

# TOWN OF COTTESLOE



## STRATEGIC PLANNING COMMITTEE

# AGENDA

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, WEDNESDAY, 19 MAY 2010**

**CARL ASKEW**  
Chief Executive Officer

13 May 2010



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**STRATEGIC PLANNING COMMITTEE**
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**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS****2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE  
(PREVIOUSLY APPROVED)****Present**

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Greg Boland	

**Officers Present**

Carl Askew	Chief Executive Officer
Lydia Giles	Executive Assistant

**Apologies**

Nil

**Leave of Absence (previously approved)**

Nil

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****4 PUBLIC QUESTION TIME****5 PUBLIC STATEMENT TIME****6 APPLICATIONS FOR LEAVE OF ABSENCE****7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

[Minutes February 17 2010 Strategic Planning Committee.doc](#)

The Minutes of the Ordinary meeting of the Strategic Planning Committee, held on 17 February 2010 be confirmed.

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

**10 REPORTS OF COMMITTEES AND OFFICERS****10.1 GENERAL****10.1.1 TOWN OF COTTESLOE - ACTION PLAN REVIEW**

**File No:** SUB/108  
**Attachments:** [Action Plan 19 May 2010](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
**Proposed Meeting Date:** 19 May 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report recommends that Committee receive the updated *Action Plan* report and provide feedback to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan for subsequent presentation to Council.

**BACKGROUND**

The *Future Plan 2006 to 2010* for the Town of Cottesloe was finalised and adopted by Council in June 2007. At that time two review dates for the Future Plan were set, so that the document would return to Council. The first of those review dates was set at November 2008 and the second was in November 2010. Following the adoption of the *Future Plan*, an *Action Plan* was developed and an updated review of that plan is tabled for consideration at each meeting of the Strategic Planning Committee.

In September 2009, Committee determined to make changes to objectives 5.2 and 6.1 by updating the intent and focus of each. These changes were subsequently approved by Council. In November 2009 Council resolved to receive the Action Plan report as amended and also agreed to review the Action Plan priorities in November 2010.

**STRATEGIC IMPLICATIONS**

The Action Plan has obvious strategic implications.

**POLICY IMPLICATIONS**

None known

**STATUTORY ENVIRONMENT**

Statutory Environment  
Division 5 — Annual reports and planning principal activities

5.56. *Planning principal activities*

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- (1) *Each financial year, a local government is to prepare a plan for the next 4 or more financial years.*
- (2) *The plan is to contain details of—*
  - (a) *the principal activities that are proposed to be commenced or to be continued in each financial year affected by the plan;*
  - (b) *the objectives of each principal activity;*
  - (c) *the estimated cost of, and proposed means of funding, each principal activity;*
  - (d) *how the local government proposes to assess its performance in relation to each principal activity;*
  - (e) *the estimated income and expenditure for each financial year affected by the plan; and*
  - (f) *such other matters as may be prescribed.*

*Regulation 19C of the Local Government (Administration) Regulations 1996 refers, i.e.*

***19C. Planning for the Future – section 5.56 of the LGA***

- (1) *In this regulation – “**plan for the future**” means a plan made under section 5.56.*
- (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) *a local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine\* whether or not to adopt the plan, or the modifications, as is relevant.*

*\*Absolute majority required.*

## **FINANCIAL IMPLICATIONS**

Adoption of the Future Plan and associated Action Plans will inevitably require expenditure as per Council's adopted budget and long term financial plan.

## **SUSTAINABILITY IMPLICATIONS**

The Town has continuously demonstrated a high level of regard for the sustainable management of Council's resources and the Future Plan not only supports sound financial management but also meets the legislative requirements contained within the Local Government Act 1995 and associated Regulations

## **CONSULTATION**

The Future Plan was developed in consultation with the community by way of public submission periods and refined by the Town's Strategic Planning Committee prior to adoption by Council

**STAFF COMMENT**

In relation to the Action Plan, the following strategies were identified by Council as priorities for 2009/10 at its July 2009 meeting.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 1.9 Develop a Community Safety Strategy
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.
- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
- 3.4 Introduce electronically timed parking.
- 4.1 Develop planning incentives for heritage properties.
- 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
- 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
- 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
- 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.
- 5.6 Develop a long term asset management plan and accompanying financial plan.
- 6.1 Further improve the community consultation policy in recognition that there are different techniques for different objectives.
- DP1 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
- DP2 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe

The following *program summary* in relation to the above strategies is provided. More detail is contained in the attachment 1.

