concise English language that is easily understood.

Dealing with your complaint - who to contact and when to contact them

Antisocial Behaviour

If your complaint relates to anti-social, dangerous or threatening behaviour, you should contact Mandurah Police on **131 444** and for urgent situations **000**. The City would appreciate being notified of any concerns of antisocial behaviour with holiday homes so the owner can be contacted.

Noise

Should noise be related to party's or excessive late night noise such as stereo's, calls should be referred to the Police on **13 444** however it is also requested that the City of Mandurah be advised on **9550 3777** or council@mandurah.wa.gov.au.

The City will arrange for the installation of a recording device as soon as possible and also contact the owner of the property to seek their action in resolving the issue.

Other noise concerns should also be notified to the City of Mandurah on the above number.

In advising of your complaint please advise the City if you suspect the property is a holiday home.

