

Ordinary Council Meeting

22 June 2016

Minutes



Members of the public who attend Council meetings should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Agendas and Minutes are available on the City's website www.kwinana.wa.gov.au

Vision Statement

Kwinana 2030

***Rich in spirit, alive with opportunities,
surrounded by nature – it's all here!***

Mission

**Strengthen community spirit, lead
exciting growth, respect the environment
- create great places to live.**



We will do this by –

- providing strong leadership in the community;
- promoting an innovative and integrated approach;
- being accountable and transparent in our actions;
- being efficient and effective with our resources;
- using industry leading methods and technology wherever possible;
- making informed decisions, after considering all available information; and
- providing the best possible customer service.

Values

We will demonstrate and be defined by our core values, which are:

- Lead from where you stand – Leadership is within us all.
- Act with compassion – Show that you care.
- Make it fun – Seize the opportunity to have fun.
- Stand Strong, stand true – Have the courage to do what is right.
- Trust and be trusted – Value the message, value the messenger.
- Why not yes? – Ideas can grow with a yes.

TABLE OF CONTENTS

1	Declaration of Opening:.....	5
2	Prayer:.....	5
3	Apologies/Leave(s) of Absence (previously approved).....	5
4	Public Question Time:.....	6
5	Applications for Leave of Absence:.....	6
6	Declarations of Interest by Members and City Officers:.....	6
7	Community Submissions:	6
7.1	Christine Norton regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandi	6
7.2	Lucy Lai regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandi	8
7.3	Joel Gajic, Aurecon regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandi	8
8	Minutes to be Confirmed:	10
8.1	Ordinary Meeting of Council held on 8 June 2016:	10
8.2	Special Meeting of Council held on 13 June 2016:	10
9	Referred Standing / Occasional / Management /Committee Meeting:	11
9.1	Executive Appraisal Committee Meeting held on 17 May 2016:.....	11
9.2	Executive Appraisal Committee Meeting held on 13 June 2016:	11
10	Petitions:.....	11
11	Notices of Motion:	11
12	Reports – Community	11
13	Reports – Economic.....	11
14	Reports – Natural Environment.....	11
15	Reports – Built Infrastructure.....	12
15.1	Adoption of Local Development Plan – Lot 54 and 55 Kenby Chase, Wandi	12
15.2	Amended Joint Development Assessment Panel Applications – SAMI & PUMA - General Industry – Bitumen Storage, Processing and Distribution Facilities – Part Lot 9002 Port Road, Kwinana Beach.....	16
15.3	Main Roads WA – 36.5m long Road Train Trial in Kwinana Beach Road ..	21
15.4	Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandi	25
16	Reports – Civic Leadership	44
16.1	Accounts for Payment up to 30 April 2016	44
16.2	Accounts for Payment up to 31 May 2016	46
16.3	Monthly Statement of Financial Activity for the Period Ending 30 April 2016	48
16.4	Amendments to the Register of Delegated Authority – Local Government to Chief Executive Officer, Officers and Committees 2016	53
16.5	Adoption of Dogs Amendment Local Law 2016	56
16.6	Budget Variations	60
17	Urgent Business.....	63

18	Councillor Reports	63
18.1	Councillor Bob Thompson	63
18.2	Councillor Dennis Wood	63
19	Response to Previous Questions.....	63
20	Mayoral Announcements (without discussion).....	63
21	Matters Behind Closed Doors	65
21.2	Legal Agreement between the City of Kwinana and Land Owners of Authority Parcel Numbers 9405, 9509 and 9615.....	65
21.1	Chief Executive Officer Performance Review 2015/16 and setting of the 2016/17 Key Performance Indicators and Remuneration	66
22	Meeting Closure	67

Present:

