



Date: 18 February 2016

**To: Shire President
All Councillors**

**Copy: Directors
Staff**

ORDINARY COUNCIL MEETING NOTICE AND AGENDA

An Ordinary Council meeting of the Shire of Waroona will be held at the Waroona Shire Offices on 23 February 2016 at 4.00pm to consider and resolve the matters set out in the attached Agenda.

A handwritten signature in black ink, which appears to read "Ian Curley", is placed on a light-colored rectangular background.

**Ian Curley
CHIEF EXECUTIVE OFFICER**

PUBLIC QUESTION TIME

AND

PUBLIC STATEMENT TIME

1. The order of business allows for a Public Question time and a Public Statement time at the beginning of the Meeting. The Presiding Member will announce these times.
2. If you wish to ask a Question or make a Statement about an Agenda Item BEFORE it is considered then it should be made at the Public Question and Public Statement Time at Item 4 on the Agenda Notice Paper in accordance with Council's Procedures and Guidelines for Public Question Time and Receiving Public Statements.
3. The visual or vocal recording of Council meeting proceedings is expressly prohibited, unless the prior approval of the Council has been given.

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AGENDA

1. **DECLARATION OF OPENING/ANNOUNCEMENTS**
2. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED**
3. **RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**
- 4.1 **PUBLIC QUESTION TIME**
- 4.2 **PUBLIC STATEMENTS**
5. **APPLICATIONS FOR LEAVE OF ABSENCE**
6. **DISCLOSURES OF MEMBERS' & OFFICERS' INTERESTS**

(Disclosure of interest MUST ALSO be made by the member or officer immediately prior to a matter, for which an interest is being disclosed, is dealt with.)
7. **PETITIONS/DEPUTATIONS/PRESENTATIONS**
8. **CONFIRMATION OF MINUTES**
 - 8.1 **ORDINARY COUNCIL MEETING – 22 December 2015**

OFFICER RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 22 December 2015 be confirmed as being a true and correct record of proceedings.

- 9.0 **REPORTS OF OFFICERS AND COMMITTEES**
 - 9.1 **DIRECTOR TECHNICAL SERVICES**
Nil.

9.2 DIRECTOR DEVELOPMENT SERVICES

9.2.1 REVOCATION OF LOCAL PLANNING POLICIES: POLICY 2 – LAKE CLIFTON - HERRON STRUCTURE PLAN, LOCAL PLANNING POLICY 17 – WAROONA NORTH STRUCTURE PLAN AND LOCAL PLANNING POLICY 20 – SUBDIVISION GUIDE PLANS	
Reporting Officer / Officer's Interest:	Chris Dunlop, Senior Town Planner / Nil
Responsible Officer / Officer's Interest	Louis Fouché, Director Development Services / Nil
Proponent:	Shire of Waroona
Landowner:	N/A
Date of Report: 27 November 2015	File No.: TPS 7 General, 111/1
Previous Reference:	OCM06/031 OCM06/230 Council Decision 9923 of 14 June 2003
Policy Implications:	Local Planning Policy 2 – Lake Clifton Herron Structure Plan Local Planning Policy 17 – Waroona North Structure Plan Local Planning Policy 20 – Subdivision Guide Plans
Statutory Implications:	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015 Shire of Waroona Town Planning Scheme No.7 1996
Strategic Implications:	Shire of Waroona Strategic Community Plan 2014/15-2023/24 Local Planning Strategy 2009
Financial Implications:	Cost of advertising (included in existing operation expenditure).
LINKED TO STRATEGIC OBJECTIVE NUMBER (Strategic Community Plan-SCP): <i>Theme number 3: Land Use – Responsible Land Use Planning and Protecting Rural Land</i>	

PROPOSAL SUMMARY

Council is requested to consider the revocation of Local Planning Policy 2 – Lake Clifton Herron Structure Plan (LPP2), Local Planning Policy 17 – Waroona North Structure Plan (LPP 17) and Local Planning Policy 20 – Subdivision Guide Plans (LPP20).

As part of the review of Council's local planning policy manual these policies have been found to be unnecessary. A copy of the current policies can be found at **APPENDIX 9.2.1A**.

BACKGROUND / INITIAL COMMENTS

Local Planning Policy 2 – Lake Clifton - Herron Structure Plan was adopted by Council as a local planning policy in 2006 following the preparation of the structure plan by the Western Australian Planning Commission (WAPC). The objectives and provisions of the structure plan subsequently informed the formulation of the Shire's



Local Planning Strategy (LPS), which was adopted and endorsed by the WAPC in 2009. The current statutory status of the Lake Clifton Herron Structure Plan is a structure plan endorsed by the WAPC and therefore applicable to all development in the structure plan area.

Local Planning Policy 17 – Waroona North Structure Plan was adopted by Council in 2006. The structure plan was subsequently referenced in the formulation of the LPS with the area subject to the plan being identified as requiring further development to be in accordance with an Outline Development Plan. The Waroona North Structure Plan is an adopted structure plan under the Shire's Town Planning Scheme and therefore forms part of the Shire's town planning framework.

Local Planning Policy 20 – Subdivision Guide Plans was adopted by Council in 2003 and contains a list of the subdivision guide plans that were endorsed at that time. The majority of the subdivision guide plans listed have been fully developed. Each subdivision guide plan listed has a statutory head of power for implementation in addition to the policy.

STATUTORY ISSUES / ENVIRONMENT / IMPLICATIONS

Planning and Development Act 2005

The Planning and Development Act 2005 provides for the preparation of Region and Local Planning Schemes and provide the head of power for the enforcement of the Scheme and any policies adopted under it.

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

Schedule 2 of the Regulations sets out deemed provisions for Local Planning Schemes that are to be read as part of the Local Planning Scheme.

Clause 6 of Schedule 2 to the Regulations states:

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —*
 - (i) is prepared in accordance with this Part; and*
 - (ii) expressly revokes the local planning policy;*
- or*
- (b) by a notice of revocation —*
 - (i) prepared by the local government; and*
 - (ii) published in a newspaper circulating in the Scheme area.*

Clause 27 of Schedule 2 to the Regulations requires that due consideration be given to structure plans in making decisions.

Clause 28 of Schedule 2 to the Regulations states that structure plans shall expire after 10 years from the date of adoption, or from the date of commencement of the Regulations, whichever is the latter.



Town Planning Scheme No.7 (TPS)

Clause 2.4.2 of the TPS states that a scheme policy may on be rescinded or revoked by the preparation and final adoption of a new policy specifically worded to supersede an existing policy or by publication of a formal notice of revocation twice in a newspaper circulating in the area.

PLANNING – STRATEGIC IMPLICATIONS

Local Planning Strategy

Many of the structure plans appurtenant to Local Planning Policies 2, 17 and 20, including the Lake Clifton-Herron Structure Plan, informed the formulation of the Strategy and their details and principles have been included within the strategy itself.

STRATEGIC COMMUNITY PLAN ISSUES / IMPLICATIONS

Shire of Waroona Strategic Community Plan 2014/15-2023/24

The community expects Council to regularly review plans with community consultation on significant decisions affecting the Shire.

This item relates to Theme number 3: Land Use – Responsible Land Use Planning and Protecting Rural Land.

FINANCIAL ISSUES/IMPLICATIONS

Cost of Advertising the revocation of the policies. (To be included in the already budgeted Sea to Scarp).

COMMUNITY CONSULTATION

In terms of Clause 2.4.2 of the TPS the revocation of a local planning policy is to be advertised twice in a local newspaper. Notwithstanding the requirements of TPS, the Deemed provisions for local planning schemes, Clause 6 of Schedule 2 to Regulations requires only a single publication of a notice of revocation in a local newspaper.

OFFICER’S FINAL COMMENTS / CONCLUSIONS

As the structure plans appurtenant to Local Planning Policies 2, 17 and 20 are not required to be adopted as local planning policies in order to maintain their status within the town planning framework, the policies effectively form an unnecessary duplication of planning documents. Adopted structure plans are held and recorded by the Shire’s Planning Department and are made available to the public via the Shire’s website and upon request.

The revocation of the policies will not detract from the operation of the structure plans and will remove unnecessary documents from Council’s planning policy manual. It is therefore recommended that the policies be revoked.

Appendices Attached:	Yes	Appendices Number/s: 9.2.1A
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That in relation to Local Planning Policies 2 – Lake Clifton - Herron Structure Plan, 17 – Waroona North Structure Plan and 20 – Subdivision Guide Plans, as set out in Appendix 9.2.1A, and pursuant to Clause 2.4.2 of the Shire of Waroona Town Planning Scheme No. 7 and Clause 6 of Schedule 2 to the Planning and Development (Local Planning Schemes) Regulations 2015, Council resolves to:

- 1. Revoke the Local Planning Policies.**
- 2. Advertise the revocation of the policies in accordance with the requirements of Clause 6 of Schedule 2 to the Planning and Development (Local Planning Schemes) Regulations 2015.**

9.2.2 PROPOSED AMENDMENT TO LOCAL PLANNING POLICY 25 – OUTBUILDINGS	
Reporting Officer / Officer's Interest:	Chris Dunlop, Senior Town Planner; No Interest
Responsible Officer / Officer's Interest	Louis Fouché, Director Development Services; No Interest
Proponent:	Shire of Waroona
Landowner:	Not Applicable
Date of Report: 9 December 2015	File No.: LPP25
Previous Reference:	9.2.3 of 14/02/2012 9.2.1 of 22/05/2012 OCM15/10/115
Policy Implications:	Local Planning Strategy 2009 Local Planning Policy 25 - Outbuildings
Statutory Implications:	Planning and Development Act 2005 Planning and Development (Local Planning Schemes) Regulations 2015 Shire of Waroona Town Planning Scheme No.7, 1996 State Planning Policy 3.1 - Residential Design Codes 2010
Strategic Implications:	Shire of Waroona Strategic Community Plan 2014/15-2023/24
Financial Implications:	Advertising costs (incorporated in operational budget)
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): Theme 3: Responsible Land Use Planning and Protecting Rural Land	

PROPOSAL SUMMARY

Council is requested to adopt an amended version of Local Planning Policy 25 – Outbuildings (LPP25).

BACKGROUND / INITIAL COMMENTS

The current version of LPP 25 was finally adopted by Council at its meeting of 22 May 2012. Since that time LPP25 has been applied in the operation of the planning department.

The policy is proposed to be amended to address issues and inconsistencies that have arisen in the day to day application of the policy. A copy of the updated policy, including the proposed changes is at **APPENDIX 9.2.2A**.

Changes proposed to the policy include;

- Updated formatting to be consistent with the reviewed policy suite of the Shire of Waroona; and
- Correcting inconsistencies with the Town Planning Scheme and Residential Design Codes.
- Including the exercise of discretion by the Director Development Services in cases where adverse impact on neighbours may occur.



An inconsistency between the consultation, adoption and intention of the initial policy has also been detected. The inconsistency relates to note 1 to Table 1 of the policy. The currently adopted version of the policy allows for a 5m² discretionary allowance to the maximum permissible outbuilding area in order to accommodate standard designs. The consultation and publication of the current policy stated that a 5% discretionary allowance to floor area and building height could be made.

At its meeting of 27 October 2015 Council adopted the revised policy as attached for advertising purposes. Since that time advertising has been undertaken in accordance with the Planning and Development (Local Planning Schemes) Regulations.

PLANNING – STRATEGIC IMPLICATIONS

Local Planning Strategy (LPS)

The LPS serves as Council's main strategic planning instrument guiding development within the Shire. The LPS outlines land uses that are permissible and discretionary within the six (6) precincts of the Shire. The classification of these land uses as permitted or discretionary is then reflected in Table 1 of the TPS. LPP 25 sets the provisions for the assessment and approval of outbuildings appurtenant to Single Houses.

REFERRALS

Nil.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

Shire of Waroona Strategic Community Plan 2014/15 – 2023/24

This item contributes towards achieving Theme 3: Responsible Land Use Planning and Protecting Rural Land.

FINANCIAL ISSUES/IMPLICATIONS

Cost of Advertising the Policy within 2015/2016 budget (incorporated into Council's existing advertising expenses associated with the Sea to Scarp publication).

POLICY ISSUES/IMPLICATIONS

Nil.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005

The Planning and Development Act 2005 provides for the preparation of Region and Local Planning Schemes and Section 162 specifies that where required in a planning scheme, development is not to commence without approval of a development application.

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 of the Regulations sets out deemed provisions for Local Planning Schemes that are to be read as part of the Local Planning Scheme.



Clause 4 of Schedule 2 sets out the procedure for making a local planning policy.

(1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —

- (a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —*
 - (i) the subject and nature of the proposed policy; and*
 - (ii) the objectives of the proposed policy; and*
 - (iii) where the proposed policy may be inspected; and*
 - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
- (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
- (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*

(2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).

3) After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed policy in the light of any submissions made; and*
- (b) resolve to —*
 - (i) proceed with the policy without modification; or*
 - (ii) proceed with the policy with modification; or*
 - (iii) not to proceed with the policy.*

(4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.

(5) A policy has effect on publication of a notice under subclause (4).

(6) The local government —

- (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and*
- (b) may publish a copy of each of those local planning policies on the website of the local government.*

Clause 5 of Schedule 2 prescribes the procedure for amending a local planning policy.

Clause 6 of Schedule 2 to the Regulations states:

A local planning policy may be revoked —

- (c) by a subsequent local planning policy that —*
 - (iii) is prepared in accordance with this Part; and*
 - (iv) expressly revokes the local planning policy;*
- or*
- (d) by a notice of revocation —*

- (iii) prepared by the local government; and
- (iv) published in a newspaper circulating in the Scheme area.

