



BRIEFING PAPERS FOR ELECTED MEMBERS' BRIEFING SESSION

Draft Only

to be held at
the Council Chambers, Civic Centre, 23 Dundobar Road, Wanneroo
on 19 June, 2018 commencing at 6.00PM



Briefing Papers for Tuesday 19 June, 2018

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Item 5 Late Reports

5.1 Preparation of Amendment No. 163 to District Planning Scheme No. 2

File Ref: 33312 – 18/131599
Responsible Officer: Director Planning and Sustainability
Disclosure of Interest: Nil
Attachments: 5

Issue

To consider a request to amend the City's District Planning Scheme No. 2 (DPS 2) by including additional uses of Retirement Village, Nursing Home, Medical Centre, Pharmacy, Restaurant, Office and Child Care Centre at Lot 10 (170) Dundobar Road; Lot 11 (176) Dundobar Road; Lot 29 (107) Belgrade Road and Lot 28 (111) Belgrade Road, Wanneroo (subject site).

Applicant	Burgess Design Group
Owner	David Manners, Margaret Manners, Kathleen Coughlan, Thomas Coughlan, Marija Grubisin, Estate of Late Nikola Grubisin, Estate of Late Pasko Vulin and Neda Vulin
Location	Lot 10 (170) Dundobar Road, Wanneroo; Lot 11 (176) Dundobar Road, Wanneroo; Lot 29 (107) Belgrade Road, Wanneroo; and Lot 28 (111) Belgrade Road, Wanneroo.
Site Area	8.09ha
MRS Zoning	Urban Deferred
DPS 2 Zoning	Rural Resource

Background

On 13 December 2017, Burgess Design Group, on behalf of Fresh Fields Aged Care Pty Ltd and Civcon Civil and Project Management Pty Ltd, and with the consent of the landowners, submitted Amendment No. 163 to the City. The subject site is currently zoned Urban Deferred under the Metropolitan Region Scheme (MRS) and Rural Resource under the DPS 2. The location of the subject land is shown in **Attachment 1**.

MRS Application

The Western Australian Planning Commission (WAPC) resolved to rezone the subject site from Rural to Urban Deferred as part of Amendment No. 1304/57 to the MRS. As part of this amendment, the City was invited to provide comments. Council, at its meeting of 2 February 2016, resolved to support the amendment for the following reasons;

- a) *"The MRS amendment will facilitate further planning of the East Wanneroo area including the undertaking of district and local structure planning and preparation of Development Contribution Plans;*
- b) *The subject area is contiguous with the existing development in Wanneroo, and is in close proximity to the Wanneroo Town Centre and existing infrastructure; and*
- c) *In making this decision, the Council advises the landowners that support for this amendment to Urban Deferred does not necessarily mean that the Council will support lifting of Deferment, and this will only be considered following the comprehensive*

planning including the preparation of District Structure Plans, Developer Contributions Plans and conformation of the provision of necessary infrastructure.”

On 18 May 2016, the Minister for Planning approved MRS Amendment No. 1304/57.

Local Planning Policy 5.3: East Wanneroo

Council adopted *Local Planning Policy 5.3* (LPP 5.3) in May 2014, which sets out how the City proposed to progress the further planning of the area, and how proposals would be dealt with while that planning is proceeding.

The Policy was prepared at a time when there was still uncertainty about how the urbanisation of East Wanneroo should be progressed; and who (i.e. the State, the City or landowners) would be responsible for the district structure planning for the area.

As it has now been resolved that the State Government will be undertaking the District Structure Plan (DSP), and much of the current Policy provisions relate to the implementation of the planning measures to urbanise the area, these are no longer required. This means that the current LPP 5.3 is now outdated and as such Administration presented a draft amended LPP 5.3 to Council on 1 May 2018 (PS04-05/18). Council resolved to adopt the draft LPP 5.3 for the purposes of advertising, which is currently being undertaken.

The draft amended LPP 5.3 may be considered a ‘seriously entertained proposal’ of the City, and is considered relevant as it includes criteria for consideration of development prior to the preparation of the DSP which is discussed in the body of the report.

Detail

Proposal

The proposal seeks to amend DPS 2 by:

1. Inserting the following additional uses at Lots 10 and 11 Dundobar Road, Wanneroo and Lots 28 and 29 Belgrade Road, Wanneroo into Schedule 2 – Section 1 (Clause 3.20) – Additional Uses of District Planning Scheme No. 2:
 - Retirement Village;
 - Nursing Home;
 - Medical Centre;
 - Pharmacy;
 - Restaurant;
 - Office; and
 - Child Care Centre.
2. Amending Scheme Map by annotating Lots 28 and 29 Belgrade Road, and Lots 10 and 11 Dundobar Road, Wanneroo with Additional Use No. 1-40.

Attachment 2 contains the amendment plan showing the existing zoning and proposed scheme amendment zoning. **Attachment 3** contains a concept plan for the development.

The applicant’s justification for the proposal can be summarised as follows:

1. The proposed Additional Uses of ‘Retirement Village’ and ‘Nursing Home’ are urban in nature and are consistent with the ‘Urban Deferred’ zoning under the MRS. The applicant does not consider the Amendment to be premature, and believes it will not

prejudice future Structure Planning and rezoning of the land. The Additional Uses can be incorporated into future structure planning for the East Wanneroo area.

2. A 'Retirement Village' and 'Nursing Home' development is a self-contained development and can be developed independently of the broader urban area. Neither use will prejudice the broader planning of the area as they do not generate requirements for public open space, schools or other district uses that form part of structure plan considerations.
3. The proposed uses are not contrary to orderly and proper planning given the site is adjacent to existing urban development and can be readily serviced. Potential land use conflicts can be managed in the interim (including any necessary buffers to neighbouring land uses to minimise impacts of the development) until such a time that the surrounding land in the East Wanneroo Structure Plan Area is developed.
4. The site is close to the existing urban front and can be developed ahead of the wider East Wanneroo area.

Through assessment of the application, it was noted that the proposal did not meet a number of criteria of the City. To justify this, the applicant has provided reasoning as to why the proposal should still be supported and highlighted an identified need for the development due to the shortage of accommodation of this type within the Wanneroo area (**Refer Attachment 4**).

