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Dear Ms McQue

CITY OF SWAN DRAFT URBAN GROWTH POLICIES

Thank you for the opportunity to provide industry comment on the City of Swan's Draft Urban Growth Policies package. The extension of the submission period has provided UDIA with the time to consult with our membership and to formulate a considered response.

UDIA acknowledges the need to document a consolidated manual of policy positions as a framework for urban development to serve as a solid foundation for future planning and development in the City.

I reiterate that UDIA and our members are keen to work with the City of Swan to apply sound and efficient planning and development practices for the benefit of the North-East region of Perth.

Whilst the objective of any exercise to promote clear and consistent policy guidance is agreed, this can be undermined by excessive policy detail and the consequential administrative burden for assessment of proposals and approval of policy criteria. Where requirements are onerous, there may be substantial delays to the development process, which not only impacts on the industry, but also places pressure on the affordability of land.

As an over-arching comment, UDIA suggests that the level of policy detail in the draft documents is excessive. There appear to be a number of policy overlaps with what we believe to be matters that are the primary responsibility of the State Government.

Nevertheless, UDIA is in general agreement that the implementation of a framework for planning and development in Perth's north-eastern region is a positive initiative as it creates a reliable planning foundation for both local government and industry.



However, consensus feedback from members to the draft policy package is that the individual policies require too much detail at too early a stage within the continuum of the planning and approval process. This would inevitably involve proponents of developments in costly and time-consuming up-front planning effort at a stage which is typically conceptual.

Beyond these general concerns relating to the overall draft policies, UDIA makes the following comments in relation to the specific draft policies:

DRAFT URBAN GROWTH POLICY (POLICY NO. C-POL-102)

Policy Purpose, Application & Objectives (Clauses 1.1 – 2.2)

As a general statement, the positive aspects of the Draft Urban Growth Policy, is that there is a move towards establishing consistency in structure planning policy and practice.

Urban Growth Priorities (Clauses 3.1 – 3.7)

Industry is concerned that the City of Swan might exercise a de facto “priority” favouring certain development “cells” relative to others with respect to the consideration of new structure plans and rezoning applications. This “preferred” sequence of developments may conflict with the extension of utilities and services, and/or an otherwise logical extension of the urban development front.

The former Town Planning Appeal Tribunal has previously ruled that “need” is not a relevant consideration and that planning authorities should not attempt to regulate the market, nor, as a consequence, be seen to be stifling competition.

The essential argument is that an otherwise acceptable urban development should not be arbitrarily constrained by either; (a) a limitation of resources within the approval authority to undertake timely assessment and approval, or (b) a de facto development “program” that favours developments in one locality over another.

UDIA offers to work with the City to ensure that the state government meets its obligations for infrastructure roll-out commensurate with rezonings.

Planning for Urban Growth (Clauses 4.1 – 4.18)

Preparation & Extent of Structure Plans & Management Plans

Clauses 4.1 – 4.8 refer to a range of urban growth management objectives, including the preparation and extent of structure plans and management plans. However, the requirements appear to be generic and lack clear definition.



For example, the policy provides that “management plans must contain an adequate level of detail relating to social, economic and environmental constraints”. However, the definition of “adequate” is open to interpretation, and this situation is likely to result in a significant revolving cycle of work for developers to achieve acceptance of what the City of Swan deems to be adequate. Perhaps the City could prepare a “template” or provide greater clarity as to its requirements.

Management plans are normally prepared as a condition of subdivision approval, or as a condition of structure plan approval. The requirement that a management plan be prepared prior to the adoption of a structure plan is considered premature, and likely to lead to additional costs and delays down the track when more detailed investigations arising from the implementation of subdivision conditions may give rise to the management plan needing to be reviewed.

Structure Plans & TPS Amendments

UDIA offers its full support to the proposal that the draft Urban Growth Policy, under Clause 4.9, allows Structure Plans to be advertised concurrently with a Town Planning Scheme amendment.

Financial Assessment & Infrastructure Contributions

Clauses 4.11 – 4.18 pertain to financial assessment issues, infrastructure contributions, and a requirement for a detailed, all-encompassing *Financial Assessment Report*. A number of requirements in relation to these issues lack clear definition and a number would seem to be unnecessary complications of the existing urban development process.