Residential Design Codes

Clause 6.2.3 of the Codes deals with the setback of garages and carports so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

Clause 6.2.7 of the Codes states buildings should be designed to enhance existing streetscape.

Clause 6.2.8 of the Codes deals with the extent of frontage and building façade occupied by garages and the need to maintain a desired streetscape not dominated by garage doors.

Clause 6.10 of the codes deals with incidental development requirements. It is the objective of the Codes to ensure that outbuildings do not detract from the streetscape or the amenity of the development or that of adjoining residents.

Town Planning Scheme No.7

Under the TPS an “outbuilding” (land use) falls within the same classification as a “single house” in the zoning table. The definition of an outbuilding is as follows:

“means an enclosed non-habitable structure that is required to meet the standards of the Building Code of Australia and is detached from any dwelling.”

An outbuilding is a discretionary use in the Urban 1 Town Centre zone and the Urban 3 Service Commercial zone. It is not permitted as a land use in the Urban 7 Industrial zone. It is a permitted use in all other zones.

Clause 6.1.2 (c)(i) of the Scheme states except as otherwise provided in the Scheme the following development does not require the planning approval of Council:
 ‘The erection of a single house including outbuildings except where the proposal requires the exercise of a discretion under the Scheme including the Residential Design Codes.’

Clause 6.11.1 of the TPS states that unless otherwise approved by Council, the size and height of outbuildings shall comply with the provisions of Table 3.

TABLE 3 TPS

Zone	Maximum Total Area of Outbuildings (m²)	Maximum Roof Height Above Natural Ground Level (m)
URBAN ZONES		
Urban 2 – Community and Civic	100	4.2
Urban 4 – Residential	100	4.2
Urban 5 – Special Residential	100	4.2
Urban 6 - Rural Living	200	5.0
Urban 8 – Hamel	100	4.2



Urban 9 – Preston Beach	100	4.2
RURAL ZONES (LOTS LESS THAN 2HA IN SIZE)	200	5.0

Clause 6.11.2 states that no restriction on size is placed on outbuildings within the Rural zones for lots of 2ha and above.

Clause 6.11.3 states that unless otherwise approved by Council, no outbuilding in the Urban 4 Residential, Urban 5 Special Residential, Urban 8 Hamel or Urban 9 – Preston Beach Zone shall be erected within the front building setback.

Clause 2.4 provides for the preparation of Town Planning Scheme Policies relating to parts or all of the scheme.

In terms of Clause 2.4 of the TPS, once a Draft Town Planning Scheme Policy has been developed, Council needs to resolve to adopt the draft policy and then advertise the policy for a minimum period of 21 days. All submissions to the draft policy need to be considered by Council and then Council can resolve to adopt the policy, amend it or not proceed with the policy.

Although a Town Planning Scheme policy does not bind Council, it shall have regard for the policy when making a decision.

LEGAL ISSUES/IMPLICATIONS

Nil.

COMMUNITY CONSULTATION

In terms of Clause 4(1) of the Regulations a draft Planning Policy is to be advertised in a local newspaper, allowing a minimum of 21 days for submissions. Council must consider submissions received on the draft policy and subsequently decide to adopt or not proceed with the Policy.

The draft LPP25 was advertised in the Sea to Scarp of 8 December 2015. No submissions were received during the consultation period.

OFFICER'S FINAL COMMENTS / CONCLUSIONS

The addressing of the day to day operational issues of LPP25 forms part of the Shire's ongoing review of its Local Planning Policy Manual. The regular review of local planning policies plays an important role in ensuring that all policies are up to date with current best practice and are actively achieving their objectives.

As LPP25 is a relatively new local planning policy the issues identified with its operation are minimal, however they require addressing to ensure consistency with the wider planning framework.

The updating of the format of LPP25 will ensure its consistency with the Shire's planning policy manual, as part of the ongoing review being undertaken by the planning department.

Modification of Table 1 of LPP25 will make the policy consistent with the TPS in that no overall floor area restriction is placed on outbuilding on lots in excess of 2ha in rural zones.

The removal of definitions that are inconsistent with the TPS and R Codes will alleviate any issues that may arise as a result of the existing inconsistencies.

The inclusion of the Director Development Services' discretion with regard to impact on amenity will allow LPP25 to be implemented in a timely manner, with delegated decisions being made by suitably qualified professionals.

Overall the changes to LPP25 are not expected to result in substantial alterations to its implementation, rather an increased level of efficiency and consistency should result.

Appendices Attached:	Yes	Appendices Numbers:	9.2.2A
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

- 1. That in relation to Local Planning Policy 25.0 – Outbuildings, Council resolves to amend the policy in accordance with Appendix 9.2.2A pursuant to Clause 5 of Schedule 2 to the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

9.2.3 DELEGATION OF POWERS AND DUTIES TO THE CHIEF EXECUTIVE OFFICER – SA USES, USES NOT LISTED AND CERTIFICATES OF APPROVAL IN TERMS OF THE STRATA TITLES ACT 1985.	
Reporting Officer / Officer's Interest:	Leonard Long, Manager Development Services / Nil Louis Fouché, Director Development Services / Nil
Responsible Officer / Officer's Interest	Ian Curley, Chief Executive Officer / Nil
Proponent:	Shire of Waroona
Landowner:	N/A
Date of Report:	28 January 2016 File No.: 52/1
Previous Reference:	N/A
Policy Implications:	Nil
Statutory Implications:	Local Government Act 1995; Planning and Development Act 2005 (PD Act) Strata Titles Act 1985. Planning and Development (Local Planning Schemes) Regulations 2015; Planning and Development Regulation 2009; Strata Titles General Regulations 1996; and Shire of Waroona Town Planning Scheme No.7 1996
Strategic Implications:	Strategic Community Plan
Financial Implications:	See heading below
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): Number 6: "Active Civic Leadership, Good Governance and Excellence in Management."	

PROPOSAL SUMMARY

Council is requested to delegate to the Chief Executive Officer (CEO) the power to approve development applications involving extensions to and / or alterations to "SA" uses and "Uses Not Listed" that have previously been approved by Council.

In addition Council is requested to delegate to the CEO the power to issue a Certificate of Approval (Form 26) for a strata plan, plan of re-subdivision or consolidation (Form 24) in terms of the Strata Titles Act 1985.

BACKGROUND / INITIAL COMMENTS

"SA" and "Uses Not Listed"

Currently all proposed development including extensions and alterations which fall within an "SA" or "Use Not Listed" category in terms of the Shire of Waroona Town Planning Scheme No.7 1996 (TPS7) are required to be determined by Council.

Proposals for relatively minor alterations to existing approved development as well as applications resulting from the recent fires in which buildings and / or structures have been damaged or destroyed, require the approval / re-approval of a use (i.e. "SA" and / or "Use Not Listed"). In order to allow for the timely consideration of "like for like"

structures, incidental extensions and / or alterations to these uses, it is proposed that the CEO be delegated the authority to determine such applications.

Certificate of Approval – Strata Titles Act 1985:

As part of the process of obtaining a Certificate of Approval in terms of Section 25 of the Strata Titles Act 1985, an applicant may request the local government to issue a preliminary determination in terms of Section 24 of the Strata Titles Act 1985. The purpose of the preliminary approval is to ensure that the strata will not result in contravening the provisions of the town planning scheme or interfere with the existing or likely future amenity of the neighbourhood.

PLANNING – STRATEGIC IMPLICATIONS

Nil.

STRATEGIC COMMUNITY PLAN ISSUES / IMPLICATIONS

No: 6 – Active Civic Leadership, Good Governance and Excellence in Management.

FINANCIAL ISSUES/IMPLICATIONS

Whilst not specifically costed, officer hours required to determine applications under delegated authority is generally substantially less than an application required to be considered by Council, given the requirement to prepare a report.

“SA” and “Use Not Listed”:

Development application fees are prescribed by the Planning and Development Regulations 2009, and do not distinguish between delegated or Council approvals.

Certificate of Approval – Strata Titles Act 1985:

Fees for applications for Certificate of Approval in terms of the Strata Titles Act 1985 are prescribed by the Strata Titles General Regulations 1996 – Schedule 1.

POLICY ISSUES / IMPLICATIONS

Nil

STATUTORY ISSUES / ENVIRONMENT / IMPLICATIONS

Local Government Act 1995 (LG Act)

In terms of Section 5.42 of the LG Act, Council may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under the LG Act and / or the Planning and Development Act 2005.

In terms of Section 5.44, a CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under the Act other than the power of delegation.

Section 5.45 requires the CEO to keep a register of the delegations made under this Division to the CEO and to employees.

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

In terms of Schedule 2, Part 10:

Clause 83(1) of the PD Regs 2015, the local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions of the scheme other than the power of delegation.

Clause 83(2) of the PD Regs 2015, a delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

Planning and Development Regulations 2009 (PD Regs 2009)

Regulation 47 of the PD Regs 2009 prescribes the maximum fee that a local government may impose for development applications.

Shire of Waroona Town Planning Scheme No. 7 1996 (TPS)

Part 4 of the TPS deals with the zoning categories as depicted by Table 1 – Zoning Table.

“SA” use means that Council may, at its discretion, permit the use after notice of the application has been given in accordance with the TPS. A “Use Not Listed” is used when no symbols appear in the cross reference of a use class within Table 1 of the TPS.

Planning and Development Act 2005 (PD Act)

In terms of Section 16(3) of the PD Act, the Commission may, by resolution, delegate to a person or body referred to in subsection (3) any function of the Commission under this Act or any other written law, except this power of delegation.

Strata Title Act 1985 (STA Act).

In terms of Section 25 of the Strata Titles Act 1985 every strata plan and every plan of re-subdivision or consolidation for a strata scheme is required to obtain a Certificate of Approval from the Western Australian Planning Commission (WAPC).

In May 2009, the WAPC resolved to delegate its power to issue a certificate of approval under section 25 of the Strata Titles Act 1985 subject to certain exemptions to the local government.

Strata Titles General Regulations 1996:

In terms of Regulation 15 of the regulations the requirement for a Certificate of Approval is exempt where:

- a. The strata scheme is a residential development of no more than five (5) dwellings and is situated on a lot of no more than 2500m²;



- b. Each lot on the proposed strata plan, or plan of re-subdivision or consolidation for a strata scheme contains one dwelling; and
- c. The land is within the area and conforms to a town planning scheme approved under section 7 of the Town Planning and Development Act 1928, or is within an area that has been constituted a townsite and given a name under section 10 of the Land Act 1933, where there is no town planning scheme.

LEGAL ISSUES / IMPLICATIONS

See statutory issues.

COMMUNITY CONSULTATION

Not required.

OFFICER'S FINAL COMMENTS / CONCLUSIONS

"SA" and "Use Not Listed"

The delegation to the CEO to determine applications which fall within an "SA" and / or "Uses Not Listed" category is conditional to the original application having been approved by Council.

Currently any alteration and or addition regardless of its size is required to be presented back to Council for determination rather than authorising an officer to consider the alteration / additions via delegated authority.

Certificate of Approval – Strata Titles Act 1985

The issuing of a Certificate of Approval can only be undertaken where there is a lawful development approval in place either approved via delegation or by Council. The objective of a Certificate of Approval is to ensure that prior to the approval of the strata that all conditions imposed by the local government have been complied with.

Strata Title General Regulations 1996.

The regulations prescribe in what circumstance a proposed strata development is exempt from obtaining a Certificate of Approval. In addition the regulations prescribe the fees and the manner in which the fees are to be calculated as well as the format in which an application for a Certificate of Approval must be applied for (Form 24) and issued in terms of Section 25 of the Strata Titles Act 1985 (Form 26).

Conclusion

"SA" and "Uses Not Listed"

The granting of the delegation as proposed will not remove the ultimate control of "SA" uses and / or "Uses Not Listed" from Council. Any development which falls within this category will be required to obtain Council approval for the initial development to commence.

As such any proposed alteration / addition should be considered to be consistent with the main use approved by Council and will not change the intention of the original application. Further, applications that meet the relevant TPS or policy provisions should generally be approved.

In order to improve the efficiency in the consideration of applications falling within the “SA” use and “Use Not Listed” category which have already been approved by Council it is recommended that the delegations as proposed be approved.

Certificate of Approval – Strata Titles Act 1985

Scheme and Council Policy requirements are usually considered at the time of a development application being processed. The determining authority of development applications will be reliant on whether a delegation has been granted to the CEO or not.

It is considered that referring an application for a Certificate of Approval to Council for consideration will only add a level of bureaucracy which adds no value to the process. Effectively the issuing of a Certificate of Approval will not alter the built form as approved in any way.

Appendices Attached:	No	Appendices Number/s:
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

- A. That Council in accordance with Section 5.42 of the Local Government Act 1995, delegate to the Chief Executive Officer the following powers:**
 - 1. To determine applications for “SA” uses and “Uses Not Listed” where:**
 - a) The proposal is consistent with the Scheme and Council Policy, or in the case of refusal the proposal is inconsistent with the Scheme and Council Policy.**
 - b) The development has been lawfully established or approved by Council.**
 - 2. The power to issue a Preliminary Determination under Section 24 of the Strata Titles Act 1985.**
 - 3. The power to issue a Certificate of Approval under Section 25 of the Strata Titles Act 1985, subject to the exemptions as set out in Regulation 15 of the Strata Titles General Regulations 1996.**



9.2.4 APPLICATION FOR EXTENSION TO AGED CARE FACILITY – LOT 29 EASTCOTT STREET, WAROONA	
Reporting Officer / Officer's Interest:	Chris Dunlop – Senior Town Planner; No Interest
Responsible Officer / Officer's Interest	Louis Fouché – Director Development Services; No Interest
Proponent:	Quambie Park Inc.
Landowner:	Quambie Park Inc.
Date of Report: 9 February 2016	File No.: TP1829
Previous Reference:	OCM08/229 – 16 December 2008 OCM06/177 – 29 September 2006
Policy Implications:	Nil
Statutory Implications:	Planning and Development Act 2005 Shire of Waroona Town Planning Scheme No. 7 1996
Strategic Implications:	Shire of Waroona Local Planning Strategy 2009
Financial Implications:	See heading in report.
LINKED TO STRATEGIC OBJECTIVE NUMBER 3 – LAND USE: RESPONSIBLE LAND USE PLANNING AND PROTECTING RURAL LAND	

PROPOSAL SUMMARY

The application proposes extension / alteration of the existing aged care facility at Lot 29 Eastcott Street, Waroona, commonly known as Quambie Park. The proposed works include the extension of the floor area of the building to include the currently recessed doorway on the southern side of the main facility building. The proposal also includes the replacement of seven skylights. The proposed new area of external wall will be constructed of face brickwork to match the existing facility. Site, floor and elevation plans are attached as **APPENDIX 9.2.4A**.