Consultation

All scheme amendments must be subject to public consultation. However, the Town Planning Regulations 1967 provide that where an amendment is consistent with the Metropolitan Region Scheme (MRS) and State policies and strategies, then the consent of the Western Australian Planning Commission (WAPC) will not be required to advertise the amendment. In this instance, the proposed Additional Uses may not be directly consistent with the zoning under the MRS and DPS 2. As a result, the consent of the WAPC will be required, prior to advertising the proposed amendment to DPS 2.

The amendment will also need to be referred to the Environmental Protection Authority (EPA) to assess the environmental impacts of the proposal and to determine whether any formal environmental assessment is necessary.

Subject to no objections being received from the EPA and advertising consent being granted by the WAPC the amendment must be advertised for public comment for a period of 42 days. Advertising is to occur in the following manner, consistent with the requirements of the Town Planning Regulations 1967:

- Advertisement in a local newspaper for one week;
- Placement of a sign on affected sites, giving notice of the proposal;
- Display notice of the proposal in Council offices;
- Display on the City's website; and
- Referral in writing to affected persons/agencies.

Comment

The application has been assessed against the MRS, DPS 2, LPP 5.3 and draft amended LPP 5.3 as detailed below.

Giving due regard to the above documentation and the applicants arguments regarding the initiation of the amendment, Administration will demonstrate below, that initiating Amendment No. 163 is not appropriate at this stage.

Metropolitan Region Scheme

The subject site is zoned Urban Deferred under the MRS.

As per the Western Australian Planning Commission's (WAPC) *Draft Lifting of Urban Deferment Guidelines*, the transfer of land from the urban deferred zone to the urban zone is required to demonstrate that:

- the land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services;
- planning is sufficiently advanced to depict an acceptable overall design to guide future development;
- the proposed urban development represents a logical progression of development;
- regional requirements (such as regional roads, open space and public purposes) have been satisfied or provision made for them; and
- any constraints to urban development, including in relation to environmental, hazard and risk issues, can be satisfactorily addressed.

The *Draft Lifting of Urban Deferment Guidelines* also states that land zoned urban deferred under a region planning scheme should generally be zoned rural or, where appropriate provisions restrict development until urban deferment is lifted under the region planning scheme, urban development in the local planning scheme. The applicant considers that the proposal can be accommodated under the current urban deferred zoning and therefore does not intend applying for lifting of deferment.

However, the proposed land uses are considered to be of an urban nature and as such are considered to be premature prior to the lifting of the urban deferred zone under the MRS and a structure plan (and other associated documentation such as a developer contribution scheme) being prepared for the East Wanneroo Area.

District Planning Scheme No. 2

The subject site is zoned Rural Resource under the City's DPS 2. The land uses of Retirement Village, Nursing Home, Medical Centre, Pharmacy, Office and Child Care Centre are 'X' or not permitted. Restaurant is 'A' use, which can be considered currently but must be advertised prior to any determination.

Given that a Restaurant is an 'A' use, it is not technically necessary to include it in this amendment. Notwithstanding this, as the proposal is looking to be viewed as a package there is no harm with including Restaurant as an additional use.

Local Planning Policies

Local Planning Policy 5.3: East Wanneroo

The current LPP 5.3 is subject to a proposed amendment that was adopted as a draft for advertising by Council at its meeting of 1 May 2018 (item: PS04-05/18). The report considers the application against the current as well as draft amended LPP 5.3.

Current LPP 5.3

Clause 2.2 of LPP 5.3 states that planning proposals of an urban or related nature within the Policy Area shall only be entertained by the City if they will not prejudice the effective undertaking of the planning process set out in Table 1 of LPP 5.3, and the ability for urban and related development to be able to occur in the Policy Area in an orderly and proper manner.

In this regard, the applicant submits that:

“The Amendment is not considered to prejudice the future structure planning of the locality as a retirement village/nursing home will be entirely self-contained and is not a use that impacts on the issues that are dealt with during the structure planning process. A structure plan seeks to ensure that an area is provided with sufficient public open space, schools, major transport links and relevant district and regional facilities. The development of a retirement village and nursing home over the subject land will not impact on these broader district and regional level issues.”

The above view is not supported as the proposal would prejudice the orderly and proper planning of the East Wanneroo area in respect to the following:

- It is possible that a portion of the subject land (which included remnant native vegetation) may be required to be protected for conservation purposes.
- It is currently unclear as to the extent that Dundee Road may need to be widened into the subject land.
- The immediate provision of wastewater and water supply services to all of the subject land is not available.
- It does not involve any provision for development contributions.

The above matters are dealt with in detail in the following section regarding the draft amended LPP 5.3.

Draft Amended LPP 5.3:

Clause 1 of draft amended LPP 5.3 includes a statement of an ‘overriding principle’ that *“... there shall be a general presumption against subdivision and development that may detrimentally impact on the orderly and proper planning of the area, specifically prior to the finalisation of a district structure plan, a local structure plan and development contribution schemes”*.

It then goes on to provide that *“... the City shall not support any proposals that may compromise the preparation of a planning framework which will enable urban development to occur in the East Wanneroo area in an orderly and proper manner”*.

The policy then addresses a number of particular matters, including clause 1.2 which is directly applicable to the current application:

“1.2 The City shall not support any application for amendment of City of Wanneroo District Planning Scheme No. 2 (DPS 2) that is intended to facilitate any form of urban or similar development unless the subject land has first been zoned Urban under the MRS, with the various pre-requisites for Urban zoning detailed in 1.1 having been satisfied.”

Whilst it is acknowledged that the Retirement Village and Nursing Home land uses are typically self-sufficient and independent land uses, they are of an urban nature, and are considered to be premature without the preparation of a structure plan. The subject land has not been zoned Urban under the MRS, and the pre-requisite for urbanisation have not been satisfied, making the proposal contrary to Clause 1.2 of LPP 5.3.

Clause 1.5 then provides that notwithstanding Clauses 1.1, 1.2 and 1.4, the City may consider supporting applications, including applications for amendment of DPS 2 and applications for development, prior to meeting of the various prerequisites referred to in those clauses, subject to criteria (a – j) being met. A list of these criteria, as well as Administration's response related to the level each has been achieved, is included in **Attachment 5**.

Administration considers that a number of these criteria have not been met and therefore any amendment to DPS 2 is premature. The criteria which are not considered to be met are d, e, f, g & i. These criteria are discussed separately below.