For example developers already fund extensive infrastructure for new urban developments. Furthermore, it is unclear how appeal rights under current legislation apply to this requirement, i.e. if all other things are acceptable, how does the system deal with an appeal based on a *Financial Assessment Report* being unsatisfactory?

Another concern relates to Clause 4.17, under which the City of Swan indicates that it will not manage any Guided Development Schemes or Common Infrastructure Contributions. UDIA’s view is that there is no other authority better placed than the City of Swan to undertake this responsibility. Surely, this function must be the role of the City. Where developers need to provide a proportion of funding, this should be included in the "scheme cost contributions".

Within the draft urban growth policy, the City seeks to require financial reporting systems from the developer at the structure planning stage. UDIA considers this requirement to be far too much detail at a stage where development may not be certain. Our view is that financial plans should not be required from developers until a later stage of project development. As currently drafted, we maintain that too much detail will be expected before development is confirmed.



UDIA believe the City of Swan should be assessing the short and longer term funding needs of a development at the structure planning stage. If Developer Contribution Reports and Financial Assessment Reports are required, then the City of Swan should take some responsibility for, and ownership of, the ongoing management of this requirement.

DRAFT NEIGHBOURHOOD PLANNING POLICY (POLICY NO. C-POL-103)

Overall, UDIA does not see the merit in introducing a local government policy that duplicates WAPC's Liveable Neighbourhoods Policy, and various other WAPC development control policies. The reliance upon similar policies administered by two different levels of government to achieve compliance will inevitably be confusing for both the developer and the approving authorities.

UDIA supports the notion of diversity of housing and increasing density in certain areas, however industry has commented that the residential density targets stated in Clause 3.13 are too high and it would be difficult or impossible to achieve those densities outlined within single residential developments. Considering the locality of the City of Swan, building apartments to meet the density targets would not be appropriate in much of the City of Swan.

The targets also contradict current WAPC policy which cannot compel specific lot sizes or density targets to be achieved. In this regard UDIA is concerned that the City of Swan may be exceeding its authority by compelling a developer to meet a specified average density target when such a target may be undesirable for other reasons.

Industry is also concerned in regard to the use of policy language that involves the term "must". The use of such language removes the potential for more flexible, negotiated responses such as "should". A more flexible approach to this policy is likely to achieve better outcomes in different areas rather than having a blanket approach to decision making on neighbourhood policy.

The integration of water management and public open space (POS) addressed in Clause 3.18 means that the location of drainage management systems within the POS cannot be designed and implemented without placing constraints on the use of the POS.

UDIA believes that the wording should be changed from "must not" to state that water management measures be designed and located to *minimise* impacts on the POS. For example, most councils allow a maximum of 25% of the POS to be used for drainage with credits.

DRAFT ENVIRONMENTAL PLANNING POLICY (POLICY NO. C-POL-104)

The environmental planning policy is broadly supported as a basis for establishing transparent planning guidelines for all stakeholders in the urban development process.



However, a major concern is that the City may lack the necessary resources to assess, in an effective and efficient manner, whether compliance has been achieved.

Essentially, the level of work required up-front at the structure planning/rezoning stage under the draft policy appears to be very onerous and is not commensurate with the broad nature of structure planning proposals. For example, whilst there may be support for the need to prepare a comprehensive Water Management Plan, this information should not be required at the rezoning stage.

Policy Purpose & Application

UDIA believes that a number of key aspects of the draft policy need to be addressed including:

- It is unclear what the policy requires with respect to its objectives for “assessment of potential environmental and human impacts” (Objective 3)
- The policy imposes a significant burden of detailed planning information too early in the planning and development process.
- The policy should be modified to ensure that there are no overlaps of responsibility with those of the Department of Environment (DoE). Any duplication of responsibility between the City and other authorities should be avoided. (As an example, Bush Forever is the responsibility of the State Government.)
- There is concern that the table relating to responsibilities for Environmental Management Plans (under Clause 5 of “Requirements” on page 5) addresses the requirement for continuing responsibility for management by the developer. Such lengthy periods of continuing management responsibility would not be acceptable. (Existing periods of continuing responsibility are typically about 2 years and this could be negotiated further in the case of long-term development.)
- The use of policy terms such as “adequate” and “appropriate” are used when referring to a range of policy requirements. The City should be more specific about the manner in which these terms should be addressed by the developer, e.g. through the provision of a model approach, and/or examples of acceptable solutions.
- There is an inherent issue of fairness and equity with policy elements that impose a requirement for significant contributions towards ecologically sustainable reserves, and then impose a continuing costs and responsibility on the developer for maintenance.



