

## 2.7: PROPOSED OUTLINE DEVELOPMENT PLAN FOR BIG GROVE

### ALTERNATE MOTION BY COUNCILLOR DUFTY

DATE & TIME RECEIVED: 9:00PM ON TUESDAY 14 JUNE 2011

#### ITEM 2.7: ALTERNATE MOTION 1 BY COUNCILLOR DUFTY

That Council ADOPT the Amended Responsible Officer Recommendation, subject to the following changes:

- A. Delete Recommendation 1(e) being Modification 5, which currently reads ‘Outline portions of Lot and 109 identified by the Department of Environment in red and include a notation “Area identified by the Department of Environment for public open space / vegetation retention. Area and land uses to be reviewed at subdivision stage with referral to the Environmental Protection Authority.”
- B. Add the following advice note under Recommendation 5:

“iii) The submission from the Department of Environment and Conservation to retain vegetated portions of Lot 7 and 109 is not supported on the basis that:

- The area of vegetation to be retained in public open space and within the foreshore reserve represents 34% of the vegetation found on the site (20 hectares).
- Significant linkages have been identified via Public Open Space areas A, B and C.
- The Albany Regional Vegetation Survey indicates that ‘Peppermint Low Forest’ as found on these lots and is well presented in secure tenure (in reserves such as Reserve 930 immediately to the south of the ODP) throughout the survey area.
- The proponent carried out targeted surveys for Western Ringtail Possums and found numbers were extremely low and that the retention of vegetation as suggested in the Outline Development Plan would be adequate to ensure the long term persistence of these and other fauna.
- There needs to be a balance in achieving good environmental outcomes whilst accommodating for the future expansion of the City.”

**ITEM 2.7: ALTERNATE MOTION 2 BY COUNCILLOR DUFTY**

That Council ADOPT the Amended Responsible Officer Recommendation, subject to the following changes:

- A. Modify Recommendation 1(h), being Modification 8 which currently reads *“Change the density codes from R40 to R30, R20 to R15 and place a note against the R15 code descriptor that the minimum site area shall be 500m<sup>2</sup> rather than 580m<sup>2</sup>, and retain the R25 code except that a note be placed against the R25 code descriptor that the average site area shall be 400m<sup>2</sup> rather than 350m<sup>2</sup> as per Section 9.3 of the Outline Development Plan report”* to the following:

**Modification 8: change the density codes from R40 to R30, R20 to R17.5 and place a note against the R25 code descriptor stating that the average site area shall be 400m<sup>2</sup> rather than 350m<sup>2</sup> as per Section 9.3 of the Outline Development Plan report’.**

- B. Modify Recommendation 2 (dot point 7), being Section 9.3 which currently reads *“to state that in relation in relation to the R25 Code of the ODP amends Table 1 of the R-Codes by increasing the average site area from 350m<sup>2</sup> to 400m<sup>2</sup>, and in relation to the R15 Code the ODP amends Table 1 of the R-Codes by decreasing the minimum site area from 580m<sup>2</sup> to 500m<sup>2</sup> whilst maintaining the 666m<sup>2</sup> average site area requirement of that Codes”* to the following:

**Section 9.3 to state that in relation in relation to the R25 Code of the ODP amends Table 1 of the R-Codes by increasing the average site area from 350m<sup>2</sup> to 400m<sup>2</sup>.**

**Councillor Reason:**

Alternate Motion 1

The proponent has identified significant portions of the subject land that will be retained as remnant vegetation. The vegetation on Lot 7 and 109 would be isolated and surrounded by residential development and be subject to animal and weed incursion and human activity. The surveys for the western ringtail possum identified extremely low numbers within this area. There are also two reserves either side of the ODP area that will provide areas of habitat for possums and other fauna that should be taken into account.

Alternate Motion 2

The reduction of the density from R20 to R15 would represent a waste of serviced residential land. A density code of R17.5 creates some more density and flexibility. It is likely to take 30 to 40 years before all the lots are developed in the ODP area. Based on 1000 lots, rates revenue is likely to be around \$1.5 million per year on completion, and in addition to contributions received as part of subdivision process, the need to further upgrade and widen Frenchman Bay Road can be considered at this time.

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The R17.5 density proposed is still lower than the standard R20 density code which is applied across other residential areas of Albany and would only potentially increase the lot yield from 998 to 1120 lots; having a marginal impact on total traffic volumes.

**Officers Report (G Bride):**Alternate Motion 1

1. The proposed alternate motion is consistent with Option 2 identified in Paragraph 63 of the officer's report.
2. The Environmental Protection Authority (EPA) as part of its assessment of Amendments 279 and 284 did not require a formal environment assessment to be undertaken. The EPA acknowledged that the preparation of an Outline Development Plan was required prior to subdivision and development and in this context provided advice only. In their advice, in relation to AMD 284 the EPA advised:

***“3 Environmental Issues Not Assessed***

*Without limiting the EPA's discretion under section 5(e) of the EP Act to require the referral of proposals arising from the scheme amendment and your discretion, as the responsible authority, under Section 48I of the EP Act to refer proposals arising from the scheme amendment, the EPA advises that the following environmental issues are not assessed:*

- *Remnant vegetation;*
- *Fauna.*

***4 Advice and recommendations regarding environmental issues not assessed***

*Sufficient information is not available at this stage regarding the nature of the impacts on the environment arising from the implementation of the scheme amendment. Accordingly, the EPA advises that environmental issues listed in paragraph 3 above are not assessed and, if not adequately addressed in the Big Grove ODP, the subsequent subdivisions or developments may require referral to the EPA under s.38 of the Environmental Protection Act 1986.”*