The applicant has contested that the provision of this information is not necessary and would place undue financial and timeframe burdens on the client. This could lead to delays in granting of funding and may prevent any development of a retirement village, which is needed in the area.

Administration acknowledge the need for suitable housing for an aging population, however the requested information required through the LPP is necessary to ensure the development does not pre-empt orderly and proper planning in the locality and cause negative impacts on the environment, City of Wanneroo and existing and future residents.

If considering these points individually a case could be made to delay providing the assessment of this information until a later stage. Administration acknowledges that most of these matters could be conditioned to be provided at a later stage. However, the deferral of individual matters to latter planning stages is not in keeping with orderly and proper planning. Deferring the requirements to subsequent planning stages can result in a reduced ability for the City to require that these matters are completed by the applicant at that time.

The criteria of LPP 5.3 which have not been met are;

Criteria d – Impacts on the movement network and future infrastructure

The application proposes Additional Use zoning to extend to the existing Dundobar Road reserve boundary, and the Concept Plan (**Attachment 3**) shows development also extending to that boundary.

Dundobar Road has been nominated for future upgrades given the increase in traffic volumes associated with the development of the East Wanneroo area. Preliminary work has been undertaken by the Department of Planning, Lands and Heritage (DPLH) which identifies that the road will need to be an Integrator Arterial type. This will cater for between 28,000 and 32,000 vehicle trips per day.

The applicant has identified in their justification letter (**Attachment 4**) that this would equate to a road width of 30.6m. This would result in 5.3m being taken from the subject site, with the equivalent taken from the property opposite on Dundobar Road. The applicant has indicated a willingness to include this as a condition, to be fulfilled at a later stage.

The risk to the City is that the preliminary work that has been undertaken by DPLH is not sufficient. This could mean the road is either a higher order road type, or that the widening

requirement is greater than 5.3m. Whilst unlikely, changes in road width may have impacts on surrounding properties and the land requirements that are needed.

This in itself is not considered a significant constraint and this matter could be considered as part of the initiation of the amendment to be addressed prior to the lodgement of a development application.

Criteria e – Provision of servicing infrastructure

The application submission includes an Infrastructure Servicing Report prepared by engineering consultants KCTT. This does not indicate that wastewater services can be immediately provided to all of the subject land.

The application report also does not include written confirmation from the Water Corporation (Corporation) regarding immediate provision of services as required under this criterion.

Administration has referred the application to the Water Corporation for comment. The Water Corporation has advised as follows:

- i) While the Corporation's preference is to see a District or Local Structure Plan over a larger area to allow for more thorough examination of water and wastewater capacity issues, the Corporation would have no objections to the rezoning of Lots 10 and 29 which face onto Steven Street, as these lots are already provided for in the Corporation's water and sewerage planning.
- ii) The advice previously provided by the Corporation regarding site levels over Lots 28 and 11 (the 'rear' lots) falling to the east towards another long term wastewater catchment, is still relevant. The Corporation has not seen a detailed earthworks/cut-fill/retaining plan or a sewer reticulation plan from the proponents to demonstrate if/how the rear lots can be graded westwards towards the Wanneroo sewerage catchment.
- iii) The matters concerning the levels of the land relative to the supply limits of the Wanneroo High Level Water Zone are perhaps less critical at this stage of planning. However, the Corporation would like a further opportunity to have the proposed water demands (particularly for a more dense aged care/nursing home development) assessed by Corporation water planners to see if there is sufficient capacity in the elevated tank to supply to the entire development and to determine what sized water main would be required, particularly if high flow demands are required for fire services.

The applicant has argued that undertaking the site works required by point ii) above would be costly at this stage and that any associated risk with the provision of wastewater is with the developer. If the wastewater cannot be collected, the development could not go ahead.

In considering the works that may need to be undertaken to render the site capable of servicing, earthworks and retaining would be needed. The extent of this is unknown and it may prove to have an impact on the surrounding sites, the detail of which at this stage is difficult to determine on the adjacent lots.

Criteria f – Provision of public transport

This criterion has not been met as written confirmation has not been provided by the Public Transport Authority (PTA). Notwithstanding, the site is abutting an existing public transport route (389 along Steven Street) and therefore it is considered that the lot will be adequately serviced by public transport. This matter is therefore not considered by Administration to be a constraint to initiate the scheme amendment.

Criteria g – Agreement for developer contributions

This criterion has not been met, as a legal agreement is not in place relating to future payment of development contributions. The relevant criterion requires that a binding legal agreement is in place now, and that adequate security is provided to secure the agreement's obligations.

The applicant has advised that their clients "...are happy to enter into a legal agreement with the City agreeing to pay applicable development contributions once the relevant DCP's have been prepared. We would however suggest that the City give significant consideration to the levels of contributions required under the DCP for retirement living landuses."

The above advice is reassuring regarding the preparedness to enter into a voluntary agreement. However, it should be noted that the comment regarding the level of contributions does also flag that the proponents may seek an approach which would mean them making a lesser level of contribution due to the nature of their development. This indicates that any future agreement may involve some degree of negotiation regarding the level of contribution to be expected, rather than an agreement to make whatever contribution results from the DCP's to be eventually prepared, which is the intent of the criterion on this matter.

In order to provide some indication of the level of risk on this matter, a preliminary calculation has been made as to currently, what contribution this type of development shown in the Concept Plan would be required to make, if being carried out now in East Wanneroo Cell 4 (covering the Hocking/Pearsall area). This mainly relates to costs associated to provision of regional roads and local open space. The resulting figure is approximately \$4,176,000.

A preliminary calculation has also been made if this type of development was now being carried out in the Alkimos/Eglinton area. This relates to district community infrastructure. The resulting figure is approximately \$806,000.

The above totals to approximately \$4,982,000, and is intended to provide an approximate possible 'order of cost' of what scale of funding is needing to be considered here, given that the future DCPs for the new East Wanneroo urban areas are likely to involve a combination of 'hard' infrastructure (like the current East Wanneroo 'Cell' DCPs), and community infrastructure (like the Alkimos-Eglinton DCP). This is a significant amount and is why the City needs to adequately mitigate any risks associated with this matter. This is particularly considering that the infrastructure covered by this money will eventually be required to be provided, and if the cost of it is not met by the proponent, then it will need to be met by someone else. In the first instance, this would be likely to be other landowners in the future DCP area, however if this is not able to be done, then it might be a cost required to be met by the City.

