

Enquires: Alexander Petrovski – 9237 9268
File: A/3894

15 April 2020

Honourable Matthew Swinbourn MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

By email to: env@parliament.wa.gov.au

Dear Hon Mr Swinbourn

PETITION No. 146 – SUBIACO APPROVED LOCAL PLANNING SCHEME NO. 5

I refer to your correspondence dated 2 April 2020 seeking comment on the terms of Petition No. 146 – Subiaco Approved Local Planning Scheme No. 5 and the submissions from the principle petitioner and tabling member. Thank you for the opportunity to respond.

Specifically, the petition requests the following:

- *Support the rejection of the LPS5 outcome as approved by the Minister in December 2019.*
- *Support the LPS5 plan proposed by the City of Subiaco Council at its 18 June 2019 and 23 July 2019 meetings.*

The progression of the City of Subiaco Local Planning Strategy (the Strategy) and Local Planning Scheme No. 5 (LPS 5) has been a comprehensive and emotive process for the City's officers, elected members and the community. The City has followed the relevant legislative processes which has resulted in the finalisation of the Strategy and LPS 5 in February 2020.

On 7 March 2019 the City responded to Petition No. 096 relating to LPS 5 (**attached**) which details the robust community consultation undertaken and Council's adoption of a modified Strategy and LPS 5 at its 7 February 2019 Special Council Meeting.

The following milestones have occurred since the City's letter dated 7 March 2019.

- The modifications to the Council adopted LPS 5 were advertised for public comment from 15 February to 16 April 2019.
- At its 18 June 2019 Ordinary Council Meeting, Council considered 298 submissions on the modifications to LPS 5 and resolved to recommend additional modifications to the Western

Australian Planning Commission (WAPC) which reduced the residential density of a number of lots in LPS 5.

- The Strategy and LPS 5 were forwarded to the WAPC for consideration on 19 June 2019 in accordance with legislative requirements.
- At its 23 July 2019, Council resolved to recommend further changes to reduce the density of an additional 15 lots in LPS 5. This recommendation was provided to the WAPC on 30 July 2019.
- The Statutory Planning Committee of the WAPC considered the Strategy and LPS 5 at its 26 November 2019 meeting. City of Subiaco representatives (Chief Executive Officer, Mayor and Manager Planning Services) made a deputation at the meeting.
- The City received the WAPC's decision on the Strategy on 13 December 2019 and the Minister for Planning announced her decision on LPS 5 on 18 December 2019. The City advised Elected Members, community members everyone who made a submission about the decisions on the Strategy and LPS 5 on the day of the Minister's announcement of her decision.
- The modified Strategy and LPS 5 were forwarded to the WAPC on 23 January 2020 in accordance with legislative requirements.
- LPS 5 was gazetted on 21 February 2020 and finalised. The Strategy was endorsed by the WAPC on 28 February 2020 and finalised. All submitters were notified of the finalisation of both documents on 24 March 2020.
- The finalised Strategy and LPS 5 were similar to the modified versions adopted by Council in February 2019.

The planning matters raised in the letter from Mr Peter McDonald dated 17 March 2020 as addressed as follows.

In preparing a report to the 7 February 2019 Special Council Meeting and in response to the submissions received, the City recommended that blanket density be removed and replaced with a targeted density increase approach. Subiaco East was also identified as the main focus for increased density. This approach was consistent with the general community feedback received in submissions during the advertising period.

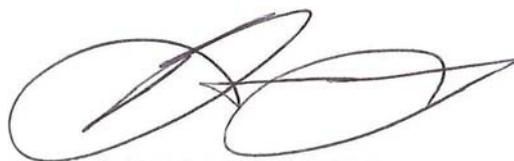
Density increases around the Dalglish and Shenton Park railway stations were selected for a relatively small number of lots which generally are located on main roads; avoid areas of unique heritage and streetscape character; and are already subject to higher density codes or redevelopment. A minor density increase was proposed for lots in close proximity to the Onslow Road local centre which will likely result in town house development.

Minor increases in density near railway stations and activity centres was considered to be consistent with general planning principles, the applicable planning framework and the responses received in submissions during the advertising period for the Strategy and LPS 5.

