

**DRAFT STATE PLANNING POLICY 7.2 PRECINCT DESIGN AND ACCOMPANYING DOCUMENTS**

City of Stirling Submission: 27 September 2019

**1 Introduction**

The City welcomes the opportunity to comment on the draft State Planning Policy 7.2 Precinct Design, accompanying draft Precinct Design Guidelines and the Precinct Design Planning Framework Discussion Paper. The City recognises these documents aim to help meet State Government infill dwelling targets and provide guidance on how this can happen in established urban areas in appropriate locations.

The City is supportive of the proposal, and recommends modifications to ensure the changes simplify the planning framework and result in good planning outcomes. These modifications are discussed in detail further in this submission.

Additionally, the City has the following overarching comments to make in relation to matters that have not been adequately addressed in the draft documents:

Any changes to State Planning Policy should not result in delays to planning instruments that have undergone significant development by local government.

During the last decade, the City has developed a number of planning instruments for areas such as Stirling City Centre, Mirrabooka Town Centre, Beaufort Street and Scarborough Beach Road West to enable urban consolidation in existing urban areas. These documents dealt with a range of complex matters to develop a framework to deliver increased density in appropriate locations.

The implementation of a number of these instruments was delayed due to new state planning legislation being introduced. Having to align the City's planning framework with an evolving state planning framework has resulted in increased cost, increased administrative requirements and significant delays in implementing the plans.

The City is currently developing its 'Better Suburbs' planning framework to facilitate urban intensification along Wanneroo Road and Morley Drive, and in certain centres, and this has involved preparing a Scheme Amendment and Local Development Plans.

It is critical that the introduction of the Precinct Planning framework does not impede implementing the planning framework that has been developed following extensive community engagement.

Because of the City's experience that changes to the state planning framework cause extensive time delays and significant additional costs, it is imperative that the introduction of any new state wide planning instrument allow for the continuation of proposed planning frameworks that have been developed, where those frameworks are consistent with state planning policy such as Perth and Peel @ 3.5 million, and an adopted Local Planning Strategy.

Precinct Plans should be processed in the same manner as an amendment to a Local Planning Scheme.

The Precinct Design Planning Framework Discussion Paper proposes options that a Precinct Plan be prepared either concurrently with an accompanying scheme amendment or that an accompanying scheme amendment can be prepared (as a 'Basic' Scheme Amendment) once a Precinct Plan is approved.

Neither of these options considers the possibility of a Precinct Plan not being approved, and a planning instrument might not be supported by the Council of a local government for valid

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planning reasons, particularly if a proposal is inconsistent with a Western Australian Planning Commission endorsed Local Planning Strategy.

The role of local government in the decision making process has diminished in recent years, and although local government can resolve not to support a Scheme Amendment, it can only make a recommendation to the Western Australian Planning Commission not to approve a Structure Plan.

It is the experience of the City that there is a risk that a Precinct Plan might be submitted by landowners proposing an outcome that is inconsistent with an endorsed Local Planning Strategy.

The simplest way for this to happen is to align the requirements for processing Structure or Precinct Plans with the statutory requirements contained in the Planning and Development (Local Planning Schemes) Regulations 2015 for Planning Scheme Amendments.

**2 Draft State Planning Policy 7.2 Precinct Design**

For a number of years, to align development in the City with current and previous metropolitan strategic planning frameworks, including Perth and Peel @ 3.5million, the City has progressed planning instruments to realise the potential for infill development.

The City has prepared Structure Plans to ensure additional dwellings and population are located in appropriate locations. The introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) relegated these planning instruments to "Due Regard" status only. Through scheme amendments the City has subsequently been introducing key aspects of the Structure Plans into the City's Local Planning Scheme No. 3.

The City is concerned that the introduction of the Precinct Planning framework may result in delays or administrative changes having to be made to planning instruments that the City has or is developing (such as Better Suburbs). This is a problem for the City because delaying implementing plans (Structure Plans, Scheme Amendments or Local Development Plans) that have been developed in conjunction with the community means that when the plan are brought before the community, they may not reflect community sentiment at that time.

