



**Minister for Planning; Culture & the Arts
Government of Western Australia**

Our Ref: 33-26236
Your Ref: EV.044.140814.LET.001.JD (A462238)

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Mr ~~O'Brien~~ *Simon*

**STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS - PETITION
NO. 44 - OPPOSING MRS AMENDMENT 1266/57 - ROSEHILL GOLF COURSE
REDEVELOPMENT**

Thank you for your letter of 14 August 2014 advising that the above petition was tabled in the Legislative Council and referred to the Standing Committee on Environment and Public Affairs.

You advise that the Committee is undertaking preliminary enquiries and requests advice on the petition and submissions from the principal petitioner and tabling Member.

In relation to the grievances listed in the petition, I attach information to assist the Committee in their consideration of this matter.

I appreciate the Committee raising this matter with me and trust this detailed explanation is of assistance.

Yours sincerely

**JOHN DAY
MINISTER FOR PLANNING;
CULTURE AND THE ARTS**

Att.

08 SEP 2014

STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS; PETITION NO. 44 - MRS AMENDMENT 1266/57 - ROSEHILL GOLF COURSE

“The MRS Amendment was determined as “minor”, and should have been “major”. We believe the intention is to “fast track” the amendment for less transparency to the public and bypass scrutiny from both Houses of Parliament.”

The *Planning and Development Act 2005* (P&D Act) allows for amendments to the Metropolitan Region Scheme (MRS) to be processed as either "minor" or "major" amendments depending on whether they are considered to constitute a substantial alteration to the Metropolitan Region Scheme (MRS) or not. *Development Control Policy 1.9 - Amendment to Region Schemes* (DC 1.9) sets out the criteria for deciding whether the “major” or “minor” process should be followed. The criteria relate to a variety of matters, not all of which relate to every amendment. The Western Australian Planning Commission (WAPC) is responsible for making this decision.

The WAPC determined that this amendment be processed as a “minor” amendment, for the following reasons:

- The size and scale of the proposed amendment, in the context of the Perth Metropolitan Region, is not considered regionally significant. Accordingly, it does not represent a regional change or substantial alteration to the planning strategy or philosophy for that region. Further, in this context it is considered unlikely to have an adverse impact on the surrounding locality;
- The subject land has been identified in *Directions 2031 and Beyond* and the draft *Outer Metropolitan Perth and Peel Sub-Regional Strategy as an Urban Expansion Area 2011 – 2015*. As both documents were subject to public consultation in 2010 for a period of three months, the proposal is already known in the community and is not considered to warrant the higher levels of consultation within the “major” amendment process;
- At the time of advertising, the proposed amendment was consistent with draft *State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport* (SPP 5.1); and
- The City of Swan and State Government agencies agreed to the initiation of the proposed amendment including the Environmental Protection Authority (EPA) (subject to resolution of various issues at later stages of the planning and development process).

Other relevant matters included: that the WAPC was aware that the landowners intended ceasing their golf course operations, thereby leaving it vacant and requiring a new appropriate use to be considered; that the surrounding Urban zoned land is occupied by low density residential neighbourhoods similar to what is being proposed for the subject land (that is, there is no major change of land use proposed than already exists in the locality, such as industrial development or a shopping complex); that the land can be serviced by the required infrastructure and that the proposal cannot be considered complex in nature (i.e. from Rural in the MRS to Urban, being consistent with the surrounding zoning and therefore compatible with it).

Further to this, the amendment was referred to the State Steering Committee (SSC) for the Strategic Assessment of the Perth and Peel Regions (SAPPR). This Committee considers a number of matters relevant to the strategic assessment of Region Scheme amendments which may impact on the progression of the North-East Structure Plan (Structure Plan) and associated SAPPR. The SSC recommended that the proposed amendment continue through the planning system given it was unlikely to impact on the Structure Plan / SAPPR.

The "minor" MRS amendment process is provided for in the planning legislation, accordingly there is no implication that when it is used to administer an MRS amendment, that this constitutes a "fast track" process or an attempt to "bypass" Parliament.

Although any applicant is of course free to argue that a proposal be processed as a "minor" or "major" amendment, the decision is made by the WAPC, not the proponent.

"Land use historically is as a golf course for 50+ years, providing health and social benefits for the eastern region."

The golf course was a private recreational facility which the owners have closed, leaving the land vacant. The golf course was not owned or operated by the State Government.