Rating	Ref	Comment
O	1.2	Council's strategy to monitor anti-social behaviour is ongoing.
O	1.5	Civic Centre future use study reported to Council in February 2010. Ongoing.
O	2.1	As per Council resolution in October 2009, Draft Plan progressed through EbD. Working Group reconvening with a view to further community consultation on a preferred alignment.



C/O	1.9	Develop a Community Safety Strategy. Report to Council in May 2010.
O	3.1	As per Council resolution in October 2009, Foreshore Implementation Working Group meeting regularly to consider and oversee realisation of the Concept Plan. Consultant engaged.
C	3.4	Meter Eyes have been installed at the Foreshore and Town Centre with a second phase roll out in the Town Centre planned for the 2011/12 budget.
C/O	4.1	Proposed LPS3 and related draft policy as well as practice by staff and the Heritage Advisor have addressed the consideration and application of heritage incentives so far.
O	4.5	Council has resolved to pursue structure planning for the area which will include consideration of higher density development. At present the focus is on resolving Curtin Avenue, the railway and east-west connectivity as the key infrastructure prerequisites to overall structure planning for land uses and development.
C/O	5.1	Plan is currently progressing for the Depot. Station Street sump site under consideration.
C/O	5.2	Joint Library construction underway. Estimated completion date is October 2010.
O	5.3	A consultant has been appointed to and commenced this study having regard to the related Station Street and railway lands planning initiatives influencing the future of the Town Centre.
O	5.6	WAAMI program has been restarted and will become the basis for the Town's asset management plan and will link to the long term financial plan.
H	6.1	This matter has not progressed due to other priorities.
C/O	DP1	LPS3 was submitted to WAPC in May 2009 and is pending approval by the Minister for Planning which is expected in June 2010.
O	DP2	Draft 2010/11 budget includes a proposed geological study to determine the rock/sand sections of the foreshore.
<b>Legend</b>	<b>O=Ongoing C=Complete/substantially complete H=On Hold</b>	

This agenda item represents an opportunity for Committee members to review progress and provide informal feedback on where staff should be headed in terms of implementing individual actions. It is recommended that Committee receive the Action Plan and provide comment to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan prior to presentation to Council.

### VOTING

Simple Majority.

### OFFICER RECOMMENDATION

**That Council receive the Action Plan Report as amended by the Strategic Planning Committee.**

**10.1.2 LOCAL GOVERNMENT STRUCTURAL REFORM**

**File No:** SUB/793  
**Attachments:** [March 2010 Report to Council Local Government Structural Reform](#)  
[On line survey forms](#)

**Responsible Officer:** Carl Askew  
Chief Executive Officer

**Author:** Carl Askew  
Chief Executive Officer

**Proposed Meeting Date:** 19 May 2010

**Author Disclosure of Interest** The author has an interest in the matter as any potential amalgamation would directly relate to his employment

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**SUMMARY**

In March 2010 Council resolved as follows;

*THAT Council*

1. Advise the Minister for Local Government that the Town of Cottesloe is willing to enter into a Regional Transition Group (RTG) process to stage 1 (development of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan ,subject however to:
    - (a). The Town not formally entering into the RTG, during the next month, until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.
    - (b). The participants in the RTG being entitled (if they so choose after stage 1) to not proceed to amalgamate and to instead adapt the Business Plan for use by a regional council.
    - (c). The Business Plan being prepared on the basis that:
      - (i). The Cottesloe Civic Centre, grounds and the War Memorial Town Hall, will be preserved as a community asset accessible to the general community; and
      - (ii). An amalgamation will not cause any forced redundancies of Council's staff.
    - (d). That the Minister notify the Town of Cottesloe of the quantum of state funding for any Regional Transition Group development of a Regional Business Plan prior to entering into any agreement.
  2. Join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to form a Regional Transition Group.
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3. *Ensure, as part of the RTG process and before Council confirms its final intentions, that the Town reaffirm the community's support for entering into a Regional Transition Group.*
4. *Appoint the Mayor as the member of the RTG Board and the Deputy Mayor as the deputy member of the Board.*
5. *Support a negotiated RTG Agreement being submitted to Council for endorsement prior to it being executed on behalf of the Town.*
6. *Request that the Minister for Local Government support and approve the boundary adjustments as resolved by Council in September 2009 as part of the RTG, to include the communities of Swanbourne in the north and North Fremantle in the south.*
7. *That the Regional Transition Group agreement incorporate the scope to include a Regional Business Plan with boundary adjustments.*
8. *That the Regional Transition Group agreement incorporate that elections for any new local government take place prior to the commencement of the new Local Government*