BACKGROUND/INITIAL COMMENTS

The existing building is currently used as part of the Quambie Park aged care facilities, administration and uses associated with aged care. An aged care facility does not fall within any of the definitions of the uses listed in the land use table of the Shire's Town Planning Scheme. It is therefore required that the application be dealt with as a use not listed in accordance with Clause 4.2.5 of the Scheme.

PLANNING – STRATEGIC IMPLICATIONS

Shire of Waroona Local Planning Strategy 2009 (LPS)

The subject lot is identified as Residential and is located within the Town precinct. It is Council's objective for the area to provide for the enhancement of the Waroona townsite and the planned expansion of the Waroona Townsite to meet future residential demand.

Aged care is not listed as a primary or discretionary use for the residential classification.



REFERRALS

Building Services provided comment stating that a certified building permit application will be required to be submitted for the proposed works.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 “Land Use: Responsible Land Use Planning and Protecting Rural Land”.

FINANCIAL ISSUES / IMPLICATIONS

Standard Development Application fees apply to the application in terms of Council’s Fees and Charges. Officer time to process the application are included in the current budget.

POLICY ISSUES/IMPLICATIONS

Nil.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005 (Act)

The Act provides the statutory head of power for the adoption and enforcement of Local Planning Schemes and regulations made under the Act.

Shire of Waroona Town Planning Scheme No. 7 1996 (TPS7)

The subject land is currently zoned Urban 2 – Community and Civic TPS7.

The objective of the Urban 2 zone is to encourage the establishment of civic and community use facilities in this area adjoining the town centre and ensure that the amenity and streetscapes of the zone are satisfactorily enhanced.

Clause 4.6.2 of TPS7 provides required setbacks for development as follows:

- Street frontage: 6 metres
- Side boundaries: 3 metres
- Rear boundary: 10 metres

Clause 4.2.5 of TPS7 sets out the process for the consideration of land uses not listed in Table 1 of TPS7 and states:

If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Council may –

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the “SA” procedures of clause 8.2 in considering an application for planning approval; or

- (c) Determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

LEGAL ISSUES / IMPLICATIONS

See Statutory Issues.

COMMUNITY CONSULTATION

In accordance with Clause 4.2.5 of TPS7, where Council determines that the proposed use may be consistent with the objectives of the zone, consultation is required to be undertaken. Where Council determines that the use is either consistent or not consistent with the objectives of the zone no consultation is required.

OFFICER'S FINAL COMMENTS /CONCLUSIONS

Use

The existing aged care facility has been in operation for an extended period of time and is considered to be complementary to the residential use of the locality and the Waroona townsite overall.

Impact on Amenity

The proposed extension is located internally to the aged care facility and will not be visible from the street and the building materials will match the existing building. It is therefore considered that no impact on the amenity of the streetscape or locality will result from the proposed development.

Conclusion

The proposed use of aged care facility is considered to be consistent with the objective of the Community and Civic zone as stated within TPS7. It is therefore recommended that in accordance with Clause 4.2.5 (a) Council determines that the proposed use is consistent with the objectives of the Community and Civic zone and that the proposed development be approved.

Appendices Attached:	Yes	Appendices Numbers:	9.2.4
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VOTING REQUIREMENTS

Simple Majority



OFFICER RECOMMENDATION

- A. That Council in relation to the application for the extension of the existing Aged Care Facility at Lot 29 Eastcott Street, Waroona, resolves:**
- 1. That in accordance with Clause 4.2.5 (a) of Town Planning Scheme No.7, Council determines that the proposed use is in accordance the objective of the Urban 2 – Community and Civic zone and is therefore permitted.**
 - 2. To approve the proposed development subject to the following conditions and advice notes:**
 - 2.1 The development shall be carried out and fully implemented in accordance with the details indicated on the application and stamped approved plans, unless otherwise required or agreed in writing by the Shire of Waroona.**
 - 2.2 The development approved is to be substantially commenced within two (2) years after the date of this determination. The approval lapses if the development has not substantially commenced before the expiry of that period.**

ADVICE TO APPLICANT:

- a) The applicant is advised that no site works shall commence until a Building Permit has been issued by the Shire of Waroona. This planning approval does not grant consent to commence building works. Furthermore, the proposed development is to comply with the National Construction Code 2014.**

9.2.5 FINAL ADOPTION OF AMENDMENT 36 TO TOWN PLANNING SCHEME NO. 7 – LOT 15 HAUB ROAD, LAKE CLIFTON	
Reporting Officer / Officer's Interest:	Chris Dunlop – Senior Town Planner; No Interest
Responsible Officer / Officer's Interest	Louis Fouché – Director Development Services; No Interest
Proponent:	Town Planning Management Engineering
Landowner:	Michael Geoffrey and Margaret Oliver Herbert
Date of Report: 8/2/2016	File No.: TPS7A36
Previous Reference:	OCM14/12/154
Policy Implications:	State Planning Policy 2.5 – Land use Planning in Rural Areas 2013 Draft State Planning Policy 2.5 – Rural Planning Policy 2015 State Planning Policy 3.7 – Planning for Bushfire Risk Management 2015 State Planning Policy 4.1 – State Industrial Buffer Policy 1997 EPA Guidance Note 3 – Separation Distances Between Industrial and Sensitive Land Uses EPA Guidance Note No.28 'Protection of the Lake Clifton Catchment' Local Planning Policy 2 – Lake Clifton-Herron Structure Plan 2010
Statutory Implications:	Planning and Development Act 2005 Environmental Protection Act 1986 Fire and Emergency Services (Bushfire Prone Areas) Order 2015 Planning and Development Regulations 2009 Planning and Development (Local Planning Schemes) Regulations 2015 Peel Region Scheme 2003 Shire of Waroona Town Planning Scheme No. 7 1996
Strategic Implications:	Draft South Metropolitan Peel Sub-Regional Planning Framework 2015 Draft Perth and Peel Green Growth Plan for 3.5 Million 2015 Coastal and Lakelands Planning Strategy 1999 Shire of Waroona Local Planning Strategy 2009
Financial Implications:	See heading below.
LINKED TO STRATEGIC OBJECTIVE: <i>Number 3 – Land Use: Responsible Land Use Planning And Protecting Rural Land</i>	

PROPOSAL SUMMARY

The proposal seeks the rezoning of Lot 15, Haub Road, Lake Clifton, from 'Rural 3B – Coastal Highway' to 'Rural 7 – Rural Small Holdings' under the Shire of Waroona Town Planning Scheme No.7 (TPS7) see **APPENDIX 9.2.5A**.

The subdivision guide plan (SGP) associated with the amendment provides for 3 lots, varying in size between 5.2 hectares and 5.6 hectares. See SGP at **APPENDIX 9.2.5B**.

The amendment is to be considered for final adoption by Council.



BACKGROUND / INITIAL COMMENTS

The subject lot is located on the Southern end of Haub Road, Lake Clifton, which runs parallel to Old Coast Road. See site location map at **APPENDIX 9.2.5C**. Access to the lot is obtained via Haub Road, which is proposed to be extended to allow access to the two proposed lots to the South.

Lot 15 is 16.614 ha and is largely clear of remnant vegetation and trees with the exception of some vegetation on the Western Boundary and some scattered mature trees on the lot.

At its meeting of 16 December 2014 Council adopted the proposed amendment for advertising purposes. Since that time, consultation has been undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations*.

PLANNING – STRATEGIC IMPLICATIONS

Draft Perth and Peel Green Growth Plan for 3.5 Million 2015 (Green Growth Plan)

The Green Growth Plan is a comprehensive review of the environmental impacts of future development as well as the associated infrastructure and resource needs. The Green Growth Plan informed the formulation of the Draft South Metropolitan Peel Sub-Regional Planning Framework 2015_(DSMPSRPF).

Draft South Metropolitan Peel Sub-Regional Planning Framework 2015 (DSMPSRPF)

The DSMPSRPF was prepared by the Department of Planning and released by the Western Australian Planning Commission for comment in May 2015. The DSMPSRPF is intended to guide the future preparation of local planning strategies, schemes and structure plans within the South Perth and Peel Region and identifies Lot 15 as 'Rural'.

Coastal and Lakelands Planning Strategy 1999 (CLPS)

The *Coastal and Lakelands Planning Strategy* complements the *Peel Regional Strategy (1994)*, the *Bunbury - Wellington Region Plan (1995)* and the *Inner Peel Region Structure Plan (1997)* all of which recognise the strategic importance of the coastal strip between Mandurah and Bunbury.

Clause 6.2.5 Rural 3 - Highway Environs:

The zone consists of lands generally orientated to the Old Coast Road, mostly abutting the National Park and the lake system. Lot sizes vary, with a significant proportion in the range of 4-5ha as groups from early subdivision, resulting in de facto rural-residential use.

Recommendations:

- Minimum lot size - five (5) hectares.

- Development setback from Lake Clifton of minimum 150m (including 20m of Spearwood soils and 2m vertical clearance from groundwater) required for building and horticulture. No direct drainage into lake permitted.
- Smaller lot sizes for specialised tourist/commercial purposes may be permitted for a use approved by local government and WAPC.
- Control of access to Perth-Bunbury Highway (Old Coast Road) will be necessary.
- Compatibility with the existing rural character and landscape will be a prerequisite for development approval in the zone.
- Visual management controls to be applied to development by local government, in accordance with the objectives and guidelines of this strategy.

Shire of Waroona Local Planning Strategy 2009 (LPS)

The subject lot is identified as Rural Small Holdings and is located within the Lake Clifton precinct. It is Council's objective for the area to consolidate the land between Lake Clifton and the Old Coast Road to provide smallholding lots that offer agriculture, lifestyle and tourist opportunities.

A minimum lot size of 5 hectares is specified in the strategy.

Considerations:

- On-site effluent systems to be Alternative Treatment Units. Dwellings are to be setback at least 150m from the high water mark of Lake Clifton and at least 20 metres from the edge of the Vasse soil landform.
- Proponents are referred to the EPA Guidance Note No.28 'Protection of the Lake Clifton Catchment'.
- All new development, including agricultural use, is to be setback at least 150m from the high water make of Lake Clifton and at least 20 metres from the edge of the Vasse soil landform.

EXTERNAL REFERRALS

Department of Planning (DoP)

DoP did not raise any objections to or comments on the proposed amendment.

Department of Fire and Emergency Services (DFES)

DFES initially responded stating that a Fire Management Plan (FMP) was required in accordance with SPP3.7. The proponent subsequently prepared a FMP to the satisfaction of DFES. DFES raised no objection to the proposed amendment subject to the development being implemented in accordance with the FMP.

Department of Agriculture and Food (DAFWA)

DAFWA responded raising no objection to the proposal and provided information on applicable stocking rates for the subject land.

Department of Water (DoW)

The DoW provided comment stating that any drainage systems should be in accordance with the Stormwater Management Manual for Western Australia. DoW also stated that any groundwater abstraction in the area would be subject to licensing from DoW.

INTERNAL REFERRALS

Building Services stated that there were no major concerns at this stage.

Environmental Health Services stated that the effluent requirements were to be addressed in due course.

Technical Services required that the road reserve needs to be the same width as the existing road reserve for Haub Road, being 15m. The applicant amended the Subdivision Guide Plan to comply with this requirement.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 “Land Use: Responsible Land Use Planning and Protecting Rural Land”.

FINANCIAL ISSUES/IMPLICATIONS

In accordance with the Planning and Development Regulations 2009 all costs associated with the processing of the proposal, including officer time and public consultation, are to be borne by the proponent.

The Shire has received payment of a fee of \$7,301.48 in accordance with the fee estimate calculated under the Planning and Development Regulations 2009.

POLICY ISSUES/IMPLICATIONS

State Planning Policy 2.5 – Land use Planning in Rural Areas (SPP2.5)

The Objectives of SPP2.5 are:

- a) To protect rural land from incompatible uses by:
 - i) requiring comprehensive planning for rural areas;
 - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
 - iii) providing investment security for the existing and future primary production sector.
- b) To promote regional development through provision of ongoing economic opportunities on rural land.



- c) To promote sustainable settlement in, and adjacent to, existing urban areas.
- d) To protect and improve environmental and landscape assets.
- e) To minimise land use conflicts.

SPP2.5 provides criteria for locating rural living developments including service provision, avoiding productive agricultural land, preservation of vegetation and bushfire risk.

Draft State Planning Policy 2.5 – Rural Planning Policy (Draft SPP 2.5)

Draft SPP2.5 has been prepared in order to supersede the current SPP2.5 (2013 version) and was released for public comment in September 2015.