For this reasons, the City recommends a change to proposed Clause 6.5 in State Planning Policy 7.2 – Precinct Design that deals with where a Precinct Plan will not be required is expanded to include the following requirement:-

*Where the preparation of a draft Structure Plan, Activity Centre Plan, Scheme Amendment or Local Development Plan commenced prior to the gazettal of SPP7.2 - Precinct Design, those planning instruments shall be finalised without alignment to SPP7.2.*

This recommended change will ensure that where the preparation of a local planning instrument has commenced, following development in conjunction with the community, prior to the introduction of the Precinct Planning framework, will not need to be re-written should the Precinct Planning framework be introduced.

This will allow Local Governments to finalise planning instruments that have undergone significant development and community engagement without additional delay, and will allow the realisation of infill development potential sooner, rather than having to recommence the process.

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**3 Draft Precinct Design Guidelines****Precinct Design Guidelines - Design Element 1 – Urban Ecology**

The Precinct Design Guidelines introduces a design element that requires development to address urban ecology. This requires consideration of the interrelationships of the built and natural systems of the urban environment, and contains objectives relating to the protection of the urban ecology, responding to Aboriginal, cultural and built heritage, integrating urban ecological features into precinct design and minimise resource use, energy consumption and greenhouse gas emissions.

This approach is supported in principle, however, the approach appears to focus this element on infill development rather than the type of development that is occurring on the urban fringe (such as single houses in areas inaccessible to public transport).

In order to properly address the matters to be considered in this design element (such as setting precinct wide targets for carbon emission reduction) a whole of government approach, involving appropriate infrastructure investment in areas such as public transport to facilitate urban intensification in order to minimise greenhouse gas emissions across the whole metropolitan area, not only within precincts is required.

Similarly, a requirement for development to exceed standards contained in other legislation such as the National Construction Code 2019 or the Building Code of Australia may not have been fully considered.

Many of the matters covered in this section are not in the direct control of local governments, but are the responsibility of other state government agencies.

For these reasons, it is recommended that further consideration to the practical implementing objective 1.4 of the Urban Ecology be given, in light of potential conflicting statutory requirements. The matters contained in this section of the Precinct Design Guidelines should be developed as a State Planning Policy.

**Precinct Design Guidelines - Advice for applicants and assessors**

The proposed Precinct Planning framework caters for Complex and Standard Precinct Plans, and contains only limited direction to applicants and assessors of a Precinct Plan, of the appropriate level of detail or layout of a Precinct Plan.

Additional guidance is required to ensure that where Precinct Plans are prepared there is a consistent understanding of the content required. To ensure this happens, the Precinct Design Guidelines should be modified to include Appendices to guide the preparation and assessment of Precinct Planning documents and to standardise the requirements of Precinct Plans.

**Precinct Design Guidelines - Appendix 2 – How to set a Precinct boundary**

Appendix 2 of the Precinct Design Guidelines identifies that when determining a Precinct boundary, target dwelling yields should be considered. Requiring target dwelling yields to 'be considered', not a mandatory requirement, is an inadequate response to ensure that there is sufficient population and dwelling growth along corridors to ensure that infill dwelling and population targets identified in Perth and Peel @ 3.5million is achieved.

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The Precinct Design Guidelines should be modified to require Precinct boundaries to be set so that identified dwelling targets can be achieved.

It is therefore recommended that State Planning Policy 7.2 – Precinct Design Guidelines be modified to include a requirement that Precinct Plans include dwelling and population targets where there is no Local Planning Strategy in place. Additionally, where there is a Local Planning Strategy, the Precinct Plan should identify how the plan meets the intent and objectives of the strategy.

Design Guidance

The draft Precinct Design Guidelines identify that State Planning Policy 4.2 – Activity Centres for Perth and Peel will be retained. It is recognised that modifications will be necessary to this document; any modifications need to ensure that there is no duplication or inconsistency between the two State Planning Policies. Similarly, clarity needs to be provided that ensures that there is a clear purpose and intent to the separate State Planning Policy, and, in the event of any inconsistency, which policy prevails.