If a legal agreement is not entered into prior to the initiation of the scheme amendment, then it is most likely that it would be required to be entered into as a condition of the Additional Use zoning, in the scheme.

The risk with taking this approach is:

1. Once the amendment has been initiated and submitted to the WAPC, it is possible that the WAPC or Minister for Planning might require that the condition be deleted as they may see it as contrary to State Planning Policy (SPP) 3.6: Development Contributions (Clause 5.7), which provides that development contributions are not to be imposed as a condition of rezoning. (In this instance, it is important to note that this agreement is being proposed as a 'voluntary agreement', which is acceptable under SPP 3.6, however it is possible that the WAPC or Minister might not view it this way).

2. It is possible that notwithstanding the proponent's consultant's written advice that their client is happy to enter into a legal agreement, they might have a change of mind, and could make submissions seeking that the condition be deleted.
3. Notwithstanding that the condition might be worded so as not to refer to it being required prior to development approval, there is a risk that it might still get viewed in these terms by either the WAPC or Minister, and therefore be required to be deleted. (Clause 69 of the Planning and Development (Local Planning Schemes) Regulations 2015 provides that local governments must not refuse development applications, only because a DCP is not in place, and must not condition development approvals, requiring that future development contributions be made).

Criteria j – Impacts on the environment

The Concept Plan (**Attachment 3**) for the subject land included in the application shows all of the subject land being developed for the proposed uses.

Approximately 2.3ha (28%) of the subject land contains remnant vegetation. The Environmental Protection Authority (EPA) advice provided on the MRS amendment which rezoned the subject land to Urban Deferred advised that this remnant vegetation is identified as Karrakatta Complex Central and South (which currently has only 23.9% of its original extent remaining), and also provides potential habitat for Carnaby's Black Cockatoos.

The EPA considered that potential impacts can be adequately managed through the development of district structure plans, local planning scheme provisions and associated management plans that specifically address the flora and vegetation and Carnaby's cockatoo issues involved.

The applicants have reasoned that the amendment will need to be referred to the EPA to assess the environmental impacts of the proposal. At this stage the relevant environmental reports would need to be done and the EPA will determine if there is any environmental impact. Further, should there be an area identified for retention this can either be offset in surrounding local governments or partitioned as part of the development. Because of this, the majority of this risk is with the developer, in that additional offsets may need to be purchased or fewer units developed to cater for the vegetation.

Noting that the EPA approval is required, the City should also undertake an assessment of the environmental impacts on the site, which cannot be done without the appropriate environmental reports. If initiating Amendment No. 163, the Council is doing so without considering all the relevant information with the risk that vegetation is not retained for the broader community.

Consideration of Draft Amendment LPP 5.3

The application has raised a number of issues relating to the timing for the provision of certain information and at what stage. The draft amended LPP 5.3 is currently being advertised and can consider these matters prior to being reconsidered by Council.

Conclusion

Administration recommends that Amendment No. 163 is not initiated until the information is provided to the City's satisfaction. The deferral of individual matters to latter planning stages is not in keeping with orderly and proper planning. Deferring the requirements to subsequent planning stages results in less statutory and discretionary ability for the City to require that these matters are completed by the applicant at that time. This presents a risk to the City and surrounding community with insufficient certainty or clarity regarding requirements for future

developer contributions, service infrastructure, road upgrades and environmental management.

In particular, criteria relating to development contributions is considered to represent such a high level of risk to the City that it is considered that the only way of adequately mitigating this risk is to not initiate the amendment until the proposed voluntary agreement between the proponents and the City, and the associated security on fulfilment of obligations, is in place. The infrastructure that is intended to be funded by the development contribution (which might be in the order of \$5 million) will need to be provided at some time, and if the cost of it is not met by the proponent, then it will need to be met by someone else. This will most likely be other landowners in the future DCP arear, however if this is not able to be done, then it might be required to be met by the City.

Statutory Compliance

The scheme amendment will follow the statutory process outlined in the Town Planning Regulations 1967.

Strategic Implications

The proposal aligns with the following objective within the Strategic Community Plan 2017 – 2027:

“3 *Environment (Built)*

3.6 *Housing Choice*

3.6.1 *Facilitate housing diversity to reflect changing community needs”*

Risk Management Considerations

Risk Title	Risk Rating
ST-G09 Long Term Financial Planning	Low
Accountability	Action Planning Option
Director Corporate Strategy & Performance	Manage

Risk Title	Risk Rating
ST-S04 Integrated Infrastructure & Utility Planning	Moderate
Accountability	Action Planning Option
ELT (Director P&S and Director Assets)	Manage

Risk Title	Risk Rating
CO-O22 Environmental Management	High
Accountability	Action Planning Option
Director Planning & Sustainability	Manage

The above risks relating to the issues contained within this report have been identified and considered within the City's Strategic and Corporate risk registers. Action plans have been developed to manage these risks to support existing management systems.

In addition to the above current risks, other potential risks to Council, including the removal of vegetation, road widening of Dundobar Road and provision of developer contributions, are discussed in the relevant sections of the report.

Policy Implications

This proposal is assessed under the provisions of the City's East Wanneroo Local Planning Policy 5.3 and proposed amended LPP 5.3 as well as State Planning Policy 3.6.

Financial Implications

The main financial implications relate to provision for future Development Contribution Plans (DCP) for East Wanneroo. The proposed amended LPP 5.3 will be requiring that DCPs are in place at the appropriate time, and that if an area is to be supported ahead of the prerequisites that would otherwise be expected to be first met, then adequate provision for future DCP contributions is to be made.

