

3.4 FINAL ADOPTION LPS 17 SCHEME AMENDMENT 93 - HAZELMERE VILLAGE PRECINCT

Ward: (Guildford Ward) (Statutory Planning)

Disclosure of Interest: Nil

Authorised Officer: (Executive Manager Planning)

KEY ISSUES

- Scheme Amendment No. 93 was initiated by the City on 26 September 2012 to allow changes in the City's Local Planning Scheme No.17 to give effect to the recommendations of the Council adopted Urban Housing Strategy in respect to a portion of the Hazelmere Residential Village area.
- The subject scheme amendment proposes to rezone areas zoned "Residential Redevelopment" to the 'Residential' and 'Residential Development' zones and revert the existing parks to 'Local Reserve - Recreation' under the Scheme. The 'Residential' zone has specified dual Residential Coding of R5/25 and R5/35.
- Amendment 93, in conjunction with Amendments 92 and 95 was advertised for 42 days from 24 April 2013 to 5 June 2013, with 34 submissions being received. 18 non-objections and 10 objections were received from affected landowners. Six government agencies made submissions, five with no objections, and one from Perth Airport objecting to the proposal.
- Perth Airport's objection relates to several properties the subject of this amendment being located within the 20-15 and 25-20 ANEF. The 20-15 noise contour is below the noise contour levels recognised under the relevant State Planning Policy and as such the submission made by Perth Airport in relation to the 20-15 ANEF has no valid planning basis. SPP 5.1 allows for density higher than R20 under the 25-20 ANEF subject to criteria. It is considered that the amendment meets these criteria and that a higher coding than R20 is warranted.
- Several submissions made in relation to the Structure Planning requirements within the 'Residential Redevelopment' and 'Residential Development' zones have merit. Structure planning within these areas is problematic due to fragmented land ownership. It is considered that inclusion of these areas within the 'Residential' zone with appropriate dual coded densities is more practical and will achieve the same objectives as Structure Planning. It is proposed to exclude the 'Residential Redevelopment' zoned properties from the amendment, and consider these in a separate amendment along with the 'Residential Development' zoned properties.

It is recommended that the Council grant final approval to Amendment No. 93 to Local Planning Scheme No.17, subject to modification to remove the properties zoned 'Residential Redevelopment', and forward the Scheme Amendment documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant final approval.

AUTHORITY/DISCRETION

Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning.

The *Town Planning Regulations 1967* (as amended) requires 42 days advertising period. Amendment No.95 was advertised for the specified 42 days period from 24 April 2013 to 5 June 2013.

Regulation 17(1) of the *Town Planning Regulations 1967* sets out the process for dealing with submissions received under the statutory advertising period. This is the purpose of this Report and attached Schedule of Submissions.

BACKGROUND

Applicant:		City of Swan
Owner:		Various
Zoning:	TPS -	Residential Development
	MRS -	Urban
Strategy/Policy:		Urban Housing Strategy

DETAILS OF THE PROPOSAL

Scheme Amendment 93 provides the statutory planning provisions to implement the strategies and recommendation identified within the City of Swan Urban Housing Strategy. This Amendment includes a modification to the Scheme map as follows:

1. Rezoning from 'Residential Redevelopment' to 'Residential' zone and 'Residential Development' zone the land as shown on the attached Scheme Maps.
2. Allocating a dual Residential Code of R5/25 and R5/35 to the land within the proposed 'Residential' zone as shown on the Scheme Map and to apply a Residential Code border to coincide with the respective dual code areas.
3. Reclassifying Lot 9963 on Plan 4539 West Parade and Lot 9964 Baker Street from the 'Residential Redevelopment' zone to 'Local Reserve - Recreation' as shown on the proposed Scheme Maps.

DESCRIPTION OF SITE

The subject lots are within a portion of land zoned 'Residential Redevelopment' located in the Hazelmere residential village area. This area is generally bounded by Bushmead Road and Stirling Crescent, Eric Street, lots on the east side of Wingate Avenue, lots fronting Mary Street and Anthea Street and the freight rail line in the west.

This amendment includes a modification to the scheme map to rezone the existing 'Residential Redevelopment' zone over the Hazelmere residential village area to a dual coded residential land use to the northern part of the village area. This is generally north of West Parade. The amendment also proposes to rezone the land to the south of West Parade Road and west of Mary Street to the 'Residential Development' zone.