For this reason, it is recommended that State Planning Policy 7.2 Precinct Design Guidelines and State Planning Policy 4.2 – Activity Centres for Perth and Peel be modified to ensure that there is a clear purpose and intent to the respective State Planning Policies, and clarity provided about which policy prevails in the event of any inconsistency.

**4 Response to questions posed in the Precinct Design Planning Framework Discussion Paper**

The following responses to the feedback questions in the Precinct Design Planning Framework Discussion Paper.

**Incorporation of Precinct Design**

Question 1a. Do you support the proposed approach for the inclusion of Precinct Design in the planning framework?

**Response 1a.** Council supports in principle the Precinct Planning framework, subject to the recommended modifications provided in this submission.

Question 1b. What are the key considerations that have influenced your assessment?

**Response 1b.** The key considerations that has influenced the response of Council are the delays experienced by the City in implementing planning frameworks for the Stirling City Centre and Mirrabooka Town Centre because of the introduction of the Planning and Development (Local Planning Schemes) Regulations 2015.

The City spent considerable time and resources preparing planning frameworks for these areas, and when the Planning and Development (Local Planning Schemes) Regulations 2015 were introduced, the initiation of further planning scheme amendments to ensure the outcomes sought could be delivered was required. This was because the status of Structure Plans changed following the introduction of the Planning and Development (Local Planning Schemes) Regulations 2015, which meant that these plans only have 'due regard' status.

It is vital that any state planning framework that is introduced allows for planning frameworks which have been developed over several years to progress when changes to state planning policy are introduced, without having to recommence the process.

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Question 1c. Do you have any suggestions regarding other potential alternatives?

**Response 1c.** No comment

**Policy Guidance**

Question 2a. Do you support the general principle that Precinct Design is used to guide the preparation of plans in existing urban areas and the draft Neighbourhood Design SPP is used to inform the preparation of plans in greenfield settings/undeveloped areas?

**Response 2a.** This general principle is supported, subject to the comments and recommendations made in this submission.

Consideration should be given to referencing the Structure Plan and Local Development Framework into the Precinct Design Policy and the future Neighbourhood Design Policy, where appropriate.

**Determining Authority**

Question 3a. Do you support the proposed determining authority arrangements?

**Response 3a.** The proposed determining authority arrangements are not supported, as is unclear why some Standard Precinct Plans require the approval of the Western Australian Planning Commission. It is the City's contention that, in the interests of developing an efficient planning system, increased delegation to local government is provided to process and determine Standard Precinct Plans before the Precinct Planning framework is introduced.

Question 3b. What changes would you suggest and why?

**Response 3b.** The determination process could be improved by allowing local governments to determine minor amendments to Complex Precinct Plans, and specified Standard Precinct Plans, consistent with the risk based approach suggested elsewhere in the framework.

This would require greater consideration be given at this stage of the framework development process to the types of Standard Precinct Plans that it is appropriate for local government to determine.

Also, the advantages of progressing Precinct Plans concurrently with a Local Development Plan should be promoted within the framework as this process will facilitate certainty for the community about future built form outcomes.

Question 3c. Do you support the potential requirement for all Standard Precinct Plans to be provided to the Department by a local government upon lodgement?

**Response 3c.** The City does not support requiring Standard Precinct Plans being referred to the Western Australian Planning Commission for recording and review. This process will cause uncertainty for local government and the development industry about who will be responsible for processing, assessing and determining the Standard Precinct Plan.

A more efficient approach would be to invest resources before the Precinct Planning framework is finalised to provide clarity around determination responsibilities for processing and determining Standard Precinct Plans.

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**Identification of Precincts**

Question 4a. Do you agree with the guiding principle regarding the identification of precincts and the need for precinct planning?

**Response 4a.** The guiding principle that the need for Precinct Plans should be identified at the highest appropriate level in the planning system is supported.

Question 4b. Are there other strategic planning levels (or mechanisms) where precincts and the need for precinct planning can or should be identified?

**Response 4b.** No comment.

**Statutory Triggers**

Question 5a. Do you have any comments regarding the potential statutory triggers (i.e. overlay, zoning, text provisions)?