Voting Requirements

Simple Majority






Recommendation

That Council:-

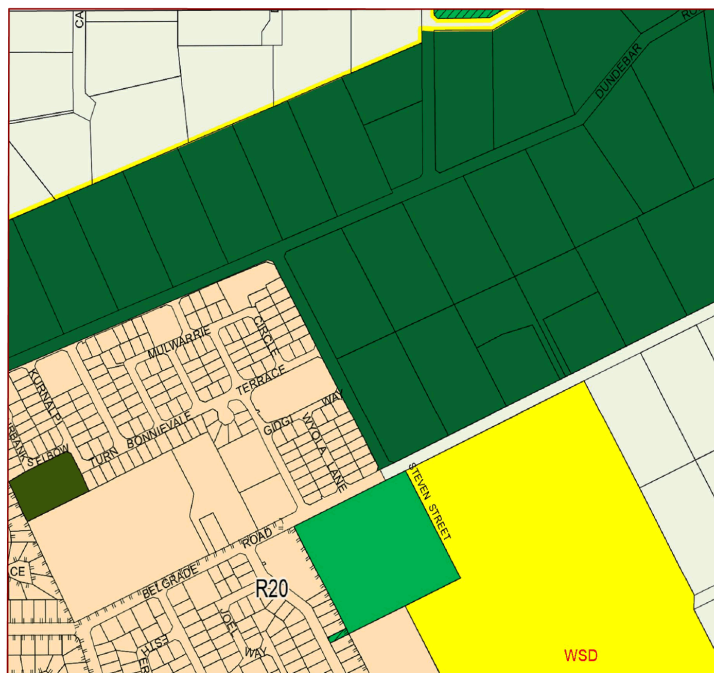
Pursuant to Section 75 of the Planning and Development Act 2005 REFUSES TO initiate proposed Amendment No. 163 to District Planning Scheme No. 2 for the following reasons:

- 1. The proposed additional uses are considered urban in nature and therefore are inconsistent with the urban deferred zoning under the Metropolitan Region Scheme and Draft Lifting of Urban Deferment Guidelines;**
- 2. The proposal is premature and contrary to Clause 2.2.2 of Local Planning Policy 5.3 in that it would prejudice the effective undertaking of the planning process set out in the policy, and the ability for urban and related development to be able to occur in the Policy area in an orderly and proper manner; and**
- 3. The proposal is premature as it does not meet the relevant criteria for planning proposals as required by Clause 1.5 of the Draft Amended Local Planning Policy 5.3. The City has particular concern regarding the high risk to the City in not having the proposed voluntary agreement in place to provide for payment of development contributions which are proposed to be required through future Development Contribution Plans to be prepared for the proposed East Wanneroo urban area.**

Attachments:

1 	Attachment 1 - Location Plan - Amendment 163	18/190608
2 	Attachment 2 - Copy of Amendment 163	18/198489
3 	Attachment 3 - Concept plan associated with Amendment 163	18/198494
4 	Attachment 4 - Amendment 163 to DPS 2 - Amendment Extra Info Letter	18/232781
5 	Attachment 5 to Amendment 163 Council Report	18/182442





CURRENT SCHEME

LEGEND

REGION SCHEME RESERVES (MRS)

Parks and recreation

WSD Public purposes - Water Authority of WA

LOCAL SCHEME RESERVES

Conservation Parks and recreation

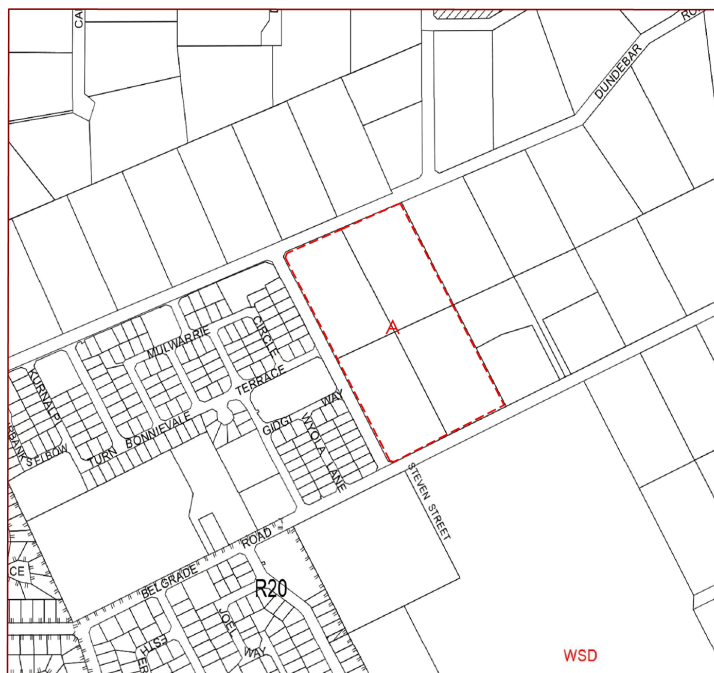
LOCAL SCHEME ZONES

Residential General rural

Rural resource Special rural

OTHER CATEGORIES

R20 R Codes



PROPOSED SCHEME AMENDMENT

LEGEND

A Additional Uses

PLAN 1



0 50 100 150 200 250m
SCALE 1:10,000 (A4)

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Planner: MS/ZM
Date: 26.02.18
Plan No: BGH WAN 9-02-01

DISTRICT PLANNING SCHEME NO. 2
LOTS 10 & 11 DUNDEBAR ROAD, AND
LOTS 28 & 29 BELGRADE ROAD
EAST WANNEROO
CITY OF WANNEROO





11 June 2018

Our Ref: BGH WAN/180611LLGA_Scheme Amendment Extra Info Letter

Chief Executive Officer
City of Wanneroo
Locked Bag 1
WANNEROO WA 6946

Attention: Mr Mark Dickson - Director Planning & Sustainability

Dear Sir/Madam

**RE: SCHEME AMENDMENT 163
LOTS 28 & 29 BELGRADE ROAD, AND LOT 10 DUNDEBAR ROAD, WANNEROO**

Burgess Design Group, on behalf of our clients, Fresh Fields Aged Care Pty Ltd and Civcon Civil and Project Management Pty Ltd, is pleased to submit the following information in response to a number of issues raised by the City's Administration in regards to the above mentioned proposal.

As you are aware this amendment proposes to incorporate Additional Uses of Retirement Village, Nursing Home, Medical Centre, Pharmacy, Restaurant, Offices and Child Care Centre in Schedule 2 of the Scheme Text over Lots 28 & 29 Belgrade Road, and Lot 10 Dundebur Road, Wanneroo (subject 'site' or 'land').