SITE HISTORY/PREVIOUS APPROVALS

The residential redevelopment zone within Hazelmere was originally zoned Residential R20 under the former Town Planning Scheme No. 9. In 1999 – 2000, when the State Government Sewer Infill Strategy was implemented in this area, it resulted in land owners being able to pursue individual subdivision of their land. Due to the size and shape of the existing lots it became evident that the predominant form of subdivision being proposed was a battleaxe lot configuration. This would potentially create a subdivision with two crossovers per original lot, with the front dwelling/lot retaining a separate crossover and a second/new crossover being created with the battleaxe leg/accessway. The single residential dwellings on each lot did not require a planning approval prior to development and were not subject to any development design criteria or planning policy to control development. A proliferation of this form of battleaxe subdivision and development without any specific design criteria was not endorsed by the Western Australian Planning Commission (WAPC). Therefore Council considered that prior to further subdivision and development of the land under the Residential R20 code detailed structure planning needed to be undertaken within the area. Consequently, in August 2000, Council sought to initiate a Scheme Amendment (Amendment No. 382) to rezone this land in Hazelmere (in addition to land in Middle Swan) to a Residential Development zone, which would require comprehensive structure planning to be undertaken for the land prior to further subdivision or development of any individual land holding. However, after public advertising of Amendment No. 382, Council resolved in 2003 to not proceed with the amendment. This was due to the realisation that the large number of landowners/landholdings would be difficult to coordinate, and after consideration that the financial arrangement that is required for an equitable distribution of common infrastructure, was likely to hinder achieving a successful Structure Planning - Outline Development Plan for this area.

Notwithstanding Council's resolution to not proceed, the then Minister for Planning and Infrastructure sought to proceed with Amendment 382, with a modification. The modification required the introduction of provisions for a Residential Redevelopment zone and Development Contribution Areas into the Scheme Text and made a provision to rezone the land, the subject of Amendment No. 382, to a Residential Redevelopment zone (rather than a Residential Development zone). The Residential Redevelopment zone that was introduced within the former Town Planning Scheme No. 9 in 2005, then continued under the current Local Planning Scheme No. 17, which was gazetted in 2008 and which superseded TPS No. 9. In the last 12 years, since Amendment No. 382 was first initiated (August 2000) to remove the Residential R20 zone/code from this area, there has not been a structure plan successfully implemented over the Residential Redevelopment zoned land. As a result infill residential subdivision and development has not occurred. The lack of incentive by landowners to pursue structure planning originates from the difficulty to coordinate numerous landowners and the general low density R20 intent of the area. The low density over a portion of the land arises from the presence of the Perth Airport 20 - 25 Australian Noise Exposure Forecast (ANEF) contours and the WAPC State Policy to limit residential density on land affected by this ANEF with an R20 density applying, unless an increase in density is considered of strategic importance or to facilitate redevelopment of an area.

The City has not chosen to undertake the role to coordinate land owners and structure planning of this land. However, in the interest of encouraging landowners to undertake the structure planning process, the City engaged an independent planning consultant to address the Hazelmere Progress Association to explain and assist in understanding the structure planning process. The City also requested the Hazelmere Progress Association to survey landowners to determine their willingness to participate in a coordinated structure planning process. These actions did not result in the progression of any structure plans in the Residential Redevelopment zone area.

OTHER RELEVANT PREVIOUS DECISIONS OF COUNCIL

On June 13 2012 Council adopted the Urban Housing Strategy which has provided the impetus and direction for this amendment. This Scheme Amendment was initiated by Council for advertising at its 26 September 2012 Ordinary Meeting.

PUBLIC CONSULTATION

The City undertook a significant public consultation programme in respect to the Urban Housing Strategy which consisted of two parts; the Initial Community Engagement (November 2010 - January 2011) and the formal advertising/consultation (December 2011 - March 2012). The adopted Urban Housing Strategy rectified the concerns raised during this process relating to affordable housing, designing out crime and streetscape amenity.

Amendment 93, in conjunction with Amendments 92 and 95 was advertised for 42 days, with nine submissions being received. Letters to all affected landowners, notifying them of the Amendment were also sent. 18 non-objections and 10 objections were received from affected landowners. The concerns raised in the objections are discussed further in this report.

CONSULTATION WITH OTHER AGENCIES AND/OR CONSULTANTS

During the period of public comment the proposed scheme amendment was referred to Western Power, Public Transport Authority, Main Roads WA, Health Department WA, Water Corporation, Telstra, Swan River Trust, and the Department of Planning. At the conclusion of the advertising a separate referral was made to Perth Airport. Six Government agencies made submissions, five with no objections, and one from Perth Airport objecting to the proposal.

Perth Airport's objection relates to the properties the subject of this amendment being located within the 20-15 and 25-20 ANEF. This issue is discussed further in this report.