For ease of reference the report to Council in March 2010 has been included as an attachment to this report so that information is not repeated but sufficient background information is available to Council.

This report specifically addresses part 1 (a) of Council's resolution, that the Town not formally enter into the RTG, during the next month, until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.

It recommends that Council reaffirm its resolved position from March 2010 and join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to enter into a Regional Transition Group (RTG) process to stage 1 (development of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan, recognising that some members do not wish to join an RTG at this time but may in the future.

## **BACKGROUND**

Council lodged its structural reform submission in September 2009. The assessment of all local government reform submissions was undertaken by the Local Government Reform Steering Committee and, based on those assessments, the Committee provided advice to the Minister on preferred options for reform. Some finalised proposals were referred to the Local Government Advisory Board for consideration and recommendation.

As a consequence of the reform submissions made by all local governments the Minister determined that the Town of Cottesloe should be considered as part of a Regional Transition Group (RTG) with other western suburbs local governments, and formally wrote to the Mayor advising of such and inviting Council to become part of an RTG. The Minister also provided a draft RTG Agreement and asked that Council consider and report back to him on its preferred position by March 2010. The March

report to Council advised of the process to date since submission of its reform submission and recommended that Council support the RTG process to stage 1 (production of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan, and forward that advice to the Minister.

Specifically it recommended that Council participate in the Regional Transition Group (RTG) process with a preference to have RTG partners from within the Western Suburbs, including the Towns of Claremont, Mosman Park and Shire of Peppermint Grove, and to use the Business Plan process to explore options and opportunities that will result in increased efficiency, value and service provision for its community, as well as preserving those matters that are important to Cottesloe.

### **STRATEGIC IMPLICATIONS**

The potential strategic implications for Council are significant. Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2009-10 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform.

The announcement by the Minister for Local Government in relation to reform strategies has brought into sharp focus the need for the Town to consider its position. Any significant change to existing boundaries or an amalgamation will require a complete review of all strategic and financial plans and priorities and this can be achieved, in part, through an RTG Business Plan process.

### **POLICY IMPLICATIONS**

None known.

### **STATUTORY ENVIRONMENT**

RTG Agreements do not over-ride the requirements of the Local Government Act 1995 – particularly Section 2.1, Schedule 2.1 and Section 3.1 (2). (refer to March 2010 report, as attached, for full details).

### **FINANCIAL IMPLICATIONS**

The potential cost of any future amalgamation, boundary change or shared services arrangement has been considered in a general sense within the commissioned Price Waterhouse Coopers (PWC) report but will require more detailed analysis and will be dependent upon specific decisions of Council. The impact of structural reform on the western suburbs was estimated by PWC, who indicated a range of savings, depending on “best” or “minimum” case scenarios.

*The report based its financial analysis on two key scenarios developed by PWC:*

- 1. “Blue Sky”: the best potential outcomes for all benefits and costs from the amalgamation are achieved - also seen as the maximum achievable financial position; and*
- 2. “Grey Sky”: the minimum indicative outcomes for all benefits and costs from the amalgamation - also seen as the minimum achievable position.*

The report identifies the following potential recurrent net annual amalgamation savings after three years (after allowing for transition costs in the first few years):

**Option 1: G6** [an amalgamation of all six WESROC Councils]: \$2.8m to \$7.7m;

**Option 2: G3** [an amalgamation of Cottesloe, Mosman Park and Peppermint Grove]: \$0.6m to \$1.0m; and

**G2** [an amalgamation of Claremont and Nedlands]: \$0.5m to \$0.8m.

However the report also noted that there are many external factors which may prevent the realisation of the predicted amalgamation benefits. These include;

- actual amalgamation costs exceeding forecast costs,
- cost synergies not being realised,
- residents resisting amalgamation,
- staff integration issues,
- other employee issues (such as staff being unfamiliar with new and expanded roles), and
- regulatory issues deriving from State government amalgamation legislation.