Clause 5.2 of Draft SPP2.5 deals with rural land in the Perth and Peel regions. Clause 5.2 (a) states:

rural living proposals will be considered by exception in planning strategies and schemes, where topography, environmental or servicing constraints do not permit full urban development and where bushfire risk is not extreme and biodiversity values are protected;

Clause 5.3 of Draft SPP2.5 relates to rural living proposals and the requirements for their consideration. Clause 5.3 (c) states:

The planning requirements for rural living precincts are that:

- i) *the land be adjacent to, adjoining or close to existing urban areas with access to services, facilities and amenities;*
- ii) *the proposal will not conflict with the primary production of nearby land, or reduce its potential;*
- iii) *areas required for priority agricultural land are avoided;*
- iv) *the extent of proposed settlement is guided by existing land supply, take-up, dwelling commencements and population projections;*
- v) *areas required for urban expansion are avoided;*
- vi) *water supply shall be as follows:*
 - *where lots with an individual area of four hectares or less are proposed and a reticulated water supply of sufficient capacity is available in the locality, the precinct will be required to be serviced with reticulated potable water by a licenced service provider, including water for firefighting. Should an alternative to a licenced supply be proposed it must be demonstrated that a licenced supply is not available; or*
 - *where a reticulated supply is demonstrated to not be available, or the individual lots are greater than four hectares, the WAPC may consider a fit-for purpose domestic potable water supply, which includes water for firefighting. The supply must be demonstrated, sustainable and consistent with the standards for water and health; or*

- *the development cannot proceed if an acceptable supply of potable water cannot be demonstrated;*
- vii) *the precinct can be serviced by electricity, provided by a licenced service provider, and this has been demonstrated;*
- viii) *the precinct can be supplied with community facilities as identified under a strategy or scheme, and in compliance with State Planning Policy 3.6: Development Contributions for Infrastructure as appropriate;*
- ix) *the land is predominantly cleared of remnant vegetation, or the loss of remnant vegetation through clearing for building envelopes, bushfire protection and fencing is minimal and environmental values are not compromised;*
- x) *the proposal will promote good environmental and landscape outcomes and the soil and total water management cycle are addressed, and may include rehabilitation as appropriate;*
- xi) *the land is capable of supporting the development of dwellings and associated infrastructure and is not located in a floodway;*
- xii) *the land is not subject to a separation distance or buffer from an adjoining land use; or if it is, that no sensitive land uses be permitted in the area of impact;*
- xiii) *the lots can be serviced by constructed road/s capable of providing access during all weather conditions, including access and egress for emergency purposes; and*
- xiv) *bushfire risk can be minimised and managed in accordance with State policy, without adversely affecting the natural environment. Proposals in areas of extreme bushfire risk cannot proceed*

State Planning Policy 3.7 – Planning for Bushfire Risk Management (SPP3.7)

SPP3.7 requires the consideration of bushfire risk and potential mitigation measures as part of the assessment of development in bushfire prone areas.

Clause 6.3 of SPP3.7 sets out information required to be submitted with strategic planning proposals that may be provided in the form of a Bushfire Management Plan.

State Planning Policy 4.1 – State Industrial Buffer Policy (SPP 4.1)

The purpose of the policy is to provide a consistent state-wide approach for the protection and long-term security of industrial zones, transport terminals (including ports) other utilities and special uses. It will also provide for the safety and amenity of surrounding land uses while having regard to the rights of landowners who may be affected by residual emissions and risk.

Section 1.2 - Application

The policy applies to all industry infrastructure and special use categories where on-site and off-site buffer areas are required. It also has regard to associated road/rail/pipeline transport routes servicing these facilities and airports. This policy



addresses the buffer requirements of the following industrial categories (existing and new industry)—

- Extractive industry;

Section 1.3 Implementation of a Statement of Planning Policy

Section 5AA of the Town Planning and Development Act outlines the criteria for the preparation of a Statement of Planning Policy, and sets down the role for local government as—

7. Preparation of schemes

(5) Every local authority in preparing or amending a town planning scheme

- (a) shall have due regard to any approved statement of planning policy prepared under section 5AA which affects its district;

This means that whenever a local government amends or reviews a scheme or prepares a new district scheme it must pay due regard to this statement of planning policy. The WA Planning Commission will be aware of the inclusion or otherwise of buffer areas in new schemes, and will assess them accordingly.

In addition, the Environmental Protection Authority (EPA) will also be assessing schemes under the most recent planning legislation amendments. This Policy will fit in with the new legislation which has the following key features—

- statutory plans are now subject to formal environmental assessment by the EPA. Acceptable buffer areas in accordance with this Policy will be part of that assessment.
- agencies responsible for preparing and amending statutory plans now have equivalent status to proponents under the environmental assessment system. A local government will have to notify the EPA about its intention to prepare or amend a scheme, so that the EPA can determine if a formal assessment is needed.
- preparation of an environmental review of a scheme may be required by the EPA prior to formal advertising.
- submissions received during formal advertising which contain environmental issues must be referred to the EPA.
- the EPA may recommend conditions which shall be incorporated in statutory plans before consideration for final approval by the WAPC.

The Department of Environmental Protection is in the course of preparing a Generic Industrial Buffer Distance Review, which will form the primary guide to the need for buffers, along with appendices to this Policy.

State Industrial Buffer Policy 3



- Local government would prepare, or have prepared by a proponent, an environmental review and receive clearance from the EPA before the scheme is advertised for public comment.
- Once this clearance is received, approval from the WAPC to advertise is sought, and the scheme is advertised and treated as any other scheme.
- Any submissions that relate to environmental matters, (the submissions commenting on buffer areas could be considered of this nature,) would be referred to the EPA. The EPA will report to the Minister for the Environment on any environmental factors which should be incorporated into the scheme.
- The scheme with resolutions on the submissions and the advice from the Minister for the Environment is then referred to the WAPC for final approval.

EPA Guidance Note No.28 'Protection of the Lake Clifton Catchment'

The purpose of these guidelines is to describe the Environmental Protection Authority's environmental criteria which would provide a basis for managing new land uses and changes to certain existing land uses on private land within the catchment of Lake Clifton.

Section 5. Criteria and Management Plan

5.2 Rural residential developments

The following management criteria have been adopted by the Environmental Protection Authority (EPA):

- For any subdivision within the catchment, the average lot size should not be less than 5 ha. In achieving the average lot size, no lot shall have an area of less than 2 ha. Further subdivision of the same lot, or part thereof, should not be permitted where this would result in an average lot size less than 5 ha as originally determined. Innovative design measures to reduce potential impacts, for example clustering, should be used where lot sizes are allowed below 5 ha while maintaining the overall 5 ha average;
- Domestic water allocation should be limited to 1500 kL per lot per year;
- Conventional septic systems should not be permitted, instead alternative effluent systems with high nutrient retaining capacities should be used;
- Stocking rates (as advised by Agriculture Western Australia) should be determined based on area of cleared land, and not total lot size;
- Stocking rates should be set as those for dry pasture, with no importation of feed allowed;
- For lots adjacent to the lake, either the number of lots abutting the lake should be minimised, or appropriate management measures should be applied to reduce uncontrolled human access to the lake, the vegetated buffer and the thrombolites (e.g. Fencing, direct access to a particular location(s), in consultation with CALM).

- Building envelopes should:
 - Not be located on the Vasse landform type;
 - Be setback at least 150m from the high water mark of the lake (as defined by the edge of the salt water dependent wetland vegetation species); and
 - Be setback at least 20m between the edge of the Vasse landform and/or fresh water wetland.
- Intensive land uses requiring high water and fertiliser usage should not be permitted;
- Unless otherwise determined by the Western Australia Planning Commission (WAPC), and in accordance with the Coastal and Lakelands Planning Strategy, subdivision should be supported by Town Planning Scheme provisions, where appropriate, to ensure that these criteria can be met.

Local Planning Policy 2 – Lake Clifton-Herron Structure Plan (LPP2)

LPP2 was prepared in order to guide the future development of the Lake Clifton locality.

LPP2 identifies Lot 15 as 'Rural Smallholdings' with a required minimum lot size of 5ha.

EPA Guidance Statement No. 3 – Separation Distances Between Industrial and Sensitive Land Uses (Guidance Statement 3)

The guidance note specifically addresses generic separation distances between industrial and sensitive land uses to avoid conflicts between these land uses. It takes into account protection of the environment as defined by the Environmental Protection Act 1986 (EP Act) with a focus on protecting sensitive land uses from unacceptable impacts on amenity that may result from industrial activities, emissions and infrastructure.

STATUTORY ISSUES / ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005

Section 75 of the Act states that a local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment —

- (a) Prepared by the local government, approved by the Minister and published in the *Gazette*; or
- (b) Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the *Gazette*.

Section 81 of the Act states that when a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, the local government is to refer the proposed local planning scheme or amendment to the EPA.



Section 84 of the Act states that after compliance with sections 81 and 82, a local planning scheme prepared or adopted, or an amendment to a local planning scheme prepared or adopted, by a local government, is to be advertised for public inspection in accordance with the regulations.

Environmental Protection Act 1986

Section 48A of the Environmental Protection Act 1986 sets out the process for the EPA to determine whether a scheme is required to be assessed by the EPA where that scheme is referred under the relevant scheme act.

Fire and Emergency Services (Bushfire Prone Areas) Order 2015

The gazetted Fire and Emergency Services (Bushfire Prone Areas) Order 2015 prescribes bush fire prone areas in accordance with the data set (map) produced by the Department of Fire and Emergency Services. This map identifies the eastern and western portions of Lot 15 as bush fire prone, with a portion of the central area of the lot not considered as bush fire prone.

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

The Regulations are made under the Planning and Development Act. Part 5 of the Regulations sets out the process for amending a scheme. In accordance with the definitions provided by Part 5 of the Regulations the proposal constitutes a 'standard amendment'.

Regulation 35 sets out the process for the adoption of a scheme amendment.

Regulation 47 provides the process for the advertisement of a standard amendment.

Regulation 48 states that the local government may require a person to pay the cost of the advertisement of the amendment.

Schedule 2 of the Regulations contains deemed provisions for all local planning schemes. Part 4 of the deemed provisions sets out the process and requirements for the preparation, advertising and adoption of structure plans.

Planning and Development Regulations 2009

Regulation 48 of the Planning and Development Regulations 2009 sets out the process by which fees for scheme amendments and structure plans are calculated.

Peel Regional Scheme 2003

Clause 5 (b) states that it is the purpose of the Scheme to provide for the zoning of land for living, working and rural land uses.

Clause 12 (e) states that Rural zoning is to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments.



Shire of Waroona Town Planning Scheme No. 7 1996 (TPS)

The subject land is currently zoned Rural 3B – Coastal Highway under TPS7.

The objective of the Rural 3B zone is to ensure continuation of appropriate rural activities which are consistent with protection of the coastal environment, the ecology of the Yalgorup National Park, the landscape of the environs of Old Coast Road and the traffic management requirements of that road by:-

- (a) ensuring that rural pursuits are consistent with achieving the objective;
- (b) permitting, at Council discretion in accordance with the requirements of its Policy, other uses, additional, or special uses, appropriate to the objective and to the location of the zone including establishment of commercial uses in accordance with the provisions of Tables 1 and 2 on lots in the zone subject to:
 - satisfactory advice from the Department of Conservation and Land Management and the Environmental Protection Authority, that the proposed use will not impact detrimentally on Yalgorup National Park;
 - a building setback from the lot frontage of Old Coast Road of fifty (50) metres, and satisfactory landscaping within the setback area.

The proposed zoning in this scheme amendment is Rural 7 – Rural Small Holdings zone.

The objective of the Rural 7 zone is to select areas within the rural areas wherein closer subdivision will be permitted to provide for a rural lifestyle on a small rural lot for uses such as hobby farming.

4.16.2 Subdivision, Land Use and Development Control

In addition to clause 4.16 further provisions for controlling subdivision, land uses and development relating to specific areas will be as laid down in Schedule VII to the Scheme. Before making provision for a Rural Small Holding Zone, the local government will prepare or require the proponent to prepare a submission supporting the creation of the Rural Small Holding Zone and such submission shall be in accordance with the Western Australian Planning Commission's Rural Land Use Planning Policy and consistent with Council's Local Planning Strategy.

4.16.3 Subdivision Guide Plan

A Subdivision Guide Plan shall be prepared and shall include the following:

- (i) The proposed ultimate subdivision including approximate lot sizes and dimensions and building envelopes as necessary.
- (ii) Areas to be set aside for Public Open Space, pedestrian accessways, horse trails, community facilities, etc as may be considered appropriate.
- (iii) Physical features that are intended to be conserved.
- (iv) Any other features relevant from the Local Planning Strategy.



4.16.5 Lot Sizes

The minimum lot size shall be 2 hectares unless a higher minimum lot size is specified for an estate within Schedule VII.

4.16.6 Building Envelopes, Setbacks and Variations

- a) All building envelope boundaries are to be setback a minimum of 20 metres from any street frontage and 10 metres from a rear or side boundary unless alternate setbacks are specified for a particular estate under Schedule VII.
- b) Where a building envelope is defined for a lot on a subdivision guide plan, the dwelling and any outbuilding(s) shall be confined to that envelope. Shire of Waroona TPS 7 Page No. 35.
- c) Notwithstanding the provisions of the preceding sub-clauses, Council may permit variation of the location of the building envelope if it is satisfied that such variation is desirable and will not detrimentally affect the objective for the zone or the amenity of the area.
- d) If no building envelope is specified the setbacks of any development is to comply with the 20 metre street frontage and 10 metre rear/side setbacks unless alternate setbacks are specified for a particular estate under Schedule VII.

4.16.9 Fire Management

The subdivider shall prepare and implement a Fire Management Plan as part of any application to subdivide the land, with the plan being to the satisfaction of Council and Fire and Emergency Service Authority (FESA).