The proponent has advised that it is intended that approximately 20% of the proposed amendment area will be provided as public open space (POS). This is more than the usual 10% POS requirement in relation to residential subdivision proposals. It should be noted, however, that the provision of POS will be given further detailed consideration by the City of Swan and WAPC in future stages of the planning process.

On 7 April 2014, the EPA determined that the proposed amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986*. The EPA provided advice on terrestrial fauna and advised that it could be adequately managed, where appropriate, through future detailed planning processes and in consultation with the Department of Parks and Wildlife, Department of Water and other relevant agencies. The WAPC relies on the expert advice of specialist agencies such as the EPA, and accepts this advice in good faith.

"Until the current submission period, no member of the public or affected landholder was notified or consulted."

Although the landowner is not required to consult with the community, I am advised that the proponent has initiated its own consultation process to inform and engage with the community on the development of the subject land.

The MRS amendment process is undertaken in accordance with the P&D Act, with advertising of the amendment for public inspection and invitation for submissions regulated under section 57 of the P&D Act.

The proposed amendment was advertised for public submissions for a minimum of 60 days, from 27 May to 1 August 2014. A notice was placed in *The West Australian* and a local newspaper circulating in the district. The amendment was on display at the City of Swan, Shire of Kalamunda, WAPC offices, State Reference Library, and was available to view on the WAPC's website.

The Department of Planning and the WAPC do not publicly release proposals they have received to amend the MRS, until the proposal has been considered and initiated by the WAPC, and then considered by the EPA in terms of whether it requires a formal environmental assessment. The WAPC then releases an *Amendment Report* for public advertising which presents the proposal in a form it considers acceptable and appropriate.

Prior to these steps occurring, the amendment (as received from a proponent) has no formal status, has not undergone any preliminary comment from other State Government agencies to assist in considering its acceptability and may not necessarily be in a form which the WAPC (and EPA) consider appropriate for adoption and public advertising.

Accordingly, the public is not advised of proposals to amend the MRS separately to the process required by legislation outlined above.

Further, releasing proposed MRS documentation from proponents prior to the above processes occurring would mean that the public and State Government agencies would be commenting on a proposal that may not even be initiated by the WAPC or accepted by the EPA.

“The proposal places 600+ homes under the flight path of land historically a noise buffer zone safeguarding Perth Airport.”

The proposed amendment area has not been identified in any formal sense by government as a “buffer” to Perth Airport. However, the Australian Noise Exposure Forecast (ANEF) system as outlined in draft SPP 5.1 has the effect of creating a graduated noise buffer framework around the entire airport, including reference to acceptability or otherwise of residential development at various locations.

As the proposed amendment area is located in the vicinity of Perth Airport, the provisions of draft SPP 5.1 are relevant to the zoning and future development of the site. The proposed amendment request was assessed against the provisions of draft SPP 5.1, and in February 2014, the WAPC resolved to initiate and advertise the proposed amendment.

Draft SPP 5.1 is the only government policy which provides land use guidance for rezoning land within the vicinity of Perth Airport. The Policy states that the airport and its ongoing development needs to be recognised in the planning of the region, given its importance to Perth and Western Australia.

Draft SPP 5.1 depicts the majority of the amendment area as being suitable for residential development, as it is located outside the 20 ANEF contour. Draft SPP 5.1 states that there is no restriction on zoning or residential development within this area.

A small area of the north-western portion of the site is located between the 20 and 25 ANEF contours. Draft SPP 5.1 states that where residential development is proposed, maximum density should be limited to R20 development. It is also stated that although recommended, noise insulation is not mandatory for residential development within these ANEF contours. A notice on title advising of the potential for noise nuisance is also recommended. In addition, information is recommended to be provided to prospective purchasers of noise-sensitive premises, about the potential for aircraft noise nuisance. The proponent has advised that the above non-mandatory requirements will be complied with.

Since the amendment was initiated and advertised, Perth Airport has released its 2014 Masterplan (and updated the ANEF contours). Please refer below for further discussion on this matter.

With reference to the 600+ homes figure, the number of homes to be built on the site is not determined or agreed to by the WAPC at MRS amendment stage.

