



Minister for Transport; Planning; Lands

Our Ref: 72-09905
Your Ref: Petition No. 040

Hon Matthew Swinbourn MLC
Chair
Standing Committee on Environment and Public Affairs
lcco@parliament.wa.gov.au

Dear Mr Swinbourn

CITY OF JOONDALUP – PETITION NO. 040 MULTI-UNIT DEVELOPMENTS

Thank you for your letter of 19 March 2018 regarding Petition No. 040, tabled in the Legislative Council and referred to the Standing Committee on Environment and Public Affairs (Committee).

You advise that the Committee is conducting preliminary inquiries and requests my comments on the petition and the submissions from the tabling Member. I note the petition seeks an immediate halt to all multi-unit and grouped dwelling applications above the R30 residential density coding within the Housing Opportunity Areas (HOA) identified in the City's Local Housing Strategy. The petition seeks to ensure that no approvals are granted until the Western Australian Planning Commission (WAPC) reviews the nominated areas and guidelines for multi-unit and grouped dwellings and undertakes community consultation in relation to the review. My response is set out below.

Planning for Future Growth in Metropolitan Perth

The State Government is committed to planning for and managing the future growth of the Perth and Peel regions. For more than 60 years, successive governments have sought to plan and manage the City's growth through strategic documents such as *Plan for the Metropolitan Region Perth and Fremantle* (1955), *Metroplan* (1990), *Directions 2031 and Beyond* (2010), and *State Planning Strategy 2050* (2014). In this respect, on 23 March 2018 the Government released the suite of *Perth and Peel@3.5million* strategic land use and infrastructure documents, including the *North-West Sub-regional Planning Framework*.

Accommodating an increasing population requires a different land use planning response to uncontrolled urban sprawl. Urban sprawl risks locating people in areas with poor access to employment opportunities and services and requires extensive infrastructure provision.

The *Perth and Peel@3.5million* suite of documents aim to integrate land use and

infrastructure, make better use of existing infrastructure (particularly public transport), and allow further development of transport networks, including METRONET. They seek to accommodate almost half of all new dwellings required for future growth in the metropolitan region, within existing urban areas, as infill development. The suite of documents establish dwelling targets for each local government area, including a minimum urban infill target. The *North-West Sub-regional Planning Framework* sets a minimum infill target for the City of Joondalup of 20,670.

Local government strategic planning (strategies, schemes and amendments)

Local planning strategies and local planning schemes are the key instruments available to local government to achieve its infill targets. The WAPC works with local governments to develop and update their local planning strategies and local planning schemes in order to give effect to urban infill targets. The process for preparing local planning strategies and reviewing or amending local planning schemes is set out in the *Planning and Development Act 2005* (the Act) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

The Act outlines the relevant considerations for the preparation and amendment of local planning schemes, which includes consideration of the various state planning policies. In this respect, *State Planning Policy 1 – State Planning Framework* includes sub-regional strategies such as the *North-West Sub-regional Planning Framework*. The Regulations require local governments to prepare a local planning strategy to inform a local planning scheme. A local planning strategy is to, among other things, set out the long-term planning direction, apply State or regional planning policy and provide the rationale for the zoning or classification of land.

In this respect, in 2012 the City of Joondalup prepared a Local Housing Strategy (LHS) to inform its Local Planning Strategy (LPS). The LHS identified certain areas as suitable for higher residential densities and classified these as Housing Opportunity Areas. These are discrete locations located in close proximity to key facilities such as activity centres and public transport services. The LHS was endorsed by the WAPC in November 2013.

In December 2013 the City initiated Amendment No. 73 to its District Planning Scheme No. 2 (DPS 2). The intent of the amendment was to implement the majority of the LHS recommendations, including increasing the residential density in the HOA. The amendment was approved by the (then) Minister for Planning and gazetted in February 2017.

In February 2016 the City resolved to initiate a new local planning scheme (draft LPS 3) that incorporated the same densities introduced into DPS 2 by Amendment No. 73. Draft LPS 3 was advertised, submissions considered and the scheme adopted by the City in June 2017. Following consideration and recommendation by the WAPC, draft LPS 3 is now before me for final determination.

The City has also initiated two amendments to DPS 2, being Amendment No. 88 (June 2017) and Amendment No. 90 (December 2017). These amendments propose to reduce the residential densities in the suburb of Duncraig (HOA 1) and are currently being advertised for public comment.

As a result, the City of Joondalup now has a number of statutory processes relevant to infill planning underway that propose inconsistent outcomes within one locality (Duncraig). As a result, it is unclear whether the City of Joondalup supports the development outcomes facilitated by Amendment 73 and reflected in LPS 3 or whether it seeks alternative outcomes through amendments to DPS 2.

It should also be noted that if I proceed to approve LPS 3, Amendments 88 and 90 will cease to have effect, as they relate to DPS 2.

Local Government Statutory Planning (consideration of development applications and subdivision)

The Act requires all local governments to maintain a local planning scheme which contains provisions governing the improvement, development and use of land. Once a local planning scheme (or an amendment to it) is gazetted, it becomes a statutory document with the force and effect of law.

The Act provides for local government to make decisions on development applications, while the WAPC determines subdivision applications. The Act and the Regulations also contain timeframes for determining applications, which is usually within 60 - 90 days of receipt of application.

If an application is not determined within the timeframe applicable to the application, it becomes a decision reviewable by the State Administrative Tribunal (SAT) and determination of the application falls within the jurisdiction of the SAT. The SAT reviews the decision by hearing de novo for the purpose of producing the correct and preferable decision.

'Halting' all multi-unit development applications

The Act and the Regulations do not allow for determination of development applications to be 'halted'. Where a local government is not supportive of an application, the Council may either refuse the proposal or defer its consideration. An applicant may then seek a review of Council's determination, via the SAT. The SAT takes the place of the decision-maker, considering the application in light of the Act, the Regulations, the current town planning scheme and any relevant policies.

It follows that if the City of Joondalup received an application for development, that was consistent with DPS 2 and relevant policies such as the Residential Design Codes, it is likely that this would be approved by the local government or SAT.

I am unable to intervene in what is effectively a local government development approval process.

Current Situation – City of Joondalup

DPS 2 is the City's current local planning scheme and has statutory effect. The scheme, and any amendments to it, have been prepared, advertised and adopted in accordance with the Act and the Regulation. The LHS and LPS that were endorsed by the WAPC informed Amendment No. 73 to DPS 2 and subsequently draft LPS 3.

Amendments 88 and 90 to DPS 2, which propose to reduce densities in the HOA 1, may be inconsistent with the endorsed LPS.

In light of the inconsistent outcomes contemplated by the City of Joondalup, I have recently written to the City seeking clarification of its position in relation to draft LPS 3. I have also requested that it consider undertaking a strategic review of strategic review of the City's infill planning that includes a thorough community consultation process.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a series of loops and a long horizontal stroke.

**HON RITA SAFFIOTI MLA
MINISTER FOR PLANNING**

18 APR 2018