4.16.10 Effluent Disposal

Standard on-site septic systems only to be provided where there is compliance with the minimum setbacks prescribed in Statement of Planning Policy No. 2.1 The Peel-Harvey Coastal Plain Catchment, being a minimum of 100 metres from any watercourse or wetland and a 2 metre minimum vertical separation from the highest known groundwater level. Alternative Treatment Units to be provided where the setback is less than 100 metres from a watercourse or wetland and/or the vertical separation to the highest known ground water level is less than 2 metres.

4.16.11 Water Supply

A minimum 92, 000 litre capacity rainwater tank(s) is required to contain a domestic water supply unless varied by Schedule VII.

4.16.12 Drainage

The drainage system shall not be altered without the prior approval of the Council in writing. In considering any proposal to obstruct or dam any part of the drainage system the Council shall have regard to the effect of the drainage system and the impact on the land and the environment in general, and shall consult with any appropriate authority prior to granting approval.

New provisions proposed to be inserted into the scheme Schedule VII are as follows:

General Provisions

1. *The subdivision of Lot 15, Haub Road, Lake Clifton shall be in accordance with the approved Subdivision Guide Plan, or any variation of the plan approved by the Western Australia Planning Commission.*
2. *Setbacks for all future development on Lot 1 shall be in accordance with Clause 4.16.6(a) of the Shire of Waroona's Town Planning Scheme No. 7. In addition, a minimum setback of 150m from the high water mark of Lake Clifton shall be maintained.*
3. *All future development on Lots 2 and 3 shall be within the building envelope indicated on the adopted Subdivision Guide Plan.*
4. *Effluent disposal shall be installed in a manner to the satisfaction of Council and the Department of Health. Council may require the installation of alternative treatment units on some or all of the lots due to site constraints and the vicinity to the Lake Clifton Reserve.*

COMMUNITY CONSULTATION

Pursuant to regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 an advert was placed in the Harvey-Waroona Reporter (3 March 2015), a sign was erected on the subject land and letters were sent to Government agencies. Within the allocated advertisement period no public submissions were received.

OFFICER'S FINAL COMMENTS / CONCLUSIONS

Locality

The areas in which the subject land is located is characterised by rural small holding lots of 4-5ha running parallel to Old Coast Road, backing onto the Lake Clifton Reserve. The landscape is categorized flat cleared land to the west of Old Coast Road, with the lots in the area having remnant vegetation to the rear (west) adjoining the lake.

To the east of the subject lot is a limestone extractive industry and state forest.

The landscape and environmental values of the locality are considered to be high.

Strategic Planning Framework

The proposed amendment is consistent with the current and draft strategic planning frameworks of Council, the Shire and the Western Australian Planning Commission including the LPS, DSMPSPRF and Green Growth Plan.

Fire Management

The applicant has provided a Fire Management Plan to the satisfaction of DFES addressing the subdivision of the subject land in accordance with the subdivision guide plan.



Access

The subject lot currently gains access via Haub Road, which runs parallel to Old Coast Road and provides access to lots to the north. The applicant proposes to extend Haub Road to the south to provide access to the proposed lots. The Haub Road extension has been proposed as a 15m road reserve on the sub division guide plan, which is the same size as the existing road reserve.

Lot Areas

The Subdivision Guide Plan proposes to divide the subject lot into 3 lots varying in size between 5.2 ha and 5.6 ha. The proposed lots meet the lot size requirements within the TPS, LPS and the CLPS.

The proposed minimum 5ha lot size is considered appropriate given the context of the subject land. The 5ha lot size allows for adequate separation of land use and allows for continuation of smallholding lots that offer agriculture, lifestyle and tourist opportunities. The density of subdivision also means the landscape values are protected.

Effluent Disposal

The Shire's TPS requires alternative treatment units where the setback is less than 100 metres from a watercourse or wetland and/or the vertical separation to the highest known ground water level is less than 2 metres.

In accordance with the EPA Guidance Note No.28 'Protection of the Lake Clifton Catchment', and the Shire's LPS, alternative treatment units are required for the proposed lots.

The Environmental Health Services stated that the effluent requirements are to be addressed in due course.

Building Envelopes and setbacks

The proposed building envelopes and setback requirements are shown on the Subdivision Guide Plan and prescribed on the proposed Schedule IV provisions, these meet the requirements of Clause 4.16.6 of the Shire's TPS. Further to this they also meet the requirements of the EPA Guidance Note No.28, the CLPS, SPP3.7 and the LPS.

Setback from Extractive Industry

The subject lot is located adjacent to a limestone extractive industry located at Lot 1, Old Coast Road, Lake Clifton in which the crushing and grinding of limestone does take place. In accordance with SPP 4.1 and EPA Guidance Note 3 – the amendment will be referred to the EPA to for comments prior to the amendment being advertised for public comment.

The approved extractive industry on Lot 1 (TP1575), submitted a Noise Assessment with the Development application and a dust assessment was required as a condition of the approval. The noise assessment identified that the proposed noise levels comply with the allowable noise levels prescribed by the Environmental Protection

(Noise) Regulations 1997. If the noise levels are breached, the Department of Environmental Regulation can enforce the Regulations.

As the proposed lots and building envelopes are located further away than the closest receptor to the site, it is not envisaged that a further noise assessment or dust assessment is required for the amendment.

Conclusion

The proposed scheme amendment to rezone the land is in accordance with the strategic intent for the area of the Western Australian Planning Commission.

It is considered that the proposed amendment complies with the principles of proper and orderly planning. Council's long term land use strategies support the use of the land for this on the provision that environmental matters are fully explored.

It is therefore recommended that Council adopt Amendment 36 to Town Planning Scheme No. 7.

Appendices Attached:	Yes	Appendices Numbers:	9.2.5A,B,C
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

1. That in relation to the proposed amendment of the Shire of Waroona Town Planning Scheme No. 7 to rezone Lot 15 Haub Road from 'Rural 3B – Coastal Highway' to 'Rural 7 – Rural Smallholdings' and pursuant to Regulation 50 (3) of the *Planning and Development (Local Planning Schemes) Regulations 2015* Council resolves to:
 - A. Adopt for final approval Amendment 36 to the Shire of Waroona Town Planning Scheme No. 7 1996 in accordance with *Appendix 9.2.5A*, without any modifications.
 - B. Authorise the Shire President / Deputy Shire President and the Chief Executive Officer / Deputy Chief Executive Officer to sign and seal the Amendment documents in accordance with Policy 1.26.
 - C. Forward a copy of the Amendment to the Western Australian Planning Commission seeking final approval of the Minister for Planning.
2. That in relation to the proposed structure plan for Lot 15 Haub Road, Lake Clifton and pursuant to Part 4 of Schedule 2 to the *Planning and Development (Local Planning Schemes) Regulations 2015* Council resolves to:

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- | |
|---|
| <p>A. Recommend the adoption of the structure plan in accordance with <i>Appendix 9.2.5B</i>.</p> <p>B. Forward the structure plan to the Western Australian Planning Commission.</p> |
|---|

9.2.6 ADOPTION OF AMENDMENT 35 TO TOWN PLANNING SCHEME NO. 7 – LOT 500 OLD BUNBURY ROAD, LAKE CLIFTON	
Reporting Officer / Officer's Interest:	Chris Dunlop – Senior Town Planner; No Interest
Responsible Officer / Officer's Interest	Louis Fouché – Director Development Services; No Interest
Proponent:	Pinnacle Planning
Landowner:	Leanda Poole
Date of Report: 15/2/2016	File No.: TPS7A35
Previous Reference:	Nil
Policy Implications:	State Planning Policy 2.1 – Peel-Harvey Coastal Plain Catchment Policy 1992 State Planning Policy 2.5 – Land Use Planning in Rural Areas 2013 Draft State Planning Policy 2.5 – Rural Planning Policy 2015 State Planning Policy 3.7 – Planning in Bushfire Prone Areas 2015 EPA Guidance Statement No. 3 – Separation Distances Between Industrial and Sensitive Land Uses Local Planning Policy 2 – Lake Clifton Herron Structure Plan 2006
Statutory Implications:	Planning and Development Act 2005 Environmental Protection Act 1986 Fire and Emergency Services Act 1998 Planning and Development Regulations 2009 Planning and Development (Local Planning Schemes) Regulations 2015 Peel Region Scheme 2003 Shire of Waroona Town Planning Scheme No. 7 1996
Strategic Implications:	Draft South Metropolitan Peel Sub-Regional Planning Framework 2015 Draft Perth and Peel Green growth Plan for 3.5 Million 2015 Coastal and Lakelands Planning Strategy 1999 Shire of Waroona Local Planning Strategy 2009
Financial Implications:	See heading below.
LINKED TO STRATEGIC OBJECTIVE: Number 3 – Land Use: Responsible Land Use Planning And Protecting Rural Land	

PROPOSAL SUMMARY

The proposal seeks the rezoning of Lot 500, Old Bunbury Road, Lake Clifton, from 'Rural 1 – General Farming' to 'Rural 6 – Rural Residential' under the Shire of Waroona Town Planning Scheme No.7. The proposed amendment documentation is attached as **APPENDIX 9.2.6A**.

The proposal also includes a Subdivision Guide Plan (SGP) associated with the amendment providing for 13 lots, varying in size between 2.07Ha and 3.77Ha. See SGP at **APPENDIX 9.2.6B**.



The amendment is in its initial stages and requires Council to consider resolving to initiate this amendment prior to any further assessment.

BACKGROUND / INITIAL COMMENTS

Site Context

The subject lot is located on the southern side of Old Bunbury Road, separated from the Harvey River reserve by Codford Road, see site location map attached as **APPENDIX 9.2.6C**. The lot has an area of 40.02Ha and is comprised of flat, sandy, parkland cleared farmland.

Lot 1001 Old Bunbury Road to the west of the subject lot contains a currently operating Extractive Industry, excavating sand from the lot. Lot 500 is located 870m from the extractive industry at its closest point and approximately 950m from the active pit face.

Timeline

- Information relating to the proposal was submitted to the Shire on 29 April 2014.
- On 29 May 2014 the Shire requested further information to be provided with the proposal, including the relevant application fee of \$12, 249.02.
- On 10 June 2014 the Shire received correspondence from the Western Australian Planning Commission advising that rural residential development was to be reviewed as part of the Strategic Assessment of the Perth and Peel Regions.
- On 2 July 2014 the applicant was informed of the correspondence received by the Shire from the Western Australian Planning Commission, with a copy provided for information purposes.
- On 15 April 2015 further information relating to the proposal was submitted to the Shire.
- In May 2015 the Draft South Metropolitan Peel Sub-regional Planning Framework was released for comment by the Western Australian Planning Commission.
- On 26 June 2015 the relevant application fees were paid to the Shire.
- On 28 August 2015 the Shire requested comment on the proposal from the Western Australian Planning Commission in light of the Draft South Metropolitan Peel Sub-regional Planning Framework.
- On 15 December 2015 the Shire received advice from the Chairman of the Western Australian Planning Commission that it would be considered premature to initiate the proposed rezoning at this time.
- On 17 December 2015 the Perth and Peel Green Growth Plan was released for public comment.

The proponent requested that the proposal be referred to Council's Meeting of 23 December 2015 for consideration for initiation despite officer advice that to do so would be premature. Prior to the meeting additional information in the form of a public statement was provided by the applicant and their legal counsel. At the meeting Council resolved:

“That, due to the amount of information provided by the applicant just prior to the Council meeting, item 9.2.1 – Adoption of Amendment 35 to Town Planning Scheme No.7 – Lot 500 Old Bunbury Road, Lake Clifton, lie on the table pending further consultation by Councillors with the Shire’s Planners. The matter to be further considered at the Ordinary Council meeting to be held on 23 February 2016.”

UPDATED INFORMATION

Since the consideration of the item at the Ordinary Council Meeting on 23 December 2015 the following has occurred:

- A quote has been obtained from Council’s solicitors for the provision of legal advice in response to the public statement document provided by Lavan Legal at the above Ordinary Council Meeting.
- On 4 February 2016 correspondence was sent to the proponent requesting the payment of the cost quoted for legal advice in accordance with Regulation 49 (1) of the *Planning and Development Regulations 2009*.
- On 10 February 2016 correspondence was received from the proponent advising that they were not prepared to meet the costs of Council obtaining legal advice, therefore, the advice from Lavan Legal is unable to be reviewed and the officer’s recommendation remains the same as the recommendation submitted to the December 2015 Council meeting.

PLANNING – STRATEGIC IMPLICATIONS

Draft Perth and Peel Green Growth Plan for 3.5 Million (Green Growth Plan)

The Green Growth Plan is a comprehensive review of the environmental impacts of future development as well as the associated infrastructure and resource needs. The Green Growth Plan informs the formulation of, and streamlines environmental approval processes for the development of land in accordance with, the Draft South Metropolitan Peel Sub-Regional Planning Framework 2015. Lot 500 is not identified in the Green Growth Plan for any form of development. The Green Growth Plan is currently in draft form and has been released for public consultation.

Draft South Metropolitan Peel Sub-Regional Planning Framework 2015 (DSMPSRPF)

The DSMPSRPF was prepared by the Department of Planning and released by the Western Australian Planning Commission for comment in May 2015. The DSMPSRPF is intended to guide the future preparation of local planning strategies, schemes and structure plans within the South Perth and Peel Region and identifies Lot 500 as ‘Rural’.

EPA Guidance Statement No. 3 – Separation Distances Between Industrial and Sensitive Land Uses (Guidance Statement 3)

Guidance Statement 3 provides recommended separation distances for sensitive uses such as houses from industrial land uses. A separation distance of 300m - 500m is recommended for sand extraction.