The issues flagged by Administration generally arise from the requirements of the City's Draft Local Planning Policy 5.3: East Wanneroo. The Policy seeks to provide guidance to the City on consideration of planning proposals of an urban nature within East Wanneroo. The general presumption is against subdivision or development until such a time as Structure Planning has been completed for the area. However, the Policy sets out criteria to be considered if the City wish to consider supporting proposals including requests for the amendment of DPS No.2.

In general we support the intent of the Draft Policy but consider it has a number of failings in that it seeks the provision of a number of written confirmations and approvals that, in the case of Scheme Amendments, are generally addressed as a matter of course during the normal Scheme Amendment process and not prior to initiation.

As the City may be aware, there is a significant cost and time associated with the preparation of Scheme Amendment proposals and the management of these proposals through the planning system. To date our clients have expended over \$300,000 in securing options on the subject land and preparing the Scheme Amendment request. Our clients have a two-fold issue in providing

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some of the further information required under the Draft Planning Policy, those being: 1) The cost of engaging the relevant consultants to prepare the required supporting information, and 2) The time it will take to have that information collated, submitted and assessed. The additional complicating factor is that both the time and money would have to be expended with little knowledge of the support or otherwise for the proposal from the City and its Elected Members.

Furthermore, there is a significant time constraint that arises from the need to obtain federal licenses for the beds in the high care nursing home component of the proposal. This has been detailed in the attached letter from Hall and Prior (please refer).

In terms of the other issues raised by the City we provide the following comments.

Movement Networks and Public Transport

We understand that there may be a future need to widen Dundobar Road to an Integrator Arterial road. This generally requires a reserve width of 30.6 metres. This would require a widening of 5.3metres on the southern side of Dundobar Road where it adjoins the subject site. Our clients are willing to incorporate this into the ultimate design of the site. It is suggested that this requirement can be made a special condition under the Additional Use provisions for the site.

It is noted that the Draft Policy seeks some form of written confirmation from relevant agencies that the site will be served by Public Transport. It is suggested that this is a particularly onerous requirement and very difficult to fulfil as the PTA and other relevant agencies often don't plan public transport infrastructure and routes until after structure plans are complete and actual development is undertaken. In this instance the City should note that there are in fact public bus routes on Steven Street directly adjoining the site.

In terms of movement networks within the development we can advise that specific designs have not yet been resolved. The site has frontage to three gazetted roads and formal access arrangements to the site will be resolved at a later development application stage.

Provision of Servicing Infrastructure

Again, we would point out that the provision of significant detail in regards to the infrastructure servicing provision is difficult without any final designs and staging expectations for the site. The Amendment request included a preliminary servicing report that provided a high level assessment of the future servicing of the site. Our engineers have had subsequent discussions with the WaterCorp in regards to the sewer and water provision and they have indicated that they will be satisfied to receive further information during the advertising and referral of the Amendment that will then be used to deliver any comments and recommendations they have in regards to the proposal.

Our clients are committed to the preparation and provision of further servicing information following initiation of the proposed Scheme Amendment. It is noted that all risk lies with the proponents if they are unable to gain the required servicing of the site.

Environmental Issues

It is noted that only a preliminary environmental report on contamination has been prepared for the site and that further reporting on flora and fauna will be required by the DBCA/EPA during the Amendment advertising and agency assessment process.

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Again this is a difficult issue for our clients from a financial point of view as the reporting that will be required by the DBCA/EPA to support the Amendment has been costed at between \$20,000-30,000. Our clients are aware that the Amendment will not be supported by the relevant environmental agencies without this reporting and as such are committed to providing this reporting once the Amendment has been initiated.

Developer Contributions

Our clients are happy to enter into a legal agreement with the City agreeing to pay applicable development contributions once the relevant DCP's have been prepared. We would however suggest that the City give significant consideration to the level of contributions required under the DCP for retirement living landuses.

Given the above, we request that the City Officers support our scheme amendment request and proceed to finalise its report to Council to initiate the proposed amendment. Should you require any additional information or wish to discuss this matter further, please do not hesitate to contact the undersigned on 9328 6411.

Yours faithfully

BURGESS DESIGN GROUP

MARK SZABO
ASSOCIATE DIRECTOR

Enc

- Correspondence from Hall and Prior Pty Ltd



HALL & PRIOR
Health & Aged Care Group

Mr Mark Dixon
Director Planning & Sustainability
Civic Centre
23 Dundobar Road
Wanneroo WA 6065
12 Anderson Road

11 June 2018

Dear Mark,

RE: PROPOSED AMENDMENT NO. 163 TO CITY OF WANNEROO DISTRICT PLANNING SCHEME NO. 2

I am writing to you in relation to the meeting Brian Cregg, Frank Margaria and Mark Szabo held with yourself and your planning officers on the 8 June 2018.

I appreciate you and your team taking the opportunity to meet to discuss your concerns in relation to Proposed Amendment No. 163 (**Proposed Amendment**), which we understand include:

1. The pattern of development proposed, particularly movement networks (vehicular, cyclist and pedestrian).
2. The provision of servicing infrastructure is logical and economically efficient, and written confirmation is provided by all key servicing agencies (in respect to water, wastewater, power, gas and communication) that arrangements are in place for the immediate provision of those services.
3. The development of the area will not have significant impacts on the environment and natural resources which cannot be appropriately managed, including Federal government requirements for endangered species such as Carnaby's Cockatoo. (Applications are to be supported by any Federal environmental approvals which may be required)
4. The proposed development will be adequately served by public transport and written confirmation of this is provided by the relevant agencies.
5. A binding legal agreement is in place between the landowner(s) and the City whereby the landowner(s) agree to pay all applicable development contributions, once the relevant district and local level DCPs take effect, and adequate security is provided to secure those obligations.

As discussed at the meeting, Hall & Prior and project partner Civcon are committed to the project and are keen to work with your department to achieve a positive outcome for the City of Wanneroo. Hall & Prior and Civcon, are committed to addressing the above-mentioned concerns and will be required to do so in any event in order for WAPC to approve the Proposed

Amendment. Burgess Design Group who are managing the amendment process on our behalf have responded to these items in a separate letter which is attached with this document.

However as you will appreciate these items take time to complete and as mentioned at the meeting timing is now a pressing issue for this project due to the Federal Government's recent announcement regarding Aged Care Approvals Round (ACAR). Hall & Prior intends to apply for required residential aged care licenses for the Wanneroo Retirement and Aged Care Precinct in this upcoming 2018-19 ACAR. The 2018-19 ACAR may be the next opportunity to secure required aged care licenses for a number of years and will determine the overall timeframe for completion of the project.