The City has established a Community Working Group to inform the preparation local planning policies which will consider important built form issues such as building heights, setbacks, plot ratio and other matters to ensure that future development positively contributes to Subiaco's unique amenity and character.

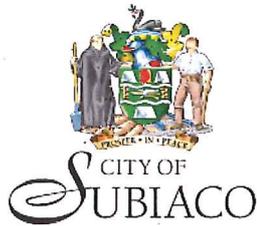
Should you have any queries regarding the above please contact myself or Alexander Petrovski, Manager Planning Services on 9237 9268 or by email: alex@subiaco.wa.gov.au.

Yours sincerely



ROCHELLE LAVERY
CHIEF EXECUTIVE OFFICER

Attachment: City of Subiaco comment into Preliminary Inquiry into Petition No. 096 - Draft LPS 5 and Strategy



All communications should be directed to the
Chief Executive Officer

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Email: city@subiaco.wa.gov.au Website: www.subiaco.wa.gov.au

Enquiries: Alexander Petrovski (9237 9268)
File: A/2347-02

7 March 2019

Hon Matthew Swinbourn MLC
Parliament House
4 Harvest Terrace
WEST PERTH 6005

Attn: Alex Hickman

Dear Hon Mr Swinbourn

PETITION NO. 096 – CITY OF SUBIACO DRAFT LOCAL PLANNING SCHEME NO. 5 AND DRAFT LOCAL PLANNING STRATEGY

I refer to your correspondence dated 14 February 2019 seeking comment on the terms of Petition No. 096 – Subiaco Draft Local Planning Scheme No. 5 and Draft Local Planning Strategy and the submissions from the principle petitioner and tabling member.

Specifically, the petition requests the following:

- *Support the rejection of draft LPS 5*
- *Support the pausing of draft LPS until the Subi East Masterplan is released by the MRA next year, the population forecast review is complete and the planning system review is complete.*
- *Investigate the process by which the WAPC increased the dwelling density in draft LPS 5 by ~50% over and above the Perth and Peel @ 3.5million population targets, and its justification for, and the validity of, this action.*
- *Support the subsequent review and modification of the LPS followed by the development a new draft LPS 5*
- *Support the advertising of the new draft LPS and new draft LPS 5 for public comment.*

The City of Subiaco (the City) has followed the relevant legislative processes in preparing a revised Local Planning Strategy and Local Planning Scheme No. 5 which includes the careful consideration of community feedback. The City will continue to follow the legislative process in providing a recommendation to the Western Australian Planning Commission (WAPC) and Minister for Planning.

Background

In Western Australia, land use and development is primarily governed by the *Planning and Development Act 2005* (Act) and the legislation delegates responsibility to local

government in the preparation of Local Planning Strategies and Local Planning Schemes. The *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations) provides the legislative framework for local government to prepare a Strategy and Scheme.

The local government is responsible for undertaking certain steps in the preparation of a Strategy and Scheme; however, the State Government through the WAPC and Minister for Planning is the determining authority. A brief summary of the process required in preparing a Strategy or Scheme is provided below.

1. Local government prepares draft Strategy or Scheme;
2. WAPC reviews draft Strategy or Scheme and can require modifications prior to granting consent to advertise;
3. Local government advertises Strategy or Scheme as required by WAPC;
4. Local government collates submissions received on Strategy or Scheme and makes a recommendation to the WAPC;
 - a. For the Scheme, the local government may recommend:
 - i. To support the Scheme as advertised;
 - ii. To support the Scheme subject to modifications to respond to issues raised during public advertising. *If the modifications are considered to be significant, the local government may decide to advertise the modifications for additional public feedback;* or
 - iii. To not support the Scheme;
 - b. For the Strategy, the local government may recommend:
 - i. To support the Strategy as advertised; or
 - ii. To support the Strategy subject to modifications to respond to issues raised during public advertising.
5. The WAPC considers the Strategy and makes a decision.
6. The WAPC considers the Scheme and makes a recommendation to the Minister for Planning. The Minister for Planning makes a decision on the Scheme.

Local planning strategies set the long term direction for future development generally between 10 to 15 years. Local planning schemes provide development and zoning controls for the shorter term and are generally reviewed every five years.