Coastal and Lakelands Planning Strategy 1999 (CLPS)

The *Coastal and Lakelands Planning Strategy* complements the *Peel Regional Strategy (1994)*, the *Bunbury - Wellington Region Plan (1995)* and the *Inner Peel*



Region Structure Plan (1997) all of which recognise the strategic importance of the coastal strip between Mandurah and Bunbury. Lot 500 is identified by the CLPS as Rural 1 – General Farming.

6.2.3 – Rural 1 – General Farming

This zone occupies the land at the east of the strategy area, and is the western portion of the agricultural region between the Darling Scarp and the National Park/State Forest which separate this area from the coastal areas.

Recommendations:

Zoning to remain as General Farming, with main land uses as grazing and plantation forestry.

Shire of Waroona Local Planning Strategy 2009 (LPS)

Lot 500 is located within the Lake Clifton Precinct of the LPS and is classified as Rural Residential. The LPS requires rural residential development within the Peel-Harvey Catchment to maintain a minimum lot size of 2Ha and an average lot size of 3Ha.

The LPS states that standard septic systems may only be acceptable where a separation distance of 100m from any watercourse and a minimum vertical separation of 2m from the highest known groundwater level is maintained.

The LPS requires that a SGP be prepared and adopted in conjunction with any rezoning proposal. The SGP should specify lot configuration and building envelopes.

EXTERNAL REFERRALS

Western Australian Planning Commission (WAPC)

On 10 June 2014 the Shire received advice from the WAPC that rural residential development (1-4ha) would be considered as part of the Strategic Assessment of the Perth and Peel Regions. On 25 March 2014 the WAPC resolved to:

“Uphold the policy position outlined within State Planning Policy 2.5 (SPP 2.5) that opportunities for rural living within the metropolitan region may remain static or even decrease, and that rural living proposals will be considered by exception subject to the requirements of the policy being met. Notwithstanding the exceptions provided within SPP 2.5, the WAPC will not support local planning strategies/rural strategies and planning scheme amendments involving proposals for additional rural residential development until such time as the SAPPR and sub-regional structure plans have been finalised to provide the strategic framework to consider the proposals within.”

Additional advice received detailed that “...there may be a need to review some areas of proposed rural residential development, identified within endorsed local planning strategies / rural strategies as a result of the SPPR.”

In light of this advice the Shire sought comment from the WAPC on the proposed rezoning of Lot 500 on 28 August 2015.

On 15 December 2015 correspondence was received from the chairman of the WAPC reiterating the resolution of the WAPC of 25 March 2014 and stating:

“The Draft South Metropolitan Peel Sub-regional Planning Framework identifies the site and surrounding lots as remaining rural, and clarifies that some sites previously identified for rural living purposes in other endorsed planning documents have not been reflected for rural living purposes in the Framework on the basis of considerations including:

- *Potential impacts from nutrient export on the Pee-Harvey estuarine system;*
- *Impacts on environmental values; and*
- *The lack of demonstrated need for significant areas of additional rural residential development proposed by the existing planning framework within the South Metropolitan Peel Sub-region.*

I consider that it would be premature to initiate the proposed rezoning of the subject land at this time, as the land is not identified for more intensive settlement in the draft planning framework. Upon completion of the planning framework for Perth and Peel, which will include consideration of submissions made during public advertising, I would be prepared to provide further advice on this matter if requested.”

INTERNAL REFERRALS

Director Technical Services (DTS)

DTS raised the issue of Old Bunbury Road traversing the lot and suggested that this issue would need to be resolved as part of the subdivision of the lot.

DTS stated that only one access to Old Bunbury Road would be supported, with the final location subject to approval at subdivision stage.

The construction of any new road and any necessary upgrades required to Codford Road and / or Old Bunbury Road will be required to be in accordance with the Shire's road hierarchy.

Restrictions on direct access from lots to Old Bunbury Road will be required.

Engineering Technical Officer (ETO)

ETO did not raise any issues in relation to the proposal and suggested that consultation be undertaken with the Peel Harvey Catchment Council and Landcare as part of any community consultation.

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 3 “Land Use: Responsible Land Use Planning and Protecting Rural Land”.

FINANCIAL ISSUES/IMPLICATIONS

In accordance with the Planning and Development Regulations 2009 all costs associated with the processing of the proposal, including officer time and public consultation, are to be borne by the proponent.

The Shire has received payment of a fee of \$12,249.02 in accordance with the fee estimate calculated under the Planning and Development Regulations 2009. Should the amendment not progress any fees in excess of those already expended in the processing of the proposal are required to be refunded to the proponent.

Further, the Planning and Development Regulations 2009, provide the local government with the ability to request the applicant to pay for specialist advice required in relation to the application.

POLICY ISSUES/IMPLICATIONS

State Planning Policy 2.1 – Peel Harvey Coastal Plain Catchment Policy (SPP2.1)

The objectives of SPP2.1 are:

- *To improve the social, economic, ecological, aesthetic, and recreational potential of the Peel-Harvey Coastal Plain Catchment.*
- *To ensure that changes to land use within the Catchment to the Peel-Harvey Estuarine system are controlled so as to avoid and minimise environmental damage.*
- *To balance environmental protection with the economic viability of the primary sector.*
- *To increase high water-using vegetation cover within the Peel-Harvey Coastal Plain Catchment.*
- *To reflect the environmental objectives in the Draft Environmental Protection Policy (Peel-Harvey Estuarine System) 1992.*
- *To prevent land uses likely to result in excessive nutrient export into the drainage system.*

Clause 5.2 of SPP2.1 requires that changes in zoning take account of land capability and nutrient load discharge into the Peel Harvey Estuary.

Clause 6.2.1 of SPP2.1 states that rural residential lots should only use conventional on-site effluent disposal if:

- a) factors such as slope, soil type, permeability, vegetation cover and system design have been addressed. (The onus of proof rests with the subdivider to justify that on-site disposal and/or any associated site modifications would be acceptable to remove any adverse effects on public health, water resources or the environment while not detrimentally impacting on the character of the area.
- b) environmental acceptability can be demonstrated to the EPA,
- c) at least 2m vertical separation exists between the base of the leach drain and the highest known groundwater level or bedrock,
- d) there is at least 100m horizontal separation between the disposal system and the nearest water body, and
- e) the land unit is satisfactory for on-site disposal at a density of not more than one domestic system per hectare.

State Planning Policy 2.5 – Land use Planning in Rural Areas (SPP2.5)

The Objectives of SPP2.5 are:

- a) To protect rural land from incompatible uses by:
 - i) requiring comprehensive planning for rural areas;
 - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
 - iii) providing investment security for the existing and future primary production sector.
- b) To promote regional development through provision of ongoing economic opportunities on rural land.
- c) To promote sustainable settlement in, and adjacent to, existing urban areas.
- d) To protect and improve environmental and landscape assets.
- e) To minimise land use conflicts.

SPP2.5 provides criteria for locating rural living developments including service provision, avoiding productive agricultural land, preservation of vegetation and bushfire risk.

Draft State Planning Policy 2.5 – Rural Planning Policy (Draft SPP 2.5)

Draft SPP2.5 has been prepared in order to supersede the current SPP2.5 (2013 version) and was released for public comment in September 2015.

Clause 5.2 of Draft SPP2.5 deals with rural land in the Perth and Peel regions. Clause 5.2 (a) states:

rural living proposals will be considered by exception in planning strategies and schemes, where topography, environmental or servicing constraints do not permit full urban development and where bushfire risk is not extreme and biodiversity values are protected;

Clause 5.3 of Draft SPP2.5 relates to rural living proposals and the requirements for their consideration. Clause 5.3 (c) states:

The planning requirements for rural living precincts are that:

- i) the land be adjacent to, adjoining or close to existing urban areas with access to services, facilities and amenities;*
- ii) the proposal will not conflict with the primary production of nearby land, or reduce its potential;*
- iii) areas required for priority agricultural land are avoided;*
- iv) the extent of proposed settlement is guided by existing land supply, take-up, dwelling commencements and population projections;*
- v) areas required for urban expansion are avoided;*
- vi) water supply shall be as follows:*

- *where lots with an individual area of four hectares or less are proposed and a reticulated water supply of sufficient capacity is available in the locality, the precinct will be required to be serviced with reticulated potable water by a licenced service provider, including water for firefighting. Should an alternative to a licenced supply be proposed it must be demonstrated that a licenced supply is not available; or*
 - *where a reticulated supply is demonstrated to not be available, or the individual lots are greater than four hectares, the WAPC may consider a fit-for purpose domestic potable water supply, which includes water for firefighting. The supply must be demonstrated, sustainable and consistent with the standards for water and health; or*
 - *the development cannot proceed if an acceptable supply of potable water cannot be demonstrated;*
- vii) the precinct can be serviced by electricity, provided by a licenced service provider, and this has been demonstrated;*
- viii) the precinct can be supplied with community facilities as identified under a strategy or scheme, and in compliance with State Planning Policy 3.6: Development Contributions for Infrastructure as appropriate;*
- ix) the land is predominantly cleared of remnant vegetation, or the loss of remnant vegetation through clearing for building envelopes, bushfire protection and fencing is minimal and environmental values are not compromised;*
- x) the proposal will promote good environmental and landscape outcomes and the soil and total water management cycle are addressed, and may include rehabilitation as appropriate;*
- xi) the land is capable of supporting the development of dwellings and associated infrastructure and is not located in a floodway;*
- xii) the land is not subject to a separation distance or buffer from an adjoining land use; or if it is, that no sensitive land uses be permitted in the area of impact;*
- xiii) the lots can be serviced by constructed road/s capable of providing access during all weather conditions, including access and egress for emergency purposes; and*
- xiv) bushfire risk can be minimised and managed in accordance with State policy, without adversely affecting the natural environment. Proposals in areas of extreme bushfire risk cannot proceed*

State Planning Policy 3.7 – Planning for Bushfire Risk Management (SPP3.7)

SPP3.7 requires the consideration of bushfire risk and potential mitigation measures as part of the assessment of development in bushfire prone areas.

Clause 6.3 of SPP3.7 sets out information required to be submitted with strategic planning proposals that may be provided in the form of a Bushfire Management Plan.



Local Planning Policy 2 – Lake Clifton-Herron Structure Plan (LPP2)

LPP2 was prepared in order to guide the future development of the Lake Clifton locality.

LPP2 identifies Lot 500 as 'Rural Residential A' with a required minimum lot size of 2Ha and a required average of 3Ha.

A Visual Impact Management Area 50m wide is identified along the south-eastern boundary of the lot towards the Forrest Highway.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Planning and Development Act 2005

Section 75 of the Act states that a local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within any adjacent district, by an amendment —

- (a) Prepared by the local government, approved by the Minister and published in the *Gazette*; or
- (b) Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the *Gazette*.

Section 76 (b) of the Act states that the Minister may order a Local Government to adopt an amendment to a Scheme where the Local Government has failed to adopt a local planning scheme proposed by owners of any land, in a case where a local planning scheme or an amendment to a local planning scheme is considered to be reasonable.

Section 81 of the Act states that when a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme, the local government is to refer the proposed local planning scheme or amendment to the EPA.

Section 84 of the Act states that after compliance with sections 81 and 82, a local planning scheme prepared or adopted, or an amendment to a local planning scheme prepared or adopted, by a local government, is to be advertised for public inspection in accordance with the regulations.

Environmental Protection Act 1986

Section 48A of the Environmental Protection Act 1986 sets out the process for the EPA to determine whether a scheme is required to be assessed by the EPA where that scheme is referred under the relevant scheme act.

Fire and Emergency Services Act 1998

The Fire and Emergency Services Act provides the statutory head of power for the Fire and Emergency Services (Bushfire Prone Areas) Order 2015

Fire and Emergency Services (Bushfire Prone Areas) Order 2015

The gazetted Fire and Emergency Services (Bushfire Prone Areas) Order 2015 prescribes bush fire prone areas in accordance with the data set (map) produced by the Department of Fire and Emergency Services. This map identifies the eastern, western and southern extremities of Lot 500 as bush fire prone, with a large portion of the central area of the lot not considered as bush fire prone.

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

The regulations are made under the Planning and Development Act. Part 5 of the Regulations sets out the process for amending a scheme. In accordance with the definitions provided by Part 5 of the Regulations the proposal constitutes a ‘standard amendment’.

Regulation 35 sets out the process for the adoption of a scheme amendment.

Regulation 47 provides the process for the advertisement of a standard amendment.

Regulation 48 states that the local government may require a person to pay the cost of the advertisement of the amendment.

Schedule 2 of the Regulations contains deemed provisions for all local planning schemes. Part 4 of the deemed provisions sets out the process and requirements for the preparation, advertising and adoption of structure plans.

Planning and Development Regulations 2009

Regulation 48 of the Planning and Development Regulations 2009 sets out the process by which fees for scheme amendments and structure plans are calculated.

Regulation 49 (Additional costs and expenses payable by applicants) of the Planning and Development Regulations 2009 states:

- (1) *The following costs and expenses, if incurred by a local government in providing a service listed in Schedule 2 items 1 to 12 or referred to in regulation 48A(1) or 48, are payable by the applicant in addition to the fee for the provision of the service —*
 - (a) *costs and expenses of advertising the application and advertising matters related to the application;*
 - (b) *costs and expenses of any specific assessment, such as an environmental assessment, required in relation to the application;*
 - (c) *costs and expenses of consultation procedures required in relation to the application;*
 - (d) *costs and expenses of technical resources and equipment, such as computer modelling, required in relation to the application;*
 - (e) *costs and expenses of specialist advice, such as advice in relation to heritage matters, required in relation to the application.*
- (2) *A local government, in a bill given to the applicant, may —*
 - (a) *require the applicant to pay the costs and expenses referred to in sub-regulation (1) that the local government estimates it will incur; or*
 - (b) *require the applicant to pay the actual costs and expenses referred to in sub-regulation (1) after they are incurred.*
- (3) *Any moneys paid in advance by an applicant to a local government for estimated costs or expenses referred to in sub-regulation (1) that are not incurred by the local government must be refunded to the applicant on the completion of the service.*

Peel Regional Scheme 2003

Clause 5 (b) states that it is the purpose of the Scheme to provide for the zoning of land for living, working and rural land uses.