***Modifications to Big Grove Outline Development Plan***

*In order to address the environmental issues summarised above, the EPA requests that, in liaison with relevant agencies, including DEC and the Department of Planning and Infrastructure (DPI), the ODP be modified so that:*

- *Key vegetation associations, fauna habitat and ecological linkages are retained where possible;*
- *The length of direct road frontage between the east boundary of Lot 2 and Reserve 930 is reduced, to provide a softer interface with the adjoining bushland and reduce native fauna road kills;*
- *Coastal setback and foreshore reserve width is to the satisfaction of DPI/WAPC, taking into account the ecological values and recreational needs as well as the management of physical processes.*

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- *Visual amenity from Torndirrup National Park and the Albany township are not unduly affected.”*

In their advice on Amendment 279, the EPA stated the following in relation to the issue of vegetation retention and fauna:

**“Vegetation**

*The EPA requests that the removal of remnant trees, particularly the Eucalypts and Peppermints (*Agonis Flexuosa*), be minimised in order to help retain the character of the Princess Royal Harbour coastal area, and to ensure that there are sufficient habitat trees for Western Ringtail Possums (*Pseudocheirus occidentalis*) that may be using the area. This outcome may be achieved by retaining trees in public places (including road reservations), and/or the use of building envelopes.*

**Fauna**

*Although no species of Specifically Protected (Threatened) Fauna were recorded during the fauna survey of the amendment site, a fauna consultant undertaking separate work on behalf of the Department of Environment and Conservation (DEC) sighted three Western Ringtail possums on nearby Lot 1.*

*The fauna consultant has asked that, for the record, some inaccuracies at the top of page 2 of Ayton Taylor Burrell's letter of 5 August 2008 be noted. Firstly the consultant was undertaking work for DEC, but it is not “an officer of Albany DEC”. More importantly, the decision to spotlight nearby Lots 1 and 109 was for a specific Commonwealth-funded project, and was based on examination of aerial photography only. There was no daylight inspection of any of the lots covered by Amendment No. 279. Consequently, there was no professional judgement as to whether “the area did not contain suitable habitat for the Western Ring-tail possums”.*

*In the event that any Western Ringtail possums or other significant fauna species are found on the site prior to development, advice should be sought from the DEC's regional office, and that advice should be complied with.”*

3. Whilst the advice is not binding there is an expectation that vegetation and fauna issues will be addressed through the Outline Development Plan in consultation with the Department of Environment and Conservation (DEC). The DEC has provided advice and this Agency believes it has provided a reasonable compromise position in relation to the protection of vegetation on portion of Lot 7 and 109 as per its amended letter dated 8 April 2011.
4. Should Council support the alternate motion the Western Australian Planning Commission will ultimately decide whether Council's position to override the DEC advice is appropriate. If it does not support this position it will request that the Outline Development Plan be modified consistent with the DEC advice prior to endorsement. If the Western Australian Planning Commission supports the position contained within the alternate motion, the EPA does have the ability at the subdivision application stage, in accordance with *Section 38 of the Environmental Protection Act 1986*, to ‘call-in’ the proposal and may decide that the creation of residential allotments over the relevant portion of Lot 7 and 109 could not be made environmentally acceptable.

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5. As stated in the report, Council is placed in a difficult position in relation to this issue. During the advertising period the City did refer the Outline Development Plan to the Perth Office of the Department of Environment and Conservation seeking an independent assessment of the ODP with specific guidance on whether to retain the vegetation on portion of Lot 7 and Lot 109.

Alternate Motion 2

1. The alternate motion seeks to modify the amended staff recommendation to down code the R20 density areas on the Outline Development Plan to R17.5, rather than R15 as recommended by staff.
2. The R17.5 coding has a minimum lot size of 500m<sup>2</sup> and an average of 571m<sup>2</sup>, compared to R20 which has a minimum lot size of 440m<sup>2</sup> and an average of 500m<sup>2</sup>. The R15 coding has a minimum lot size of 580m<sup>2</sup> and an average of 666m<sup>2</sup>.
3. The difference in potential lot yield between the R15 and R17.5 coding over the entire Outline Development Plan area would be 120 lots (based on 48.48 hectares divided by 666m<sup>2</sup> versus 571m<sup>2</sup>), increasing the maximum lot yield allowable under the R-Codes to 1120 lots.
4. The proponent has pointed out that it is rare that the average R-Codes density is achieved. This is true for example in McKail where although an R20 density code has been applied (with an average lot size of 500m<sup>2</sup> being permissible), lots are generally in excess of 600m<sup>2</sup> (in the Sanctuary Estate most are around 650m<sup>2</sup>) which is market driven. According to the proponent the total yield is still likely to be around 1000 lots, and doesn't take into account those non-participating landowners that may not wish to subdivide at all, or to the extent envisaged in the Outline Development Plan.
5. The traffic report has identified that according to Austroads Standards, if more than 1007 lots are created at Big Grove, in addition to anticipated growth in tourist traffic and other developments (inclusive of the densification of Little Grove) by 2031 a widened single carriageway may be at the end of its carrying capacity (of 15,700 vehicles per day) with delays and congestion being experienced in peak periods below recommended service levels. The alternate motion may result in the recommended carrying capacity of the road being exceeded marginally into the future; the road will continue to function however at this service level delays are expected. Such service levels are tolerated and expected on many metropolitan roads, however for residents of a regional City such levels may not be accepted.
6. From a planning perspective the lot sizes associated with the R17.5 density code (average of 571m<sup>2</sup>) would still achieve a reasonable lot yield making good use of residential zoned land. The R17.5 code would still be lower than the standard suburban density code of R20.