DETAILS

Urban Housing Strategy

The subject scheme amendment reflects the Urban Housing Strategy (UHS) adopted by Council on 13 June 2012. LPS17 is required to be amended to allow the intent and operation of the UHS within the specified Hazelmere Village Area. The rezoning of lots within the 'Residential Redevelopment' zone is required to facilitate the rezoning of an identified area in the residential locality of Hazelmere. The Infill strategy specifically refers to the current 'Residential Redevelopment' zone over a portion of land in Hazelmere and identifies the limitations of this zone with respect to not permitting grouped dwellings, multiple dwellings and single bedroom dwellings.

Proposed 'Residential' zoned lots and Dual Density Coding

The proposed reversion of the 'Residential Redevelopment' zone to the 'Residential' zone is considered to be a necessary and pragmatic reaction to the prohibitive nature of

diverse landownership which has constrained the promulgation of a structure plan for almost a decade. Consequently, and seemingly irrespective of any inclination on the part of landowners, no infill development has occurred and the area has remained single dwellings on large lots.

The proposed residential zone and the introduction of a dual density coding of R5/25 and R5/35 will enable lots to be more readily developed individually but subject to certain development criteria that will allow a greater control over the built form achieved. This will serve to protect the residential amenity of the existing area.

The R5 base coding represents the average density that lots within the area are zoned at, such that the minimum R5 density is 2000m².

The proposed higher codes of up to R25 and R35, as appropriate, are considered to provide sufficient incentive to encourage landowners to develop or subdivide, whilst having due regard for relevant planning strategies. The rezoning of lots to the upper coding of R25 or R35 is considered appropriate due to the strategic location of the Hazelmere lots. These lots are located between 1 - 1.5km away from the Woodbridge and East Guildford train stations and are within 2km of the Strategic Metropolitan Centre of Midland. The strategic location of Hazelmere is considered appropriate for higher density and is required to be strategically located to consider an increase in density within the 20-25 Australian Noise Exposure Forecast contours of Perth Airport. The R35 code represents the predominant higher code, which is proposed by the UHS for the majority of dual density codes across the City's residential areas. The R5/25 dual density code is applied to the land on the perimeter of the 'Residential' zoned land and is intended as a buffer or transition density.

Local Reserve - Recreation

Bruce Elliott Reserve (Lot 9963) and Hazelmere POS (Lot 9964) is currently zoned 'Residential Redevelopment'. The reversion of the lots as a 'Local Reserve - Recreation' under the Scheme will accurately reflect the current land use and long term intent of the site.

Proposed 'Residential Development' zone

The 'Residential Development' zone is proposed over 38 lots located south of West Parade, west of Mary Street and fronting Anthea Street which are currently zoned 'Residential Redevelopment'. These lots are predominantly long narrow lots and it was originally considered that their regular shape and alignment may more readily lend themselves to redevelopment via a structure plan. Closer review has led staff to reject this assumption, as the same complications of co-ordinated redevelopment and provision of shared infrastructure across multiple and separate landownership exists. A change from Residential Redevelopment zone to Residential Development zone will not alter these prohibitive circumstances therefore it is considered to be pointless to proceed with this aspect of the amendment. City staff are of the view that the reversion of this area of the Hazelmere town site to a Residential zone, similar to what is proposed for the balance of the area under this amendment, is more appropriate. However further precise consideration of a dual density coding is required having regard to the traffic capacity limitations of Anthea Street as a cul-de-sac. Accordingly it is recommended that this area be excluded from this proposed amendment and subject of a separate future amendment that will look more specifically at the development constraints posed by the existing road and assign a dual density coding reflective of this.

Residential Design Codes Minimum Site Areas

The amended Residential Design Codes (R-Codes) were gazetted on 2 August 2013. The 2013 R-Codes reduced the minimum site areas for several density codes. The site area for R5 was not amended, therefore there is no impact in respect of the base density code. The average site areas for R25 and R35 were not amended, therefore there is no impact on average potential development.

Aircraft Noise Exposure Contour (20-15 ANEF)

Approximately half of the area affected by Amendment 93 is located under the 20-15 ANEF. The properties are also within an area affected by 50 to 99 events in excess of 65dBA per day. Perth Airport has objected to the proposed amendment on this basis, in that increased density within the vicinity of the airport exposes more people to aircraft noise, and also limits the airport's ability to modify and plan for departure and approach paths.