No projections were made for the other potential scenarios however annual savings in the order of \$1million could be reasonably expected for the G4 model, based on a very preliminary examination by the CEO's of the four local governments.

There will clearly be a cost to participate in an RTG and this will involve time [officer resource] and some direct funding. The RTG agreement provides for the members to accept 50% of the cost of *administration of the RTG* with the State funding the remaining 50%. The member's contribution can be *in cash or in kind*, e.g. this may include time allocated by officers who undertake work for the RTG, provision of meeting secretariat and venues etc. The Minister has indicated that State funding will be injected into an RTG, including for the creation of a Regional Business Plan, and whilst the quantum of funding is unknown it is expected that the direct financial impact should be substantially covered by the State funding. This has also been identified as one of the matters for further negotiation and confirmation prior to moving forward with any RTG proposition.

The Minister has also indicated State funding to assist members of an RTG to *implement* the Regional Business Plan once it adopted. Such funding could be a major benefit for the Town, providing a source of finance for a range of capital and/or operational improvements which are identified. Overall, the financial implications of change associated with local government reform have the potential to be significant however the State is currently prepared to negotiate and/or contribute to or meet these costs. In the immediate term there will continue to be ongoing human resource costs (officer time) to Council in responding to the Minister's reform agenda.

## SUSTAINABILITY IMPLICATIONS

The final outcome in regard to the implementation of the recommendations of the Dollery and Anne Banks-McAllister reports, plus the information contained within the Price Waterhouse Coopers (PWC) report, as well as the Minister's reform agenda,

may have an impact upon Council's future objectives and plans however this is unknown at this stage.

## CONSULTATION

- Town of Claremont
- Town of Mosman Park
- City of Nedlands
- Shire of Peppermint Grove
- City of Subiaco
- WESROC
- Elected Members
- Cottesloe community

## COMMUNITY CONSULTATION

As a consequence of the Council resolution in March 2010 officers placed a significant amount of information onto Council's website, including an on-line survey questionnaire similar to that used in September 2009. The questions asked included;

- *Question: Do you support or oppose the Town entering into the Regional Transition Group process?*
- *If Council were to enter into the RTG process, which local governments should it partner with?*
- *If one or more of the partners chose not to participate should Council continue with the process?*
- *Do you have additional comments?*

In addition an advertisement was placed in the Western Suburbs Weekly (April 6–12 page 4) and there was a significant part of Council's April Cottesloe News Page in the POST (April 10 page 18) inviting residents to have their say, either via the website survey or direct to the Town via e-mail or letter. At the time of preparing this report no direct response via e-mail or letter had been received, and only five (5) on-line survey responses had been submitted.

*[Note: the on-line survey was anonymous in that those who completed the survey were not required to identify themselves or their address, which would have allowed for some verification of data. However it is possible that such a requirement, if requested, could be falsified and/or may have reduced people's willingness to make comment. This needs to be considered by Members when making decisions based upon the results.]*

It is possible that not all information received via the survey process came from local residents or that there was not a duplication of respondents. However based upon the extremely low response rate there is little need to consider these issues in the analysis of the data received. The five responses have been included within the attachments. Similar to the comments received in August 2009, those opposed to the reform process claim *no compelling benefits for local communities, loss of local voice and interests and first step towards amalgamation*, whilst those who support reform argue *effective and efficient local government operations, regional cooperation and resource sharing*. In addition the Mayor and CEO attended the SOS Annual General Meeting on Monday 3 May 2010 to make a presentation on local government reform

and the RTG process and to receive comments and feedback from the group. Overall the comments were limited with most discussion focussing on the recently announced changes to the Planning legislation and processes, including Development Assessment Panels and Improvement Schemes.