**Response 5a.** State Planning Policy such as Perth and Peel @ 3.5million contain key principles of integrating land use and public transport and the creation of urban corridors. The City has integrated these principles into its Local Planning Strategy, which will guide the development of the City's new Local Planning Scheme.

A Local Planning Strategy is an appropriate trigger to identify when a Precinct Plan is required. It is unnecessary for a Local Planning Scheme to contain provisions which require the preparation of a Precinct Plan when a Local Planning Strategy can do this.

There needs to be an acceptance that appropriate triggers exist in Local Planning Strategies to facilitate Precinct Planning (or Scheme Amendments) that give effect Perth and Peel @ 3.5million, and that there needs to be flexibility in implementing these triggers when new Scheme Amendments are proposed by local government that will facilitate urban infill.

Question 5b. Do you have any suggestions regarding alternate ways for triggers for Precinct Plans to be incorporated into the planning system?

**Response 5b.** No comment.

**WAPC Determination**

Question 6a. Do you have a view on the procedural requirements associated with the Western Australian Planning Commission making a determination that a Precinct Plan is required for the purposes of orderly and proper planning?

**Response 6a.** The Precinct Planning framework proposes that 'triggers' for the preparation of a Precinct Plan should be included at the highest appropriate level in the planning system. It is the City's view that a Local Planning Strategy that has been endorsed by the Western Australian Planning Commission is the planning instrument to do this. This is because Council (as a responsible planning authority) has endorsed a Local Planning Strategy that identifies areas where additional dwellings to accommodate future population growth required by Perth and Peel @ 3.5 Million should be located.

It is a Local Planning Strategy that does this, and the City does not consider it appropriate that the Western Australian Planning Commission be able determine a Precinct Plan, when detailed planning has already been undertaken to achieve urban intensification in the City.

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To address this issue, it is recommended that where a local government has a Local Planning Strategy endorsed by the Western Australian Planning Commission that facilitates urban intensification consistent with state planning policy, the Western Australian Planning Commission should not be permitted to require a Precinct Plan to be prepared.

Question 6b. Do you think consultation should occur prior to the Western Australian Planning Commission determining that a Precinct Plan is required? If so, what consultation do you think should be required and how should this be undertaken?

**Response 6b.** Where the Western Australian Planning Commission intends to use its powers to require the preparation of a Precinct planning instrument for an area not identified for urban intensification, public consultation should be undertaken at the expense of the Western Australian Planning Commission before a decision is made.

This should be done by writing to all owners and occupiers of properties in and abutting the affected areas.

Question 6c. How do you think the Western Australian Planning Commission's determination that a Precinct Plan is required should be made known?

**Response 6c.** Where the Western Australian Planning Commission determines that a Precinct Plan is required, the Western Australian Planning Commission should send a notice to all relevant land owners, occupants, and public authorities.

**Advertising Timeframes**

Question 7a. Do you support a 42-day advertising period for Precinct Plans? What do you see as the advantages and disadvantages of this potential change?

**Response 7a.** The City supports a 42-day advertising period for Precinct Plans only if the Planning and Development (Local Planning Schemes) Regulations 2015 are amended as suggested in the draft Precinct Planning Framework so that a scheme amendment to give effect to a Precinct Plan will be considered a 'Basic' scheme amendment, and therefore not require advertising.

The advantage of this timeframe is that it provides an appropriate timeframe for comments to be made, that align with the 'Standard' scheme amendment advertising requirements.

**Risk-based Processes**

Question 8a. Do you support different procedures for the processing of Precinct and Structure Plans (and amendments) that reflect the complexity and risk associated with each proposal? What do you see as the advantages and disadvantages of this potential approach?

**Response 8a.** A risk-based process is supported where both the Western Australian Planning Commission and the Local Government agree a proposal is low risk or simple. The advantage of this approach is improved efficiency when dealing with matters of low complexity.

Question 8b. What criteria would you suggest being used to determine different risk-based streams for processing Precinct and Structure Plans (and amendments)?

**Response 8b.** The provisions in the Planning and Development (Local Planning Schemes) Regulations 2015 that determine what are Basic, Standard or Complex amendments are appropriate criteria for determining different streams for Precinct Plans and amendments.