WAPC Statement of Planning Policy No.5.1 Land Use Planning in the Vicinity of Perth Airport (SPP 5.1) places restrictions on density and land uses that can be contemplated in areas affected by 20 ANEF and above. Clause 4.2 of the Policy specifically states:

"4.2 Areas below 20 ANEF (350,000) - There is no restriction on zoning or development within this noise exposure zone, which is identified as acceptable for all building types in the Building Site Acceptability table in Appendix 1. However, according to the Australian Standard, noise nuisance may still be experienced in areas below the 20 ANEF exposure level, particularly in the case of newly exposed communities."

The above provision in the SPP is very specific in stating that areas of land subject to less than the 20 ANEF need not be fettered by restrictions on zoning or development. Such provision is an acknowledgement of the need to strike a balance between the requirements of Perth Airport and the requirements of local authorities to reasonably plan for and accommodate population growth within their municipal areas. Hazelmere is an established residential area. Restriction on development and density under the 20 ANEF is not envisaged through the SPP, which is the recognised mechanism which has guided planning in areas affected by noise from Perth Airport since 2004.

Perth Airport's opposition to the proposed coding change under this amendment is not supported by the SPP and to that extent the Council is not fettered in pursuing its objectives of orderly and proper planning for the Hazelmere locality.

It is therefore recommended that the submission from Perth Airport be noted but rejected for these reasons.

Aircraft Noise Exposure Contour (25-20 ANEF)

Approximately half of the area affected by Amendment 93 is located under the 25-20 ANEF. The properties are also within an area affected by 100 to 199 events in excess of 65dBA per day.

In respect of residential density for areas between 20 ANEF and 25 ANEF SPP 5.1 Clause 4 states:

"4.3.2 Where land is zoned for residential purposes, or to permit residential development, the maximum dwelling density should generally be limited to R20, except where -

- *There is a strategic need for more consolidated development,*

- *A higher density coding is desirable to facilitate redevelopment or infill development of an existing residential area, and,*
- *There is some other public interest reason which justifies the need for higher density coding."*

The proposed higher density coding is considered consistent with these provisions, being very specifically intended to facilitate infill development as is the purpose of the adopted Urban Housing Strategy.

It is therefore recommended that the submission from Perth Airport be noted, but the suggested modification be rejected for the above reasons.

OPTIONS AND IMPLICATIONS

Option 1: Council may resolve to:

1. Adopt Amendment No.93 to the City of Swan Local Planning Scheme No.17 for final approval without modification.
2. Forward the documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant his final approval without modification.

This is not the recommended option.

Implications:

City staff are of the view that the amendment should be further modified to exclude the proposed zoning change of land within the town site south of West Parade and west of Mary Street from 'Residential Redevelopment' to 'Residential Development' for the reasons outlined in the report.

The Minister for Planning will take the Council's adoption of the Scheme Amendment and the public comments received into consideration as part of the decision on final endorsement of the proposed amendment.

Option 2: Council may resolve to:

1. Modify Amendment No. 93 to the City of Swan Local Planning Scheme No.17 by excluding those lots within the 'Residential Redevelopment' zone south of West Parade and west of Mary Street.
2. Adopt Amendment No.93 for final approval to the City of Swan Local Planning Scheme No.17, so modified by 1 above, to:
 - (i) rezone those lots within the Hazelmere Town site from 'Residential Redevelopment' to 'Residential' with a dual density coding of 'R5/25' and 'R5/35' as depicted on the Scheme maps; and
 - (ii) re-classify Lot 9963 on Plan 4539 West Parade and Lot 9964 Baker Street from the 'Residential Redevelopment' zone, to 'Local Reserve - Recreation'.

3. Forward the Amendment No.93 documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant final approval without further modification.
4. Advise those who lodged a submission of Council's decision accordingly.

This is the recommended option.

Implications:

The modification will enable a subsequent further amendment to be prepared that will facilitate appropriate redevelopment of this area of the Hazelmere town site. A rezoning from 'Residential Redevelopment' to 'Residential Development' will not affect any improvement in the likelihood of infill development for this area given the requirement for a structure plan remains.

The Minister for Planning will take the Council's adoption of the Scheme Amendment and the public comments received into consideration as part of the decision on final endorsement of the proposed amendment.

Option 3: Council may resolve to

1. Modify Amendment No. 93 to the City of Swan Local Planning Scheme No.17 by:
 - (i) excluding those lots within the 'Residential Redevelopment' zone south of West Parade and west of Mary Street; and
 - (ii) excluding those lots within the 'Residential Redevelopment' zone any part of which is beneath the 25-20 ANEF contour.
2. Adopt Amendment No. 93 to the City of Swan Local Planning Scheme No.17, so modified by 1 above, to:
 - (i) rezone those lots within the Hazelmere Town site from 'Residential Redevelopment' to 'Residential' with a dual density coding of 'R5/25' and 'R5/35' as depicted on the Scheme maps; and
 - (ii) re-classify Lot 9963 on Plan 4539 West Parade and Lot 9964 Baker Street from the 'Residential Redevelopment' zone, to 'Local Reserve - Recreation'.
3. Forward the Amendment No.93 documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant final approval without further modification.
4. Advise those who lodged a submission of Council's decision accordingly.