In August 2009 the Town undertook a more extensive community consultation process and at that time a total of 3,970 questionnaires were distributed to all residential homes and business premises throughout the Town of Cottesloe. In addition, the questionnaire was also placed on the Town's website and the opportunity was made available to complete and lodge the form online. A total of 679 forms were received representing a 17% return rate. The following is a summary of the questions and responses received;

- Question: supporting/opposing amalgamation? - 55% were in favour - primary reasons included;
  - more effective use of resources,
  - economies of scale,
  - more efficient and logical,
  - value for money,
  - reduce admin costs/overheads,
  - reduce duplication,
  - increased quality of staff and elected members, and
  - more strategic.
- Question: if State Government created an amalgamation, who?;
  - Mosman Park and Peppermint Grove (46% - 314 responses),
  - Peppermint Grove alone (20% - 134 responses) and
  - Mosman Park alone (9% - 60 responses)
  - **an overall total of 75%.**
- Question: PWC report: "G6" model?
  - Only 15% (104 responses) favoured this option.
- Question: supporting or opposing adjusting boundaries?;
  - 51% (347 responses) supported adjusting boundaries and
  - 36% (244 responses) opposed.
- Question: boundary adjustments?
  - 39% (300 responses) supported an adjustment north to include Swanbourne,
  - 41% (309 responses) supported an adjustment eastward towards Peppermint Grove and Mosman Park and a further
  - 20% (154 responses) supported a move south to include Mosman Park/North Fremantle.
- Question: reducing number of elected members to between 6 and 9?;
  - 200 responses (30%) were in favour of six,
  - 120 responses (18%) were in favour of seven,
  - 138 responses (20%) were in favour of eight, and
  - 163 responses (24%) were in favour of nine.

Feedback in relation to the Town of Claremont was not specifically sought during the initial consultation in August 2009 (the original options were G2, G3 and G6) however a number of comments were received from residents which did make reference to Claremont as being a potential partner in any future amalgamation.

Given the importance of community consultation and ownership of this process and the need to have support from the community that we represent, it is recommended that the RTG process continue to include the opportunity for the Town to engage with the community. In particular, once the Regional Business Plan has been developed it would be appropriate to reaffirm the community's support for Council entering into a Regional Transition Group at that time.

### **STAFF COMMENT**

In a meeting prior to Christmas with the Mayors/President of the WESROC Councils, the Minister indicated his preference was for all of the local governments of the Western Suburbs to work together i.e. the G6 option.

The Minister has since confirmed that it is open to each Council to choose which local governments should make up the membership of a Regional Transition Group (RTG). However it requires a mutual decision for membership to be agreed. For example if one or more potential members are willing to work together with Cottesloe but not with another local government, Council may have to determine which option it believes is most likely to benefit the Cottesloe community.

The Minister stated that he wants to see a reduction in the overall number of local governments *including metropolitan councils*. The reform checklist analysis and reform submissions had indicated to the Minister that there is significant scope for reform within the sector and that there are currently opportunities for councils to self determine their future with meaningful change, including the capacity to plan and act regionally, and with elected members who are prepared to act strategically.

It is the officer's advice that Council should consider the RTG process subject to the interests of the Town of Cottesloe community not being adversely affected and there being sound, demonstrated economic and social justification for any such reform. The Minister's proposal of a Regional Transition Group appears to offer an opportunity that will allow the Town to examine the potential for structural reform in a manner that should address the issues flagged in the September submission, and if they cannot be addressed to the satisfaction of Council then it remains open for the Town to withdraw from the process. A further important point is that the Council's concern that the poll provisions of the Act should apply has been addressed and it is quite clear that they have not been altered.

If an RTG is formed, it will be implemented through an Agreement. The Minister has been clear that the government is open to the RTG Agreement having certain issues negotiated and/or addressed by the inclusion of specific clauses or requirements, as identified by the members. An agreement does not have to be finalised before the Minister's deadline and discussion with the other members can continue in order to finalise the Agreement, including the requirements of the Regional Business Plan. It is proposed that if the RTG process is agreed, the representatives from each member Council should work together to finalise the Agreement to be submitted to



the Minister. The workload and commitment associated with the RTG process is envisaged to be both critical for Council and therefore significant.

The outcome of the community consultation in April was disappointing and there may have been a number of possible reasons as to why this occurred. However given that feedback it is the officer's opinion that Council demonstrate leadership on this critical issue by proceeding as previously resolved. This should include ongoing negotiations with the Minister, Department of Local Government and WESROC members as part of the Regional Business Plan process.