Policy Objectives & Requirements

Environmental Planning (Section 2.1)

Section 2.1 (No 4 of the Objectives)

How is the long term impact on the environment or human health going to be determined, and how is the “long-term” to be defined?

Section 2.1 (No 1 of the Requirements)

This section should comply with the present DOE requirements to ensure the scope is determined. Obviously, environmental scientists, hydrologists and other specialists would produce the required monitoring and analysis in line with these guidelines.

Section 2.1 (No 2 of the Requirements)

Our view is that this clause is problematic. If a development were to have the potential for significant environmental impact then it would be assessed by the EPA. If it were not likely to have a significant impact then the EPA need not be involved and the level of detail that the City of Swan need require should be commensurate with this situation.

Section 2.1 (No 3 of the Requirements)

We believe that the amount of detail that the City is requiring in a "Comprehensive Environmental Management Plan" is extremely detailed, e.g. including assessment of the risk of the public being bitten by snakes (clause n). As currently drafted, the EMP resembles the comprehensiveness of a formal EPA assessment.

Also, in this clause, the City should define what is meant by the term “other areas that contain significant environmental heritage values”. Otherwise individual officers may have different ideas on what constitutes a “significant environmental area”.

Biodiversity (Section 2.2)

Section 2.2 (Objective No. 1)

The definition of "other areas of high conservation value" should be defined.

Section 2.2 (No. 2 of the Requirements)

The issue of clearing is dealt with under the Environmental Protection Act and Clearing Regulations. We would suggest that the City need not duplicate the State legislation.



Section 2.2 (No. 4 of the Requirements)

It is unclear who will have responsibility for zoning regionally significant natural areas as *Parks & Recreation* under the MRS. If the developer were required to undertake this task, then the development approval process could be prolonged, perhaps for years.

Section 2.2 (No 5 of the Requirements)

The timeframes proposed for continuing developer responsibility for *Environmental Management Plans* is considered extremely onerous on the developer and we would argue that such policy provisions are excessive and unjustified.

The draft policy also provides no indication of the commencement stage from which the responsibility period would begin, i.e. pre-development, during-development, or post-development stage.

Furthermore, where regionally significant natural areas are zoned *Parks & Recreation* under the MRS, the responsibility for longer-term management should reside with the State Government. We would add that most owners of Bush Forever sites have had to cede land with no compensation. To then be asked to manage these areas, at significant cost and for an extended timeframe, seems inequitable.

Integrated Water Management (Section 2.3)

Our position with regard to the *Requirements* of this policy section is broadly supportive, as the individual items in *No 1 and No. 2 of the Requirements* seem to represent sensible practice.

Section 2.3 (No. 16 of the Requirements)

It is suggested that public access should be restricted “in” natural areas, not necessarily “to” natural areas.

Section 2.3 (No. 18 of the Requirements)

The need for “...detailed and extensive assessment” needs to be defined and the circumstances in which assessment will be required need to be more clearly identified, e.g. will it apply to temporary lowering or only permanent lowering of groundwater.

Additional, specific issues relate to concern over the following clauses:

- Requirements - Clause 1(a) does not specify the area that needs to be modelled. A more equitable approach needs to address the responsibilities of all developers and owners within the broader development area.
- Requirements - Clause 1(p) the vexed issues associated with *whole of life* costs must be considered further. Councils have a responsibility to accept downstream costs that result from developments that satisfy their requirements for approval.



- All plans should be based on the achievement of “accepted industry standards”. Ambiguous terms such as “best-practice” are not practical.
- It is unlikely that Clause 6 would encourage a cost effective, innovative approach.
- Clause 13(c) involves an excessive period of developer responsibility for a non-structural water treatment program for 10 years.
- The table identifying periods for continuing developer responsibility for water management (see Clause 23) would impose excessive burdens upon developers and land owners. We do not see these timeframes as reasonable.

Acid Sulphate Soils (Section 2.4)

In this section, there is no reference to the WAPC's Planning Bulletin No.64, which provides developers with a guide with respect to investigations into Acid Sulphate Soils (ASS).