This is not the recommended option.

Implications:

The modification will enable a subsequent further amendment to be prepared that will facilitate appropriate redevelopment of this area of the Hazelmere town site. A rezoning from 'Residential Redevelopment' to 'Residential Development' will not affect any improvement in the likelihood of infill development for this area given the requirement for a structure plan remains.

Omission of those properties affected by the 25-20 ANEF contour will reduce the number of properties assigned a dual coding by approximately one half. These properties will remain subject to a requirement for a structure plan under the Residential Redevelopment zoning. This requirement is likely to continue to stymie any potential infill development.

The Minister for Planning will take into consideration the Council's reasons for modifying the proposed amendment, inclusive of Perth Airport's submission, as part of his decision on final adoption of the amendment.

CONCLUSION

The proposed rezoning of the Hazelmere town site is consistent with the recommendations of the Infill Strategy of the City of Swan Urban Housing Strategy and the Hazelmere residential village area. The amendment aims to encourage future residential subdivision and development and to provide an increase in housing density and housing diversity, which supports local and state government planning strategies.

18 non-objections and 10 objections were received from affected landowners. Six government agencies made submissions, five with no objections, and one from Perth Airport objecting to the proposal.

The submissions from landowners citing the unworkable impost of the structure planning requirements of the proposed Residential Development zone are acknowledged. Accordingly that area of the town site south of West Parade and west of Mary Street is recommended to be excluded from this amendment and subject of a future separate amendment that will zone it Residential and assign it a density coding reflective of the capacity of Anthea Street as a cul-de-sac.

Perth Airport objected to increased residential density within the 20-15 ANEF contour. Restricting land use and density within the 20-15 ANEF is not required by WAPC Statement of Planning Policy No.5.1 Land Use Planning in the Vicinity of Perth Airport. It is considered that restricting residential density outside of the provisions of the SPP places an excessively onerous, unreasonable and wholly undesirable impost on the process of orderly and proper planning of the Hazelmere locality.

Perth Airport also objected to increased density within the 25-20 ANEF. It is considered that the criteria under SPP 5.1 to allow for higher density within this noise contour are met by the strategic needs of the area for infill development.

The recoding of the 'Residential Redevelopment' zoned land will encourage future residential subdivision and development within the established residential localities of the City and the dual residential coding provides the potential to increase housing density and housing diversity. This amendment will provide the statutory planning controls to ensure appropriate and desirable infill development and subdivision in Hazelmere.

Ordinary Meeting of Council
25 September 2013

ATTACHMENTS

Location Plan

Existing and Proposed Zoning Map

Schedule of Submissions

STRATEGIC IMPLICATIONS

Council adopted the Urban Housing Strategy (UHS) as a strategic document to address future housing needs resulting from rapid population growth and to ensure the long term sustainable future of residential development within the City. This was approved on the 13th June 2012 and is with the WAPC for endorsement. The UHS comprises of an Infill and a Greenfields strategy. For the purpose of this scheme amendment only the Infill Strategy is relevant.

The proposed amendment will ensure the Scheme Map and Text reflects the intent of the Urban Housing Strategy.

STATUTORY IMPLICATIONS

Town Planning Regulations 1967 (as amended).

Local Planning Scheme No. 17.

FINANCIAL IMPLICATIONS

Nil arise from the approval of a Scheme Amendment with the exception that the City has prepared the Amendment at its own cost.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That the Council resolve to:

1. Modify Amendment No.93 to the City of Swan Local Planning Scheme No.17 by excluding those lots within the 'Residential Redevelopment' zone south of West Parade and west of Mary Street.
2. Adopt Amendment No.93 for final approval to the City of Swan Local Planning Scheme No.17, so modified by 1 above, to:
 - (i) rezone those lots within the Hazelmere Town site from 'Residential Redevelopment' to 'Residential' with a dual density coding of 'R5/25' and 'R5/35' as depicted on the Scheme maps; and
 - (ii) re-classify Lot 9963 on Plan 4539 West Parade and Lot 9964 Baker Street from the 'Residential Redevelopment' zone, to 'Local Reserve - Recreation'.
3. Forward the Amendment No.93 documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant final approval without further modification.
4. Advise those who lodged a submission of Council's decision accordingly.

CARRIED