## **OPTIONS**

Council has a number of options including;

1. Amend or rescind its current position and advise the Minister that the Town does not wish to join an RTG at this time; **or**
2. Maintain its resolved position from March 2010 and advise the Minister that the Town is willing to join an RTG with the Towns of Claremont, Mosman Park and Shire of Peppermint Grove (G4), inclusive of associated boundary changes; **and**
3. Advise the Minister that should any of the proposed RTG members not wish to participate, that Council will support joining the RTG process with the remaining identified members and will work with other identified members to join during the RTG process.

## **VOTING**

Simple Majority

## **OFFICER RECOMMENDATION**

**That Council:**

1. **reaffirm its resolved position from March 2010 and join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to form a Regional Transition Group, recognising that some members do not wish to join an RTG at this time but may choose to do so in the future**
2. **work with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove and encourage them to fully participate in the RTG process, including development of the Regional Business Plan, so that each Council can explore opportunities that will result in increased efficiency, value and service provision for its community.**

**10.1.3 PLANNING REFORMS UPDATE**

**File No:** SUB/843  
**Attachments:** [Approval and Related Reforms No 4 Planning Bill 2009](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 19 May 2010  
**Author Disclosure of Interest:** Nil

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**INTRODUCTION**

The Minister for Planning has introduced the *Approvals and Related Reforms (No. 4) (Planning) Bill 2009* into Parliament. The Bill proposes to make several amendments to the *Planning and Development Act 2005*, in order to streamline and improve the planning approvals process.

These proposed amendments are part of a series of legislative amendments being progressed by the State Government to planning, environmental, mining and other legislation. The Government is committed to improving the approvals process to ensure that the economic growth through resource and other development is not unduly hindered by the approvals process.

The proposed amendments to the Planning and Development Act 2005 will:

- Extend the use of improvements plans to land not subject to a region planning scheme, to strengthen state and regional planning.
- Enable more efficient, consistent and coordinated decision-making in development applications at local, regional and state levels through the establishment of development assessment panels.
- Include provisions enabling the Minister to direct a local government to amend its local planning scheme to give effect to a state planning policy;
- Provide exemptions from planning approval for projects funded through the nation building and jobs plan stimulus package to facilitate meeting the Commonwealth's funding requirements.
- Enable the collection of data on local government development decisions to monitor the effectiveness of reforms to the approvals process.

The Bill was first presented to the Legislative Assembly in November 2009. The second reading speech was scheduled for 4 May 2010.

This report is to update Council on two of these key reforms to the WA town planning system currently being implemented by the Government; for information and any action it may wish to take.

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## 1. DEVELOPMENT ASSESSMENT PANELS (DAP)

### Discussion Paper

In September 2009 the Department of Planning (DoP) released a Discussion Paper on this reform and invited submissions. Council made a submission strongly critical of the proposal, reflecting wide opposition by local government generally.

### Policy Statement

In April 2010 the DoP released a Policy Statement as the basis for implementing the DAP, ie to help make it happen, which does not call for submissions. The Manager Development Services provided summary advice to Council as below:

#### Introduction

- *Attached for your information is a just-released covering letter and policy statement on implementing the Development Assessment Panels (DAP).*
- *The CEO has asked me to provide this material to you together with some preliminary comment.*
- *You will recall that in October 2009 Council made a submission to the discussion paper on DAP, and be aware that local government widely criticised the proposal.*
- *Nonetheless the State Government is committed to introducing the DAP model and the policy is the next step in the process.*
- *This is to be followed by a report on the submissions, statutory regulations, operational guides, then going live.*
- *The policy statement is a concise expression of the Government's direction for DAP and response to the main issues raised in the submissions, leading to a number of revisions in the detail of the DAP.*
- *The policy is not open for comment or negotiation – unless local government mounts any action.*

#### Specifics

- *The policy document is fairly easy to read and clarifies several basic elements of the DAP as follow:*
  1. *The financial threshold for DAs to go to DAP has been raised significantly to \$7M, however, applicants have otherwise been given the option of choosing to go to a DAP instead of the LG.*
  2. *The class categories of DAs which qualify for DAP or are exempt have been streamlined.*
  3. *The composition of DAP where technical expertise outweighs elected members has been retained as a core principle.*
  4. *The arrangements for panel proxies has been rationalised.*
  5. *The sitting fees have been made equal for technical or LG panel members.*
  6. *The application fees for proposals going to DAP have been enhanced to cover the extra costs of administration.*
  7. *In the event of appeals, the DAP have been made the defendant of their decision rather than the LG or WAPC.*