Clause 12 (e) states that Rural zoning is to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments.

Shire of Waroona Town Planning Scheme No. 7 1996 (TPS)

Lot 500 is currently zoned Rural 1 – General Farming under the TPS. The proposal involves changing this zoning to Rural 6 – Rural Residential.

The objective of the Rural Residential zone is to select and appropriately zone areas wherein subdivision and development of small holdings will be permitted to provide for such uses as rural residential and hobby farms, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

Council’s policies will therefore be to:

- require that an application for rezoning to Rural Residential Zone shall be accompanied by a submission supporting the proposed rezoning which will include detailed site plans and other technical data as required by Council;
- recommend that subdivision in the Rural Residential zone should comply with the provisions of Clause 4.1516 and the requirements set out against the particular localities within the zone in Schedule 2 and further, to require development within the zone to comply with the same;
- give due consideration to the Peel Regional Plan and the Commission’s Statement of Planning Policy for the Peel-Harvey Coastal Plain Catchment.

Schedule II of the TPS contains provisions relating specifically to each Rural Residential precinct identified on the Scheme Maps.

The Schedule II provisions proposed as part of the amendment are as follows:

<i>(a)</i> <i>Locality of Zone</i>		<i>(b)</i> <i>Permitted Uses & Zone Control Provisions</i>
R Res 15	<i>Lot 500 Old Bunbury Road, Lake Clifton</i>	<ul style="list-style-type: none"> <i>i. Subdivision of the site shall be generally in accordance with the Subdivision Guide Plan which forms part of this Scheme. No further subdivision shall be permitted.</i> <i>ii. Fire Management is to be in accordance with the approved Fire Management Plan for the site. Any further development of the site is to comply with the requirements of State Planning Policy 3.7 – Planning for Bushfire</i>



		<p><i>Risk Management.</i></p> <p>iii. <i>No dwelling shall be approved by the Council unless it is connected to a standard septic system or Alternative Treatment Unit (ATU) as approved by the Western Australian Department of Health.</i></p> <p>iv. <i>All built form and associated infrastructure (such as, effluent disposal systems) shall be located outside the Building Exclusion Zones as identified in the Fire Management Plan.</i></p> <p>v. <i>No built form shall be located within the Visual Management Buffer depicted on the Subdivision Guide Plan.</i></p>
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COMMUNITY CONSULTATION

Should Council resolve to adopt the amendment for advertising purposes community consultation will be required to be undertaken in accordance with the Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015.

OFFICER'S FINAL COMMENTS / CONCLUSIONS

Local Planning Strategy and Local Planning Policy 2 – Lake Clifton Herron Structure Plan

Under the LPS and LPP2 Lot 500 is classified as Rural Residential with requirements for minimum and average lot sizes of 2Ha and 3Ha respectively. The subdivision guide plan proposes a minimum lot size of 2.07Ha and an average of 3Ha. The rezoning of the lot to Rural Residential is therefore in accordance with the LPS and LPP2.

Groundwater

Information submitted with the proposal indicates that the maximum groundwater level on the site varies between 0.5m to in excess of 1.5m below ground level. SPP2.1 and the LPS require a minimum vertical separation distance of 2m in order for conventional effluent disposal systems to be considered acceptable. Alternative treatment units would be required on all lots not able to provide the required 2m vertical separation in accordance with SPP2.1 and the LPS. It is suggested that further information and clarification on this matter may be required, however it is anticipated that this would be determined in collaboration with the Department of Water during the consultation period should the amendment progress to that stage.



Schedule II

The proposed text to be included in Schedule II addresses compliance with the subdivision guide plan and fire management plan, effluent disposal and visual buffers. DTS raised the matter of restricting direct access to Old Bunbury Road that requires addressing as part of the proposed scheme amendment.

Lot 500 is relatively unconstrained when compared to other Rural Residential precincts, as such the proposed Schedule II provisions, with the addition of a provision restricting direct access to Old Bunbury Road and effluent disposal as discussed above are considered to be appropriate.

Fire Management Plan

The submitted fire management plan (FMP) addresses the fire risk and mitigating measures proposed for the site. The FMP would be required to be endorsed by the Department of Fire and Emergency Services (DFES), consultation is required to be undertaken with DFES as part of the consultation on the proposal should it be initiated by Council.

Environmental Impact

A fauna assessment and groundwater report have been provided in support of the proposed amendment. The Shire's Environmental Technical Officer has not raised any concerns regarding the environmental impact of the proposal. Further consultation on and review of the potential environmental impact, including consultation with the EPA, Department of Water and the Peel Harvey Catchment Council, will be required should the proposal proceed / be adopted for advertising purposes.

The Green Growth Plan does not identify Lot 500 for development, therefore any proposed streamlined processes for environmental approval would not be applicable to this proposal.

Western Australian Planning Commission Strategies

The proposed amendment is contrary to the CLPS, Green Growth Plan and DSMPSPRF, which identify the subject site as remaining rural. Officers have also received advice from the WAPC with regard to rural residential proposals in light of the SAPPR as discussed in the External Referrals section of this report.

Reference to Advice and Draft Planning Framework

In the public statement document presented to Council at the Ordinary Council Meeting on 23 December 2015 the proponent raised concerns over the level of consideration given to advice received by the Shire from the Chair of the Western Australian Planning Commission and the DSMPSPRF. Further comment on this was made in the public statement document presented by Lavan Legal. The Shire is unable to respond to this concern without first obtaining the required legal advice which the applicant has not agreed to.

Reference to Current Planning Framework

References to the applicable planning framework have been made in this report



stating the status of consistency of the proposed amendment with the planning framework. In the public statement document presented to Council the issue of the *“lack of reference to the current enabling structure plan, to which the amendment relies heavily upon”* is raised. This report clearly references LPP2 and the LPS. Statements of the applicable provisions of these documents and the consistency of the proposed amendment with them are included.

Reference to technical reports

The public statement document presented to Council criticises the succinct reference to technical reports submitted as supporting information to the proposed amendment. Although reviewed by Shire Officers, these reports will be further reviewed by relevant government departments, should the scheme amendment be initiated, with any issues identified addressed prior to the final consideration of the amendment by Council.

Conclusion

While the proposed amendment is considered to be in accordance with the Shire’s local planning framework including the LPS and LPP2 it is not consistent with the DSMPSRPF, Green Growth Plan, CLPS and advice received from the WAPC. To adopt a proposed amendment contrary to the advice of the WAPC and DSMPSRPF for advertising purposes would be against the principles of proper and orderly planning.

The issues relating to the legal weight to be applied to the advice of the Chairman of the WAPC and the DSMPSRPF require further legal advice. . In the absence of such advice from the Shire’s solicitors, officers are not in a position to provide further advice on this matter.

It also needs to be noted that the statutory process for the adoption of any scheme amendment requires the endorsement of the WAPC. The issues of inconsistency in relation to the amendment relate to the planning framework currently being drafted by the WAPC, and the Department of Planning and Department of Premier and Cabinet.. It would seem apparent that those issues are best addressed directly with the State Government.

A resolution of Council not to initiate the amendment at this time will enable the proponent to address the inconsistencies with the DSMPSRPF and advice of the Chairman of the WAPC directly and will not compromise the ability of Council to initiate the amendment in the future should a revision to the DSMPSRPF occur.

It is recommended that Council resolve not to initiate the proposed amendment at this time.

Appendices Attached:	Yes	Appendices Numbers:	9.2.6A,B,C
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VOTING REQUIREMENTS

Simple Majority



OFFICER RECOMMENDATION

A. That Council, in relation to the proposed amendment of the Shire of Waroona Town Planning Scheme No. 7 to rezone Lot 500 Old Bunbury Road from 'Rural 1 – General Farming' to 'Rural 6 – Rural Residential', resolves to:

- 1. Not initiate the amendment; and**
- 2. Advise the applicant accordingly.**

9.3 DEPUTY CEO/DIRECTOR CORPORATE SERVICES

9.3.1 ACCOUNTS FOR PAYMENT	
Reporting Officer / Officer's Interest:	Kathy Simpson, Finance Officer / Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – Deputy CEO/Director Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report: 15/2/16	File No.: 1/3
Previous Reference:	N/A
Policy Implications:	N/A
Statutory Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	N/A
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): No. 6 "Active Civic Leadership, Good Governance, & Excellence in Management"	
Voting Requirements	Simple Majority

Appendices Attached: Yes	Appendices Numbers: 9.3.1
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<u>OFFICER RECOMMENDATION</u>		
That Vouchers numbered:		
<u>ACCOUNT</u>	<u>CHEQUE NOS.</u>	<u>TOTAL \$</u>
Municipal	Cheques 8199 - 8242	\$115,944.46
Trust (Cheque/EFTs)	EFT 21638, 21664, 21737, 21839 21922, 21924-21934, 21936-21942 21991-21994 Chqs: 11066 - 11072	\$55,535.75
Electronic Transfers Municipal Fund	EFT 21636 to 22023	\$1,335,302.96
Direct Wages	01/12/2015 – 31/1/2016 inclusive	\$332,941.60
Direct Debits	1/12/15 – 31/1/16	\$3,701.71
GRAND TOTAL:		<u>\$1,843,426.48</u>
and attached at Appendix 9.3.1 be endorsed.		



9.3.2 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD 1 JULY 2015 TO 31 DECEMBER 2015 AND 1 JULY 2015 TO 31 JANUARY 2016	
Reporting Officer / Officer's Interest:	Ashleigh Nuttall – Manager Financial Services / Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook - Deputy CEO/Director Corporate Services / Nil
Proponent:	N/A
Landowner:	N/A
Date of Report: 15/2/16	File No.: 1/1
Previous Reference:	N/A
Policy Implications:	N/A
Statutory Implications:	N/A
Strategic Implications:	N/A
Financial Implications:	N/A
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): No. 6 "Active Civic Leadership, Good Governance, & Excellence in Management"	
Voting Requirements	Simple Majority

Appendices Attached: Yes	Appendices Numbers: 9.3.2
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OFFICER RECOMMENDATION

That the Monthly Statements of Financial Activity for the period 1 July 2015 to 31 December 2015 and 1 July 2015 to 31 January 2016 be received and noted.



9.3.3 BUDGET REVIEW FOR THE PERIOD 1ST JULY 2015 TO 31ST JANUARY 2016	
Reporting Officer / Officer's Interest:	Laurie Tilbrook – Deputy CEO/Director Corporate Services/Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – Deputy CEO/Director Corporate Services/Nil
Proponent:	Not Applicable
Landowner:	Not Applicable
Date of Report: 11/2/16	File No.: 1/7
Previous Reference:	2015/16 Adopted Budget
Policy Implications:	<i>See heading below</i>
Statutory Implications:	<i>See heading below</i>
Strategic Implications:	<i>See heading below</i>
Financial Implications:	<i>See heading below</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): E, No. 6 “Active Civic Leadership, Good Governance, & Excellence in Management”	

PROPOSAL SUMMARY

Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year. The review is to be submitted to Council within 30 days of determination.

The review of an annual budget for a financial year must –

1. Consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
2. Consider the local government's financial position as at the date of the review and
3. Review the outcomes for the end of that financial year that are forecast in the budget.

Within 30 days after a council has made a determination, a copy of the review and council's determination is to be submitted to the Department.

Included with the agenda at **APPENDIX 9.3.3** is a detailed financial report (including predicted financial position as at 30th June 2016) pertaining to the 2015/16 budget. The report covers the 7 months period to 31st January 2016 by which this review is based.

FINANCIAL ISSUES/IMPLICATIONS

Entire contents of report are financial based.

POLICY ISSUES/IMPLICATIONS

This report considers the Council Policy in relation to material variances which states that “The materiality factor of highlighting variances (budget to actual) shall be 10% with a minimum of \$20,000.

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

The budget review is conducted in accordance with the following:



- Local Government Act 1995
- Local Government Financial Management Regulations
- Council Policies and Procedures

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

Not applicable for a budget review

OFFICER'S COMMENTS

1. Operating Income **General Purpose Funding**

Interim rating income of \$20,660 has been received to period end. This amount is largely associated with the clearing of building licences however will be partially offset by Planning Commission land purchases (South West Hwy Bypass)

Investment Interest – Although it is estimated that Municipal Fund investment interest will be below budget at year end, this is expected to be offset by Reserve Account investment interest by year end.

Financial Assistance Grants – The Council's final FAG's payment has been assessed less than budget estimates by \$39,437 (of which \$30,000 relates to road payments)

Insurance – The Council has received a member dividend payment of \$15,730 from its participation in LGIS. This amount will be considered for partial transfer to the Risk & Insurance Reserve Account. The remaining balance will be utilised for a structural audit at the Recreation Centre (roof).

Law, Order, Public Safety

Emergency Expenditure Waroona Fire January 2016 – As recovery efforts are ongoing it is unknown at the time of preparing this report the level of emergency expenditure that could be reimbursed. It is proposed to amend the 2015/16 adopted budget when potential income sources are finalised.

This matter will be the subject of a later report.

Recreation and Culture

Recreation & Aquatic Centre – Overall income is consistent with budget at review period date. There are however variances between individual income areas i.e. wet, dry, gymnasium etc. It will be important for this information to be considered in preparing subsequent Budgets and Financial Plans.

The ratio between stock purchases and sales at the kiosk is well below budget estimates and will require further review.



