

12.0 URGENT BUSINESS (LATE REPORTS)

12.2 Proposed Correspondence to Western Australian Planning Commission regarding Addendum of Inadvertent Errors Relating to SP34's Amended Plan

File Code	PS.TPS 4.3
Author	Jonathan Throssell, Chief Executive Officer
Senior Employee	Jonathan Throssell, Chief Executive Officer
Disclosure of Any Interest	Nil
Attachments	Nil

SUMMARY

On 3 April 2023 a request was received from Cr Claire Hurst to move a motion to consider an item of urgent business that is not included on the agenda of the meeting. In accordance with clause 4.11 of the *Shire of Mundaring Meeting Procedures Local Law 2015* the President has consented to the business raised.

Cr Hurst's motion is as follows:

1. *That a letter be sent to the Chairperson of the Western Australian Planning Commission (WAPC), outlining the information supplied in the rationale detailed below and requesting that the WAPC apply for an extension of time to the public comment period of 15 business days being 29 May 2023, to afford the community and referral agencies equal opportunity and procedural fairness.*
2. *That a copy of the letter be sent to Minister for Planning, Department of Planning, Lands and Heritage, (Hon. Rita Saffioti), the DPLH Director General (Anthony Kannis), WAPC Secretary (Sam Fagan), and the presiding Member of the Statutory Administrative Tribunal (Dr Stephen Willey).*

Cr Hurst has provided the following rationale in support of her motion:

“At the directions hearing on 4 November 2022, the State Administrative Tribunal (SAT) made orders for the applicant (Satterley) of North Stoneville development to provide an amended structure plan (SP34) and any supporting information to the respondent (the WAPC) by 31 January 2023.

Point 5 of the SAT orders state that the parties have liberty to apply, meaning an extension to the schedule, including the June 30 WAPC deadline, can be sought.

On 10 March 2023, the reports were released and the Public Comment period was opened for 42 business days.

On 23 March, Hatch Roberts Day, on behalf of Satterley (the applicant) provided ‘Amendment 1, Addendum’ to the DPLH confirming “inadvertent errors”.

On 28 March the Addendum was uploaded to the DPLH website and on 31 March at 10.05am an email was sent to ‘subscribers’ of the site, notifying them of new and additional information while the public comment period is open.

'Subscribers' were made aware of the Addendum 15 business days after the public comment period was open.

Three additional reports are also dated post the 31 January 2023 deadline:

- a. 2023 Bushfire Simulation Modelling Report dated 9 February, 2023*
- b. 2023 Microsimulation Evacuation Modelling Report dated 16 February 2023*
- c. 2023 Bushfire Management Plan dated 16 February 2023*

The late receipt of reports, changes to information during the public comment period and 'inadvertent errors' contained within the reports create doubt as to whether our community have been afforded procedural fairness."

BACKGROUND

For the avoidance of doubt, Shire officers confirm the release of the four documents referred to above occurred on the dates as listed.

A special meeting of Council has been arranged for 2 May 2023, the purpose of which is to consider the Shire's referral response to the WA Planning Commission's (WAPC) reconsideration of Structure Plan 34 – North Stoneville (SP34), which is currently required to be submitted by 8 May 2023.

STATUTORY / LEGAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Mundaring Strategic Community Plan 2020 - 2030

Priority 3 - Built environment

Objective 3.3 – Regulated land use and building control to meet the current and future needs of the community

Strategy 3.3.1 – Incorporate appropriate planning controls for land use that meet current and future needs without compromising the highly valued character of the natural and built environment

SUSTAINABILITY IMPLICATIONS

Nil

RISK IMPLICATIONS

Risk: Reputation – community members who want the Council to advocate on their behalf might be aggrieved if the request to write a letter to the WAPC on this matter was refused and thus lose trust in the Shire's community leadership. Alternatively, other community members might form the view that this action is an unnecessary action.

Likelihood	Consequence	Rating
Unlikely	Insignificant	Low
Action / Strategy		
<ol style="list-style-type: none"> 1. Write the letter as requested, noting it does not commit significant Shire resources 2. Refuse to support the request and provide explanation that individual referral agencies and community members can approach WAPC directly to seek an extension of time for a submission. 		

EXTERNAL CONSULTATION

Nil

COMMENT

The motion advises that the request to extend the public submission date to 29 May 2023 would ‘afford the community and referral agencies equal opportunity and procedural fairness’.

While it is acknowledged that other referral agencies and/or members of the public might require more time to prepare and present their submissions, Shire officers are confident the Shire’s referral response report will be finished in time for it to be included in the agenda for the meeting on 2 May 2023.

The motion includes a request that “*the WAPC apply for an extension of time to the public comment period of 15 business days*”. It is within the authority of WAPC to extend the public comment period, meaning they do not have to apply elsewhere (eg State Administrative Tribunal) for such approval. However any extension of time will reduce the time Department for Planning, Lands and Heritage (DPLH) has to consider submissions and prepare a report for WAPC, which has been directed by SAT to reconsider its decision on SP34 by 30 June 2023 and advise SAT of its reconsidered decision by 10 July 2023. It is open to WAPC to seek SAT approval to alter these dates if it believes more time is required.

While it is open to other referral agencies and community members to approach WAPC directly to seek an extension of time for a submission, preparation of a letter on their behalf will not consume significant Shire resources.

VOTING REQUIREMENT

Simple Majority

RECOMMENDATION

1. That a letter be sent to the Chairperson of the Western Australian Planning Commission (WAPC), outlining the information supplied in the rationale detailed below and requesting that the WAPC apply for an extension of time to the public comment period of 15 business days being 29 May 2023, to afford the community and referral agencies equal opportunity and procedural fairness.
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Rationale

At the directions hearing on 4 November 2022, the State Administrative Tribunal (SAT) made orders for the applicant (Satterley) of North Stoneville development to provide an amended structure plan (SP34) and any supporting information to the respondent (the WAPC) by 31 January 2023.

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