By way of background, the residential aged care industry is licensed and regulated by the Commonwealth Department of Health (DOH). In order to operate a residential care facility, an approved provider requires the DOH to allocate licenses to admit residents and receive Commonwealth funding. The licenses are awarded through the competitive ACAR process. The ACAR round is held usually every 18 months to 24 months with the last ACAR round closing in September 2016 and results announced in May 2017.

The DOH has recently announced that the next ACAR will open on 2 July 2018 and close on the 14 August 2018. DOH has advised that 13,500 residential aged care licenses will be awarded nationally, including 3,295 specifically allocated to WA (*See Appendix 1*). The DOH is expected to take approximately 8 months to consider all applications before announcing an award of licenses to successful applicants.

The last 2016-17 ACAR round allocated 1,623 places (~16% of national allocation) to WA. The current 2018-19 ACAR includes double the number of places allocated to WA (being ~ 24% of total places nationally). This increase in the number of licenses allocated to WA highlights the significant need and demand for new aged care places across the state.

As discussed previously at our presentation to the Elected Members on the 29 January 2018, the City of Wanneroo has a pressing need for Aged Care. In the 2016/17 ACAR, the Wanneroo SA3 was identified as Category 1 – Highest Need area (*See Appendix 2*). As these developments can take 4 to 6 years to complete and licenses only awarded every 18 to 24 months, the need for places in the City will only increase therefore putting increased pressure on current facilities and the health network in the region.

As the ACAR process is a highly competitive process, we are seeking to put forward as strong an application as possible in order to secure the licenses we require. The DOH has provided guidance around items they consider when evaluating applications and one of the key criteria is the consideration of supportive and compliant zoning on the land.

Hall & Prior believe that having the approval and support of the Council for the Proposed Amendment will greatly increase the chances of securing the required licenses for the Wanneroo Retirement and Aged Care Precinct.

As discussed at our meeting with the City, Hall & Prior and Civcon believe that we can develop a world class Retirement and Aged Care Precinct within the City of Wanneroo. This development will have multiple benefits to the City including:

- Major Strategic long term community asset providing senior's accommodation and care, employment and development will be catalyst for further development and economic activity for the region;
- Major Capital Investment of \$80m to \$100m in the City of Wanneroo;

- Ongoing Employment to up to 300 staff across Home Care, Residential Aged Care and the Retirement Village;
- Provide Care to over 400 local residents across Home Care, Residential Aged Care and the Retirement Village; and
- Annual Rates and Taxes of \$100-150k for the City of Wanneroo (Hall & Prior is a for profit organisation).

To reiterate, Hall & Prior are committed to resolving the issues identified by your department in respect of the Proposed Amendment. In the interests of time and in consideration of the upcoming ACAR, we'd kindly ask that required investigations and appropriate resolution occur in due course and doesn't impact the ability of the Council to support this much needed development within the City of Wanneroo.

Please feel free to contact me to discuss any further queries you have in relation to the Proposed Amendment.

Yours sincerely,



David Holmes

Director Corporate Development
Hall & Prior Health and Aged Care Group

APPENDIX 1

**INSTRUMENT TO DETERMINE THE NUMBER OF PLACES
AVAILABLE FOR ALLOCATION IN 2018-19 & 2019-20**

AGED CARE ACT 1997

Determination under subsection 12-3(1)

I, **KEN WYATT**, Minister for Aged Care and Minister for Indigenous Health, acting under subsection 12-3(1) of the *Aged Care Act 1997*, **DETERMINE** the number of places, by care type, available for allocation in each state and territory in the 2018-19 and 2019-20 financial years as set out in the following tables:

(A) Aged care places available for allocation in each state or territory

State or territory	2018-19 Residential aged care	2018-19 Short-term restorative care	2019-20 Short-term restorative care
New South Wales	3,349	100	135
Victoria	1,415	90	105
Queensland	4,289	80	85
Western Australia	3,295	35	40
South Australia	431	15	28
Tasmania	212	10	12
Australian Capital Territory	360	10	10
Northern Territory	149	10	10
Total	13,500	350	425

(B) Aged care places available for allocation in any state or territory

Flexible
150

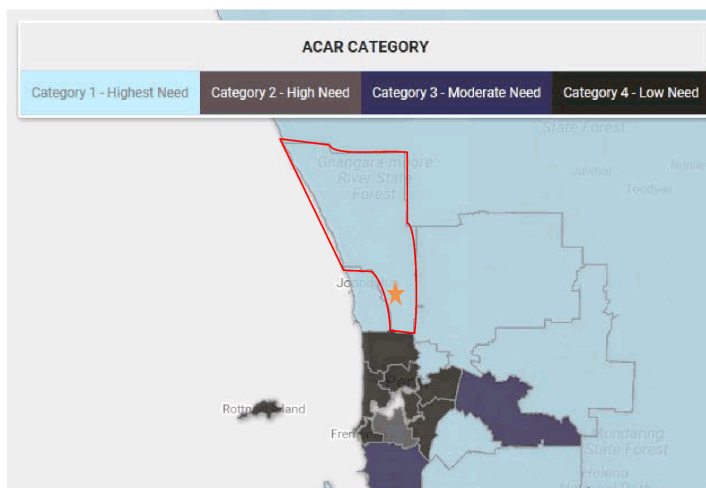
Dated 23 day of April 2018



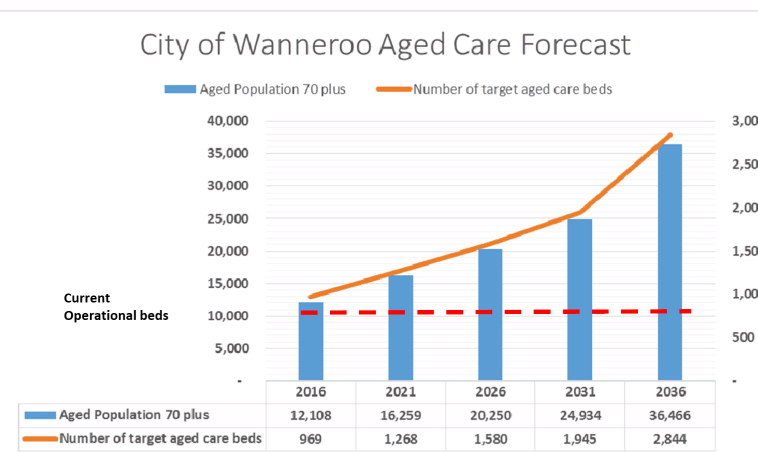
The Hon Ken Wyatt AM, MP
Minister for Aged Care
Minister for Indigenous Health