Section 2.4 (Objective No. 1)

Terminology, (e.g. “thorough assessment”) needs to be clearly defined.

Section 2.4 (Objective No. 2)

It is unclear whether this requirement would also apply to temporary dewatering.

Section 2.4 (Requirements No. 1)

We would suggest that it is unrealistic and unnecessary to require detailed Acid Sulphate Soil assessment and development of a management plan at the *Structure Plan Stage*.

WAPC's Planning Bulletin No.64 does not require that developers undertake detailed ASS tests at structure planning stage and therefore we do not believe it is appropriate for the City to ask for it.

Furthermore, because of the high costs, ASS tests are usually restricted to areas of possible risk and are not conducted over the entire development site area.

Section 2.4 (Requirements No. 2 & 3)

Further clarification, by the City of Swan, of the policy details would benefit developers.

Contaminated Sites (Section 2.5)

All assessments of contaminated sites need to be undertaken in accordance with the requirements of the Contaminated Sites legislation and the associated Department of Environment guidelines and requirements.

We do not see the need for detailed assessments at the *Structure Plan Stage*. Rather, *Preliminary Site Investigations* and a proposed *Management Strategy* would be



appropriate requirements at the *Structure Plan Stage*, with detailed assessments and detailed management plans being requirements at subsequent, more detailed planning stages.

**DRAFT COMMUNITY & ECONOMIC PLANNING POLICY
(POLICY NO. C-POL-104)**

Under this draft policy, the initial level of work required for developers to prepare a Community & Economic Development Plan (CEDP) prior to the adoption of the structure plan, is too onerous and is not commensurate with the broad nature of structure planning and rezoning proposals.

Furthermore, the proposed policy involves difficulties in relation to the sequence of tasks and requirements for the development of a CEDP. For example some tasks require the completion of another related task and this can result in slow progress in meeting all requirements. For this reason, the volume and detail of policy requirements imposed on developers should be kept to the minimum necessary at each stage of the planning process.

There is also a question of how appeal rights would function if the Council refuses a structure plan on the basis that it objects to specific provisions in a CEDP. It would be reasonable to put in place a management plan “framework” at the structure planning stage. This framework could foreshadow the issues that the CEDP would address for the project in question.

Once agreement is reached between the City and the proponent on the scope of issues that should be addressed by the CEDP, the City should be prepared to support the structure plan subject to a condition that the CEDP be amplified at a later stage, as a condition of subdivision approval or structure plan approval.

It will also be necessary to define and/or demonstrate the level of information and detail that will be required for individual policy clauses as an entire Structure Plan could be delayed until an agreement is reached on details that should not be required until a much later stage of detailed planning.

With respect to developer contributions, it should be emphasised that developers already provide a contribution towards the funding of many community facilities; however such contributions need to be reasonable in proportion and equitably acquired from all relevant contributors. There should not be an assumption that developer contributions are mandatory in all cases.

Comments on other specific clauses include:

Clause 3.13: It is difficult to prescribe broad community use of facilities for aged community members as the facilities are generally privately owned. The C&ED planning process could identify any opportunities, such as shared use of facilities, and work to



achieve this outcome. However, these opportunities should be pursued on a case-by-case basis, and certainly not prior to structure plan approval.

Clause 3.16 In some cases, it may not be possible, nor necessary, to create local employment activities as part of a development. Surrounding centres, e.g. the Midland regional centre, can provide these opportunities as long as access is encouraged.

CONCLUSION

Overall UDIA supports the City in developing a set of policies that will provide a framework for development in the area.

The main concern that has been raised during industry consultation is the level of detail that the policies attempt to cover and the stage of developments they should reasonably apply to. An overarching position for the City that does not overlap with existing state government policies would be less confusing and easier to police.

Overall UDIA suggests that industry and other relevant stakeholders are consulted in regard to policy of this nature prior to documents reaching final draft stage. UDIA would prefer to work collaboratively with local government during the drafting process of any policy so that industry input can be provided and considered early in the process.

Thank you once again for the opportunity to comment on the draft City of Swan Urban Growth Policies. If you would like to discuss any of the issues raised in the submission, please contact me on 9321 1101.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marion Fulker', is positioned above the printed name.

Marion Fulker
EXECUTIVE DIRECTOR