#### Comment

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- In terms of proper process, it seems odd to release a policy statement ahead of the report on submissions influencing its content, which implies that the policy might be predetermined and the analysis of submissions written to support its outcome.
- In terms of administrative arrangements, the practical improvements are appropriate for more efficient and equitable operations.
- In terms of the all-important decision-making implications, there is no doubt that the intention of distancing certain proposals from the control of LG has been preserved and strengthened. The situation regarding defending appeals is plainly sensible.
- For Cottesloe, major proposals at the beachfront and in the town centre, large/expensive residential proposals, and some lesser yet contentious proposals, would all be candidates to go before a DAP.
- In summary, the State Government is proceeding with DAP despite the LG outcry and has not altered the model fundamentally, only administratively. Implementation of DAP is expected to continue throughout the coming months with panel nominations likely to be called late in the year. Council may wish to consider its approach to the matter accordingly.

From subsequent discussions the following additional observations have been made:

- The threshold for applicants opting to go a DAP is \$3M.
- The panel size/composition may at times limit the capacity to deal with major/complex proposals, which is where the reports from the LG offices will be important.
- The existing planning rules/development requirements apply in terms of both local and regional planning; ie the DAP only changes the decision-making process, hence the TPS, RDC and Policies remain the relevant framework for assessment and determination.
- What the DAP model is intended to do, however, is favour technical determination over local councils (as occurs with the SAT), although that may be regarded as an erosion of democracy.
- It also provides for a greater emphasis to be placed on regional strategies and policies as influences on local planning outcomes.
- There is also a ministerial call-in power for proposals deemed to be of state or regional significance, and with no appeal right – so this is where the significant change lies; with the Minister reporting to Parliament on what he calls-in.
- The normal appeal rights apply for applicants. There is no special avenue of appeal or review if the LG doesn't like the panel's decision.
- Monitoring of the panels is outlined in 4.3.10 of the Discussion Paper and the new Regulations would elaborate on the procedures. As it reads, the DoP would have administrative responsibility while the Minister would be accountable to Parliament for the performance and fairness of this planning reform. If LGs lose confidence in or have concerns about the operation of panels and the implications of their decisions, then they would have to make representation to the Minister or other MPs.
- In terms of Scheme Amendments, it is correct that they would be needed where a proposal doesn't comply/can't be approved. The DAP proposal included that a panel may recommend to the Minister that a Scheme Amendment is desirable, and a parallel reform in the overall reform Bill is that

*the Minister may direct a LG to amend its TPS to be consistent with a state planning policy. The public consultation and decision-making process for Scheme Amendments would otherwise prevail.*

- *The timeline for the introduction of DAP is following proclamation of the Bill, completion of the Regulations, provision of the guiding governance documents, appointment of panel members and putting in place all the administrative arrangements, all of which is anticipated to stretch over the rest of this year and into next year for commencement of DAP.*

## **Report on Submissions**

Latterly the DoP has released its report on the 177 submissions received, which summarises them and focuses on those addressing procedural aspects of DAP rather than those challenging the basic concept. Consequently the Policy Statement addressed six key operational aspects raised and did not reconsider the fundamentals.

The DoP is proceeding to draft the *Planning and Development (Development Assessment Panels) Regulations 2010*, to provide the detail on their establishment and operation, and is consulting with the WALGA, Planning Institute of Australia and development industry via joint working groups.

## **Experience Elsewhere**

Feedback gleaned from the experience of DAP in other states, such as in Ku-ring-gai Council in NSW, is that they can be practically problematic, cause conflicts in local communities and be disruptive to the development industry.

## **2. IMPROVEMENT PLANS**

Another reform initiative attracting attention is Improvement Plans, as outlined below:

### ***What is an improvement plan?***

- *An improvement plan identifies an area or site that will be subject to special planning provisions in order to advance the development of that land. The WAPC may acquire land within the improvement plan area and undertake works on that land to fulfill the objectives of the improvement plan.*
- *At the moment, improvement plans may only be declared in areas where a region planning scheme applies. The proposed changes will enable the WAPC to declare improvement plans in any area of the state, whether or not a region planning scheme applies or is pending.*
- *Currently, there are three region schemes in operation in Western Australia: the Metropolitan Region Scheme, the Peel Region Scheme and the Greater Bunbury Region Scheme.*