Appendix 2 - City of Wanneroo Aged Care Services – Demographics, Supply and Demand

- Residential Aged Care places are awarded by the Commonwealth through an annual ACAR tender process
- In the last ACAR tender round for 2016-2017, Wanneroo was identified as a Category 1 – High Need region with specific need for Dementia and Respite services.
- The Commonwealth regulates the number of places available based on a target ratio of 80 beds per 1000 residents aged over 70 in 2016 to 78 beds per 1000 in 2021 people aged over 70.
- Based on the forecast demographics for Wanneroo, the aged population by 2026 will increase by 67% with the City of Wanneroo requiring 1,580 residential aged care beds online.
- Based on 30 June 2017 Aged Care Service List, there are 819 operational beds in the City. The City therefore has current shortfall in beds required which will escalate over the next 5 to 10 years.



Source: Department of Health



Source: forecast.id.com.au

Attachment 5 - Assessment of Amendment No. 163 against the Draft LPP 5.3 Requirement

Draft LPP Clause 1.5 Requirement		Administrations response
A	The proposal mainly involves uses other than single house suburban residential development, and it is satisfactorily demonstrated that a need for these uses exists which justifies the progression of the planning and development of the subject land prior to approval of the relevant DSP, LSP, and district and local-level DCPs, which would otherwise be required under this policy.	Criteria met. Administration notes the need for housing opportunities for the aging population and note the long lead times which may be associated with funding and development of Retirement Villages and Nursing Homes.
B	The subject land adjoins existing developed urban land, or land that is proposed for future urban development under an approved Local Structure Plan, and represents a logical expansion of the urban area.	Criteria met. The subject site is located across Steven Street from land zoned Residential R20 under DPS 2 and Agreed Structure Plan No. 5. It is therefore considered that this land is a logical expansion of the urban area.
C	The subject land is within close proximity to the Wanneroo Town Centre.	Criteria met. The subject site is located approximately 1.5km from the Wanneroo Town Centre which is considered to meet the policy criteria.
D	Provision of plans showing the proposed form of development of the subject land, and it being satisfactorily demonstrated that this form of development will not compromise the orderly and proper planning and development of the area, including the subsequent preparation of a DSP and Local Structure Plan (LSP) for the relevant area, in the following respects;	
Di	The type of uses proposed.	Criteria not met. The Concept Plan (Attachment 3) for the subject land included in the application shows all of the subject land being developed for the proposed uses. This means that the land use, and specifically the form of the land use, would not allow later modification to address any future issues.
Dii	The pattern of development proposed, particularly movement networks (vehicular, cyclist and pedestrian).	Criteria not met. The subject site abuts Dundobar Road which is subject to future widening. The exact extent of this widening has not been established. Notwithstanding, it is possible to condition the need for Dundobar Road be assessed to

		determine the ultimate width, and therefore the required land to be protected. This would need to be done prior to the lodgement of any development application.
Diii	Future infrastructure provision.	See comments for Dii for the upgrading of Dundobar Road.
E	The provision of servicing infrastructure is logical and economically efficient, and written confirmation is provided by all key servicing agencies (in respect to water, wastewater, power, gas and communication) that arrangements are in place for the immediate provision of those services.	Criteria not met. While Administration has had discussions with Water Corporation no other information has been provided to identify that servicing can be provided for on site. Notwithstanding, it is possible to condition that written confirmation is provided from the Water Corporation to ensure that there is immediate provisions of water supply and wastewater to the subject site. This would need to be done prior to the lodgement of any development application.
F	The proposed development will be adequately served by public transport and written confirmation of this is provided by the relevant agencies.	Criteria not met. No information has been provided from the Public Transport Authority. Notwithstanding, the site is abutting an existing public transport route (389 along Steven Street) and therefore it is considered that the lot will be adequately serviced by public transport.
G	A binding legal agreement is in place between the landowner(s) and the City whereby the landowner(s) agree to pay all applicable development contributions, once the relevant district and local level DCPs take effect, and adequate security is provided to secure those obligations.	Criteria not met. No legal agreement has been entered into. Notwithstanding the applicant has advised willingness to undertake such an agreement which can be conditioned prior to the lodgement of any development application.
H	The proposal will not result in land use conflict, and is not within any identified buffer area required for uses such as extractive industries, poultry farms and mushroom farms.	Criteria met. A nursery abuts the eastern boundary of Lot 28 Belgrade Road, however as the application report advises, any buffering issues arising from this can be dealt with on an interim basis prior to the broader area urbanising. It may be noted that the site of the former Crown Mushrooms operation is approximately 300m to the east of the subject land. While the Crown Mushrooms property is the subject of a current planning approval that could in theory allow the mushroom farm to recommence operation, the planning approval was issued on 23 August 2016, and includes a footnote that if the development is not substantially commenced within 2 years of 23 August 2016 (i.e. 23 August 2018), then the approval lapses.

		Given that substantial works are required to enable the operation to recommence under the current approval, and there has been no indication to-date that the current owner has any interest in doing these works and recommencing the operation, it is reasonable to assume that the mushroom farm site no longer presents any constraint to development of nearby land.
I	The development of the area will not have significant impacts on the environment and natural resources which cannot be appropriately managed, including Federal government requirements for endangered species such as Carnaby's Cockatoo. (Applications are to be supported by any Federal environmental approvals which may be required)	Criteria not met. The subject site is covered by approximately 2.3ha of remnant vegetation and sufficient assessment has not been provided to address this issues. Notwithstanding, it is possible to condition that a detailed assessment be undertaken and any relevant vegetation be protected if required. This would need to be done prior to the lodgement of any development application.
J	The subject land is accessible by public roads.	Criteria met. The subject site is surrounding by Dundabar Road, Steven Street and Belgrade Road.