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Question 8c. Do you think that the criteria for determining the appropriate stream to use should be included within the Planning and Development (Local Planning Schemes) Regulations 2015 or provided as separate guidance?

**Response 8c.** To provide clarity and certainty the outlining of different streams for determination processes should be outlined in the Planning and Development (Local Planning Schemes) Regulations 2015. Containing criteria in guidelines is inappropriate and may lead to inconsistent decisions being made.

**Assessment Timeframes**

Question 9a. Do you think that the existing timeframes that local governments and the Western Australian Planning Commission have to process Structure Plans (and hence those to be applicable to Precinct Plans) should be modified?

**Response 9a.** Structure Plans and future Precinct Plans deal with complex issues, and often statutory timeframes place an unreasonable burden on local government. Council recommends changes to the timeframes to provide longer processing timeframes.

It is the City's experience in dealing with privately submitted Structure Plans that deal with complex issues that insufficient time is provided to local government to appropriately process and assess these plans.

To ensure that an appropriate amount of time is provided for the assessment and processing of Structure and Precinct Plans it is recommended that the Planning and Development (Local Planning Schemes) Regulations 2015 be modified so that the Western Australian Planning Commission alone may determine that a local government assessment timeframe of a Structure Plan can be extended.

Question 9b. Do you have any suggestions regarding other potential changes that could improve the effectiveness and timeliness of the processing of Structure Plans and Precinct Plans?

**Response 9b.** The ability for State and Local Governments to simultaneously undertake public consultation of a planning instrument is supported, in particular for both authorities to consider the submissions and request relevant changes concurrently.

**Scheme Amendment Processes**

Question 10a. Do you have a preferred Option (A or B) for the amending of Local Planning Schemes to reflect the content of Precinct Plans?

**Response 10a.** The City supports Option B as advertising a Scheme Amendment to give effect to Precinct Plan that has been advertised is unnecessary and inefficient.

This should only occur where a local government can demonstrate that the Scheme Amendment gives effect to an advertised Precinct Plan that has been made available for public comment.

In the interest of transparency, there needs to be a requirement in the *Planning and Development (Local Planning Schemes) Regulations 2015* for local government to notify changes made to Precinct Plan post advertising.



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Question 10b. What are the key considerations that have influenced your assessment of the proposed options?

**Response 10b.** The advertising of a Scheme Amendment that gives effect to an advertised Precinct Plan is unnecessary and inefficient, and will delay progression of a Precinct Plan that has already been subject to a community engagement process.

It has been the City's experience that advertising a Scheme Amendment that gives effect to a Structure Plan previously advertised for public comment does not raise any new planning issues that need to be considered, and adds an administrative hurdle that to be passed.

**Scheme Amendment Content**

Question 11a. What Precinct Plan content do you think should be included in a Local Planning Scheme?

**Response 11a.** Council supports including all the content contained in the discussion paper, and also recommends including requirements for ceding of land for open space and roads.

Question 11b. Do you support Precinct Plan content being included in Local Planning Schemes that cannot be varied by decision-makers?

**Response 11b.** This is supported by Council, and is considered vital to deliver on the planning framework developed in conjunction with the community.

**Changes to Other Documents**

Question 12a. Do you have any comments regarding the key changes to other documents that have been identified to support the implementation of Precinct Design?

**Response 12a.** Guidance on the preparation of planning instruments, and design guidance are contained within a raft of different State Government documents. Consideration should be given to assimilating different frameworks, State Planning Policies and Development Control Policies into a single document to prevent duplication or confusion.

Question 12b. Are there other documents that you think need to be updated to support the effective implementation of Precinct Design?

**Response 12b.** All Development Control Policies should be reviewed, and where possible consolidated into the Precinct Planning framework or other more appropriate instrument (such as the Apartment Design Codes)

**Implementation Assistance**

Question 13a. What information, resources and/or training can Department of Planning, Lands and Heritage provide to help you to effectively implement Precinct Design?

**Response 13a.** Resources should be made available to ensure that the Precinct Planning process can be consistently applied, with common between Local Governments, planning practitioners and the Department of Planning, Lands and Heritage about how they should be prepared, processed and prepared.