### ***Why are these changes being made?***

- *Given the cost and time involved in preparing region planning schemes, the Department of Planning and the WAPC consider that frameworks and strategies in the regions, combined with targeted state instruments such as*

*improvement plans and planning control areas, will be more effective in achieving desired outcomes for State regional land use planning.*

- *Improvement plans may be used, for example, to implement regional strategies, to facilitate significant state projects, and to ensure that land use surrounding major infrastructure or resource projects is consistent with state objectives.*

#### **What is an improvement scheme?**

- *Where there is an improvement plan and the area is a strategic site of regional significance, an improvement scheme may be prepared to guide development in the area and give effect to the objectives of the improvement plan. The provisions of the improvement scheme will prevail over the provisions of any applicable local or region planning scheme. Previous planning mechanisms will apply to the area once the improvement plan ceases to exist.*
- *The WAPC will be responsible for the preparation and administration of improvement schemes. These schemes will be prepared in accordance with the requirements in Part 5 of the Planning and Development Act 2005 in the same way as local planning schemes, and will be advertised for public comment before coming into effect.*

#### **If an improvement scheme is put in place, how does that affect the role of local governments?**

- *As the provisions of an improvement scheme will prevail over the provisions of any local or region planning scheme, the local government will no longer be responsible for controlling development in the improvement scheme area. This will be the role of the WAPC. However, local governments will be consulted in regard to the development of the scheme and proposed developments.*
- *Furthermore, the WAPC may choose to delegate the power to determine development applications in an improvement scheme area to another responsible authority such as a local government, a development assessment panel, or a redevelopment authority.*

#### **Officer Comment**

The *Planning and Development Act 2005* already allows for improvement plans to be made by the Minister, acting on the advice of the WAPC. The new provisions about improvement schemes give the WAPC powers for implementing improvement plans. This could be applied to affect local governments in the region in a number of ways, as the improvement scheme provisions empower the WAPC to specify an area to be included as such for re-planning and development, removed from the care and control of the local government.

Improvement plans are a traditional planning tool that have worked fairly well at a regional level, such as where redundant Government land is involved and infrastructure coordination is required. However, the acquisition of private property, such as market gardens for redevelopment, has been contentious.

The loss of planning and development control powers to local governments is a major concern, as local schemes, policies and so on provide a desirable fine-grain of detail

in managing land use, built form and amenity, and because councils are close to their communities whereby the processes involved allow for meaningful consultation and representation.

It appears doubtful that the consultation loop with local government would be efficacious, yet the WAPC may well be quite dependent on councils for local knowledge, expertise, participation and administration.

WESROC has identified serious concerns about the apparently unrestricted nature of the improvement scheme provisions and considered that WALGA should oppose their introduction in the present form and insist on amendments to clarify and limit the powers – it is understood that WALGA has been in discussion with the Minister and the DoP Director General plus senior officers in this matter. (Note: In September 2009 Council resolved to *“encourage WALGA to strongly oppose the introduction of Development Assessment Panels in Western Australia”*).

While assurances have been given that the improvement scheme provisions are intended for a relatively narrow focus on specific issues that warrant involvement by the State-level planning authorities (and presumably development agencies), there remains cause for concern. Examples offered are for contaminated land, redevelopment of the Perth foreshore, or projects of State significance cross two or more local government boundaries.

However, the legislation is not drafted in a manner that such limited application is in any way indicated. This gives rise for concern that the powers could be used to implement State policies such as intensified development around railway stations or along major roads such as Stirling Highway. There is also the potential for areas where the State and local governments may differ over planning issues – such as height limits at the Cottesloe beachfront - to be designated as improvement scheme areas.

## **VOTING**

Simply majority.

## **OFFICER RECOMMENDATION**

**THAT Council;**

- 1. notes the information provided in the officer report**
- 2. supports WESROC in its endeavours to seek suitably qualified advice to prepare amendments to the Approval and Related Reforms (No. 4) (Planning) Bill 2009, in order to ensure local community control in:**
  - 2.1. the preparation of planning schemes for local areas, and**
  - 2.2. the assessment of development applications in local areas i.e. Development Assessment Panels to be appointed by local Councils.**

- 11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
  
- 12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**
  
- 13 MEETING CLOSURE**