The purpose of the MRS amendment process is to determine whether the land is suitable in a general sense for urban uses, which can include dwelling, POS, shops and community uses. The precise number of dwellings that will be permitted will be determined at later stages of the planning process, such as the local town planning scheme amendment and structure planning stages (both subject to separate public advertising periods) and the subdivision approval stage. Further, the form and type of construction of housing will be considered by the City of Swan at later stages of the planning process and will need to conform to whatever the applicable building standards are.

“Draft State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport is a draft Policy, premature to make decisions until adopted and aligned with the WA State Aviation Strategy, National Airports Safeguarding Framework and reviewed AS2021.”

The Perth Airport's draft 2014 Masterplan was released for public consultation in July 2014, after this amendment was initiated by the WAPC and advertised. Perth Airport was contacted during the preliminary referrals process and advised it was preparing this draft Master Plan (and associated ANEF contours). Perth Airport raised concerns about the potential impact of noise from its operations and advised that should the amendment be approved, memorials on the titles would be required for all new lots. The 2004, 2009 and 2014 Masterplans prepared by Perth Airport identify the proposed 3rd (parallel) runway, with the relevant ANEF contour map reflecting the forecast noise impacts of the proposed runway to 2059.

The WAPC considered Perth Airport's preliminary advice, and resolved to support the initiation of the amendment in accordance with draft SPP 5.1, as it was the only government policy which provides land use guidance for rezoning land within the vicinity of Perth Airport. SPP 5.1 states that the airport and its ongoing development need to be recognised in the planning of the region, given the importance to Perth and Western Australia.

Perth Airport advised that the National Airports Safeguarding Framework (NASF) was prepared to provide guidance to various levels of government decision makers to manage the impacts of noise around airports. The State Aviation Strategy (SAS) is aimed at supporting the economic and social development of WA through the provision of safe, affordable, efficient and effective aviation services and infrastructure.

Therefore, the ANEF contour system remains the only metric certified for land use planning purposes in accordance with AS2021 (which is being reviewed). The WAPC considered the advice from Perth Airport (and NASF and SAS), and on balance resolved to initiate and advertise the proposed amendment.

At this stage, the Department of Planning is considering all submissions on the amendment, before a recommendation is made to the WAPC and subsequently presented to me for a final determination.

The WAPC noted that further consideration of Perth Airport's 2014 Masterplan (and any other associated considerations) would be given, prior to the WAPC's final determination of the amendment. This gives the WAPC the option to modify the amendment and exclude any proposed area of Urban zone if this is appropriate.

"The Amendment Report is based on 2009 Airport Masterplan for noise contours which is obsolete."

See responses above.

"Perth Airport's objection and impact of the proposed 3rd runway was not taken into consideration"

See responses above.

With reference to the letter of 10 July 2014 by Mr John Squires:

- All the matters referred to are already addressed above in the responses to the grievances;
- No comments are made on the actions or statements of various parties referred to by Mr Squire (such as City of Swan, surveyors or the proponents of the amendment) as they are not under the control of, or responsible to, the Department of Planning, WAPC or myself; and
- Contrary to Mr Squire's advice, this MRS amendment proposal has followed legislative requirements, as well as all the usual administrative practices associated with MRS amendment proposals.

As an observation, it appears that many of Mr Squire's comments arise from a lack of knowledge of the planning process as it applies to MRS amendment proposals as well as some confusion as to which parties are responsible for what actions and are

part of the formal process of State Government consideration of MRS amendments. For example, the proponents' actions in planning ahead for their development and the information they may provide to the community is their responsibility. In this regard, departmental officers are freely available to discuss with the public the planning system in general, and such information about this specific proposal as may not be confidential, at various stages of the planning process. I am advised that several members of the public have taken advantage of this service provided by the Department of Planning.

The following comments on the letter dated 25 July 2014 by the Hon Alyssa Hayden MLC are provided:

1. As described above the proper legislative processes, as well as WAPC policies and departmental practices have been applied to this MRS amendment proposal.
- 2 and 3. The WAPC will take into account the most up to date and appropriate noise impact information and policy documentation related to Perth Airport when considering the amendment for a final recommendation to me. This will be documented in the final report on the proposed amendment. This aspect of the assessment of the proposal has been and will remain public knowledge.

With respect to the letter dated 28 July 2014 from Ms Sandra Bransby, General Manager, Rosehill Waters, to the Hon Simon O'Brien MLC, please be aware that the letter expresses Ms Bransby's comments and was not prepared with, or in the knowledge of, either the Department of Planning or the WAPC.