WAPC Consideration of Draft LPS 5

It is noted that the WAPC generally increased the R-Codes and imposed higher dwelling densities when requiring that LPS 5 be modified prior to advertising. The agenda and minutes of the WAPC Statutory Planning Committee are confidential and the City is not in a position to comment on the validity of the decision of the WAPC to require additional density in Subiaco. It is noted that the density increases were generally within the areas identified as Station Precincts in the *Central Sub-Regional Planning Framework*.

Community Feedback

During public consultation on the draft Strategy and draft LPS 5 the City received a petition from the submitter of Petition No. 096. Consistent with the relevant legislative requirements the petition was recorded as a public submission and considered with due regard. The petition requested that draft LPS 5 be rejected with a view to obtain an additional 24 months to draft a new scheme that protects the historical neighbourhoods of the City of Subiaco.

The City carefully considered over 1,300 public submissions on the draft Strategy and LPS 5 which informed Council's decision to recommended modifications for both documents. The modifications primarily seek to protect the historical neighbourhoods of the City. Further information can be found in the agenda documents and [minutes](#) for the Special Council Meeting of 7 February 2019.

The overwhelming community feedback sought to allocate density in appropriate areas, such as the Subiaco Town Centre and Subi East, to ensure that existing heritage and character areas of Dalglish and Shenton Park are retained. In light of the feedback, appropriate modifications have been undertaken to the Strategy and LPS 5. In preparing modifications to the draft Strategy and LPS 5, the City considered the 10 Urban Consolidation Principles in the *Central Sub-Regional Planning Framework*.

Subiaco East (Subi East)

At the same time as the City was progressing with the draft Strategy and LPS 5, the State Government announced a new vision for the area known as Subi East, seeking to accommodate at least 2,000 new dwellings for government controlled land (Subiaco Oval and Princess Margaret Hospital site) and 900 new dwellings for the private landholdings in this area. This area is under the planning control of the *Metropolitan Redevelopment Authority* under separate legislation from the Act.

Understanding that the Subi East area is outside of the planning jurisdiction of the City and draft LPS 5 provisions at this stage but will ultimately be normalised to the City, the City sought to incorporate Subi East into the City's draft Strategy as a targeted growth area for 2,900 dwellings.

Current Situation

The draft Strategy and LPS 5 were considered by Council at the Special Council Meeting on 7 February 2019. Council resolved to support the Strategy with modifications to address issues raised in the submissions. Council resolved to support draft LPS 5 with proposed modifications to address issues raised in the submissions and to advertise the modifications.

While some submissions sought that Council resolve to *not support* draft LPS 5, the content of most submissions articulated specific issues that were able to be addressed with modifications. The City did not consider it appropriate to recommend that Council

resolve to *not support* draft LPS 5 as the issues raised in submissions were able to be appropriately addressed by way of modification.

The Minister for Planning makes the final decision on LPS 5 and it was recommended that Council *support* LPS 5 subject to modifications to ensure the community's feedback through the public consultation process is appropriately considered by the WAPC and Minister through a modified LPS 5 document. Council also resolved to advertise those modifications for community comment.

Following advertising of the modifications and subsequent Council consideration, the City will submit the Strategy and LPS 5 to the WAPC. The WAPC and the Minister for Planning are required to give due consideration to all submissions and the petition submitted during public consultation prior to making a decision. Accordingly, the Minister for Planning has the option to support the modified scheme, support the scheme with further modifications or not support draft LPS 5.

Commencing a new Strategy and Scheme Process

The City is in a legislative process to finalise its revised Strategy and LPS 5. During this process, the City has undertaken all the necessary legislative steps and has conducted community consultation beyond the standard requirements of legislation.

The extensive feedback received from the community has informed modifications to the Strategy and LPS 5 which seek to protect and enhance existing neighbourhoods with desirable heritage and character values, to allocate density in appropriate locations and to continue to undertake detailed planning studies.

The WAPC and Minister for Planning will consider the modified Strategy and LPS 5 in due course, and the City does not intend to commence a new process for the Strategy and LPS 5 outside the review period of these documents of 15 and five years respectively.

Should you have any queries regarding the above please do not hesitate to contact myself or Alexander Petrovski, Manager Planning Services on 9237 9268 or alex@subiaco.wa.gov.au.

Yours sincerely



ROCHELLE LAVERY
CHIEF EXECUTIVE OFFICER