Economic Services

Tourism and Area Promotion – Changes to the accounting structure are to be made to create a new income and expense area for the Waroona Visitors Centre. This will enable 'actual' costs associated with the Centre to be reported separately from other items of area promotion.

As a result of this change separate accounts held by the Centre will be closed and transacted via the Council's Municipal Fund.

Building Control – The engaging of a contract Building Surveyor for the months of Dec, January and February (3 days per week) is in addition to budget estimates and will require re-assessment prior to the contract being renewed (and year end).

Sundry Debtor Control

No doubtful debts likely to impact the end of year position have been identified.

83.26% of outstanding rates were collected as at 31 January 2016 compared with 81.22% for the same period last financial year.

2. Operating Expenditure

Governance

The allowance for legal opinions is in excess of budget at 31 January 2016. No budget adjustment is proposed and the matter is to be reviewed at year end to take into account any potential recoups etc.

Law, Order & Public Safety

Fire Prevention – Emergency Expenditure in excess of \$256,000 has been incurred associated with the Waroona Fires of January 2016. As previously advised the final outcome of the recovery effort will be unknown for some months and likely to be the subject of a separate report.

Other Law Order

Funds of \$30,000 for the engaging of an Emergency Management Coordinator (SESM) are unspent at period end and will be reassessed for inclusion in the subsequent 2016/17 budget.

Recreation & Culture

Recreation & Aquatic Centre – Gas and Electricity actuals are below budget at period end. This is largely due to the closure period of seven weeks from July to September 2015.

Building Maintenance (general operations) will exceed budget by year end, however it is likely that this additional expenditure will be offset by savings in other expense accounts.



Repairs to emergency lighting (\$9,000) were carried out in lieu of budget items (repairs to ceiling in the first aid room and squash courts).

Low Interest Loans – Approved Low Interest Loans to the Waroona Golf Club and Waroona Football Club are yet to be taken up by the club.

Economic Services

Event Management - This account has exceeded budget by \$5,000 largely due to costs associated with the 2015 Waroona Show.

This does not include an amount of \$10,000 budgeted for supporting the proposed Rodeo or other events which is held in a separate account.

Other Property & Services

Public Works Overheads – A review of public works overheads has revealed an under allocation of approved \$30,000 at period end. This will be adjusted manually and further review carried out prior to year end.

Salaries & Wages

Subject to unforeseen circumstances calculated forecasts for total salaries and wages are favourable for estimates to be within budget at period end.

3. Capital

Land and Buildings

Town Hall – Renovations complete with final payment to be made.

Drakesbrook Weir – Replacement of septic system outstanding.

Plant and Equipment

Plant Replacement Program – Expenditure associated with plant replacement is a timing issue and is expected to be completed within budget by year end.

Infrastructure Assets – Roads

Expenditure on 2015/16 Road Construction Program is expected to be completed within budget.

It is likely however that delays and/or deferrals may occur to the proposed reseal program as a result of recent fires.

As an example, access to the town oval parking area is currently restricted by caravan parking.

Bridge Replacement – Replacement of the Coronation Road Bridge had commenced at 31st January with an expected completion date prior to 31 May 2016.



It should be noted that accounting transactions associated with the bridge replacement are to be recorded as an operating expense due to the Council not owning the bridge. Road approaches are treated as capital expenditure.
Infrastructure Assets – Other

Refuse Site – Waste Transfer Station design works yet to commence.

Lake Preston Trail – Works Complete.

The following table indicates the status of Capital Projects as at 31st January 2016.

CAPITAL PROJECTS AS AT 31 JANUARY 2016

COA	PROJECT	ASSET TYPE	BUDGET	ACTUAL TO 31/1/16	COMMENTS
0514	Install Overhead Projector in Council Chambers	Furniture & Equipment	4,150	4,879	Complete
0554	Purchase Office Furniture	Furniture & Equipment	4,000	0	Not Commenced
0554	Purchase Air Conditioner - Server Room	Furniture & Equipment	3,800	3,792	Complete
0574	Changeover CEO Vehicle	Plant & Equipment	44,300	0	Scheduled for March
0574	Changeover DCEO Vehicle	Plant & Equipment	39,000	38,977	Complete
0574	Changeover MFS Vehicle	Plant & Equipment	25,000	0	Scheduled for March
0924	Changeover Ranger Vehicles (107WR)	Plant & Equipment	36,500	0	No longer proceeding due to Policy Amendment 4.3
0924	Changeover Ranger Vehicles (102WR)	Plant & Equipment	36,500	0	No longer proceeding due to Policy Amendment 4.3
1524	Landfill Compactor (P163) - Purchase IT Equip	Plant & Equipment	10,000	0	Not Commenced
1524	Upgrade Cat 962H Wheel Loader (P022)	Plant & Equipment	95,000	88,900	Complete
1524	Water Monitoring Equipment	Plant & Equipment	2,200	1,730	Complete
1534	Waste Transfer Station - 1st Phase Design	Infrastructure - Other	66,700	0	Not Commenced
1954	Upgrade to Waste Pond - Pump, Sprinklers	Infrastructure - Other	10,000	21,319	Complete
2254	Replace Vehicle - DDS	Plant & Equipment	34,000	0	Scheduled for February
2394	Upgrade Drakesbrook Weir Ablution Effluent System	Buildings	7,300	0	Waiting on Quote

2394	Upgrade Preston Beach Ablution Effluent System	Buildings	4,700	4,280	Complete
3044	Library Shelving	Furniture & Equipment	8,400	8,395	Complete
3114	Lake Preston Trail Broadwalk & Signage	Infrastructure - Other	34,440	26,250	Complete
2474	Waroona Hall Restoration	Buildings	90,378	101,057	In Progress with Outstanding Orders
3724	Showgrounds Second Coat Seal	Infrastructure - Other	34,000	24,667	Outstanding Order
3724	Replace Primary Reticulation Pump	Infrastructure - Other	45,000	47,090	Outstanding Order
3204	Road Work Total Construction	Infrastructure - Roads	1,129,500	678,307	In Progress with Outstanding Orders
3184	Roads to Recovery	Infrastructure - Roads	356,219	230,567	In Progress with Outstanding Orders
7154	Replace Pool Cover (Replaced with Wonder Brush Pool Cleaner)	Plant & Equipment	2,300	4,528	Complete
7154	Purchase Floor Scrubber	Plant & Equipment	9,500	10,500	Complete
3274	South West Hwy Footpath	Infrastructure - Other	33,000	0	Not Commenced
3514	Seal Depot Yard	Infrastructure - Other	15,000	0	Scheduled for March
3524	Allowance for Small Asset Purchases	Plant & Equipment	15,000	0	Not Commenced
3554	Changeover MWS Vehicle	Plant & Equipment	29,000	30,713	Complete
3554	Changeover DTS Vehicle	Plant & Equipment	38,000	35,343	Complete
3554	Ford Courier Trayback 4WD - WR150	Plant & Equipment	32,000	29,710	Complete
3554	Toyota Traytop Ute - 105WR	Plant & Equipment	27,000	24,201	Complete
3554	Replace Clutch - Isuzu Tip Truck	Plant & Equipment	5,000	1,500	Complete
3554	Changeover Kobota Tractor	Plant & Equipment	65,000	0	Scheduled for March
4164	Changeover MEHBS Vehicle	Plant & Equipment	24,000	22,544	Complete
		Sub Total	2,415,887	1,439,249	

CAPITAL ACCOUNTS - ADOPTED BUDGET AMENDMENTS					
COA	PROJECT	ASSET TYPE	BUDGET AMENDMENT	ACTUAL 31/1/16	COMMENTS
0724	Lake Clifton Bush Fire Shed	Buildings	151,000	0	Scheduled for June
0544	Relocate Licensing Agency	Buildings	35,000	5,802	In Progress
0924	Purchase UTV	Plant & Equipment	17,000	15,490	Complete
3204	Roads to Recovery – RC30	Infrastructure - Roads	150,067	0	In Progress
		Sub Total	358,107	10,842	
		TOTAL	\$2,773,994	\$1,450,091	

4. Cash Position

Cash position as at 31st January 2016

Municipal Funds \$2,281,960 (of which \$1,800,000 is invested)

Reserve Accounts \$2,106,955

Note – Interest on Reserve Accounts is yet to be brought to account.

Municipal Account balance for corresponding period previous year - \$1,901,427.

5. Summary

Attached at appendix 5.1.1 is a summary of proposed amendments to the 2015/16 adopted budget.

These amendments will result in the budget remaining in a balanced position however estimate costs of emergency expenditure and recovery from the recent disaster declared fire are yet to be determined.

The amount will not be final and is subject to 'actual' expenditure offset by any disaster funding recoups etc. The matter will therefore be further reported at a later date.

6. Budget Amendments 2015/16

The following amendments to the 2015/16 budget have been approved by the Council to date:

- Increase Expenditure for (City of Swan) Mathew's Turner Long Service Leave Liability – \$9917 (0542)
Decrease Expense – Staff Leave Reserve Transfer - \$9917 (0635)
OCM15/12/163
- Additional Income to be received from Roads to Recovery (3255)
Increase Job RC30 to allow for the additional Roads to Recovery expenditure (3204)
OCM15/10/114
- Increase expenditure to purchase UTV for Volunteer Rangers (0924)

Increase Income – Transfer from Preston Beach Volunteer Ranger Reserve (0965)
OCM15/11/136

- Increase Expenditure to Purchase of Firebreak Mapping System – \$20,000 (0682)
Transfer of Income from Information Technology Reserve - \$10,550 (0765)
OCM15/12/163
- Increase Expenditure – Restricted cash amount from 14/15 (Kidsport Expenditure) – \$3,243 (2662)
OCM15/12/163
- Increase Expenditure – Technical Support for Diesel Fuel Rebate Consultant – \$4,790 (4212)
Increase Income – Receive diesel fuel tax back payment - \$17,402 (7823)
OCM15/12/163
- Increase Expenditure – Lake Clifton Bush Fire Shed – \$151,000 (0724)
Increase Income – Construct Lake Clifton Fire Brigade Shed - \$151,000 (0765)
OCM15/12/163
- Increase Expenditure – Relocate Vehicle Licensing Agency – \$35,000 (0544)
Decrease Expenditure – Licensing Reserve Transfer - \$35,000 (4924)
OCM 15/12/163

Appendices Attached:	Yes	Appendices Numbers: 9.3.3
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VOTING REQUIREMENTS

Absolute Majority

OFFICER RECOMMENDATION

That it be a recommendation to the Council that:

- 1. The statement of budget review appended at Appendix 5.1.1 be adopted and amendments to the 2015/16 adopted budget be made accordingly.**
- 2. The 2015/16 adopted budget review for the period 1 July 2015 to 31 January 2016 be received.**

9.3.4 LOCAL GOVERNMENT COMPLIANCE AUDIT RETURN – JANUARY 1, 2015 TO DECEMBER 31, 2015	
Reporting Officer / Officer's Interest:	Laurie Tilbrook – DCEO/Director Corporate Services/Nil
Responsible Officer / Officer's Interest	Laurie Tilbrook – DCEO/Director Corporate Services/Nil
Proponent:	Not Applicable
Landowner:	Not Applicable
Date of Report: 15/2/16	File No.: 193/1
Previous Reference:	N/A
Policy Implications:	<i>Nil</i>
Statutory Implications:	<i>See heading below</i>
Strategic Implications:	<i>See heading below</i>
Financial Implications:	<i>Nil</i>
LINKED TO STRATEGIC OBJECTIVE NUMBER (<i>Strategic Community Plan-SCP</i>): E, No. 6 “Active Civic Leadership, Good Governance, & Excellence in Management”	

PROPOSAL SUMMARY

The Council is requested to adopt the Compliance Audit Return for the 12 month period 1 January 2015 to 31 December 2015 see **APPENDIX 9.3.4**. Please note - This item is being considered by the Finance & Audit Committee prior to the Council meeting on 23 February 2016 at 3pm.

BACKGROUND/INITIAL COMMENTS

The Compliance Audit is a self-assessment tool that allows the Council to monitor how the organisation is functioning in relation to meeting a range of its statutory obligations under the Local Government Act 1995 and its regulations.

PLANNING – STRATEGIC IMPLICATIONS

Nil

REFERRALS

Nil

STRATEGIC COMMUNITY PLAN ISSUES/IMPLICATIONS

The relevant Strategic Community Plan issue area is number 6 “Active Civic Leadership, Good Governance, & Excellence in Management”.

FINANCIAL ISSUES/IMPLICATIONS

Nil

POLICY ISSUES/IMPLICATIONS

Nil

STATUTORY ISSUES/ENVIRONMENT/IMPLICATIONS

Local Government Audit Regulations 1996 (s14 & s15)

LEGAL ISSUES/IMPLICATIONS

Nil

COMMUNITY CONSULTATION

N/A

OFFICER'S FINAL COMMENTS/CONCLUSIONS

No issues of non-compliance were observed during preparation of the return.

Appendices Attached:	Yes	Appendices Numbers: 9.3.4
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VOTING REQUIREMENTS

Simple Majority

FINANCE & AUDIT COMMITTEE RECOMMENDATION

That it be a recommendation to Council that:

The Compliance Audit Return for the Shire of Waroona for the period January 1, 2015 to December 31, 2015 be adopted.

9.4 CHIEF EXECUTIVE OFFICER

Nil.

10. CONFIDENTIAL REPORTS – PROVIDED UNDER SEPARATE COVER

Nil.

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN, OR FOR CONSIDERATION AT NEXT MEETING

12. NEW BUSINESS OF AN URGENT NATURE/REPORTS & INFORMATION

12.1 ELECTED MEMBERS

12.2 OFFICERS

13. CLOSURE OF MEETING