HER WORSHIP MAYOR C ADAMS
DEPUTY MAYOR P FEASEY
Cr R ALEXANDER
CR W COOPER
CR S LEE
CR S MILLS
CR B THOMPSON
CR D WOOD

MS J ABBISS	-	Chief Executive Officer
MS C MIHOVILOVICH	-	Acting Director City Strategy
MR P NEILSON	-	Acting Director City Development
MRS B POWELL	-	Director City Living
MS M BELL	-	Corporate Lawyer
MR E LAWRENCE	-	Director Corporate and Engineering Services
MS A MCKENZIE	-	Council Administration Officer

Members of the Press	1
Members of the Public	6

1 Declaration of Opening:

Presiding Member declared the meeting open at 7:00pm and welcomed Councillors, City Officers and gallery in attendance and read the Welcome.

“IT GIVES ME GREAT PLEASURE TO WELCOME YOU ALL HERE AND BEFORE COMMENCING THE PROCEEDINGS, I WOULD LIKE TO ACKNOWLEDGE THAT WE COME TOGETHER TONIGHT ON THE TRADITIONAL LAND OF THE NOONGAR PEOPLE”

2 Prayer:

Councillor Dennis Wood read the Prayer

“OH LORD WE PRAY FOR GUIDANCE IN OUR MEETING. PLEASE GRANT US WISDOM AND TOLERANCE IN DEBATE THAT WE MAY WORK TO THE BEST INTERESTS OF OUR PEOPLE AND TO THY WILL. AMEN”

3 Apologies/Leave(s) of Absence (previously approved)

Apologies

Nil

Leave(s) of Absence (previously approved):

Nil

4 Public Question Time:

Nil

5 Applications for Leave of Absence:

COUNCIL DECISION

233

MOVED CR S LEE

SECONDED CR B THOMPSON

That Deputy Mayor Peter Feasey be granted a leave of absence from 5 July 2016 to 19 July 2016 inclusive.

CARRIED
8/0

6 Declarations of Interest by Members and City Officers:

Mayor Carol Adams declared an impartiality interest in item 15.3, Main Roads WA – 36.5m long Road Train Trial in Kwinana Beach Road, due to her spouse being employed by Kwinana Industries Council (KIC) and both Coogee Chemicals and CSBP are members of the KIC.

The Chief Executive Officer, Joanne Abbiss declared a financial interest in item 21.1, Chief Executive Officer Performance Review 2015/16 and setting of the 2016/17 Key Performance Indicators and Remuneration, due to her total remuneration package being discussed.

7 Community Submissions:

7.1 Christine Norton regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandí

My name is Christine Norton. I live at 219 Bodeman Road, Wandí right next to where the NBN tower is being proposed.

I have already made most of my points in my previous submissions to the City of Kwinana but I really wanted to put a face to some of the people this will affect - not just boxes to be ticked.

I have lived here for about 25 years. I am a single, full-time working mum as my husband passed away some years ago during the time we have lived here. It holds many precious memories for me and my 3 beautiful young daughters.

We moved to Wandí 25 years ago because it is such a beautiful, natural environment in which to live and raise a family. Although it has been a struggle since my husband passed, we have never considered moving anywhere else because we truly enjoy living here so much.

7 COMMUNITY SUBMISSIONS CONTINUED

I love that feeling you get after a long day at work when exiting the Freeway at Rowley Road and turning into Wandi Drive and see the beautiful bush and well cared for properties. It's so relaxing and you feel like you've left suburbia behind.

We have seen so many changes over the years and now Wandi has become a very special oasis within the heart of urbanisation and development. Wandi is quickly becoming an endangered species but I believe it's worth fighting to protect our natural heritage (in the broadest sense of the meaning).

It really is a privilege to live here and we greatly appreciate the work of the City of Kwinana and the majority of Wandi residents who want to keep it a beautiful and natural place to live and enjoy.

I believe I speak for many of the Wandi residents, particularly those in close proximity to the proposed NBN tower, that we are totally opposed to it. In fact I am only aware of 3 residents who are in favour of it and one of those is the land owner who stands to greatly benefit financially from the lease of their land to NBN Co.

We are not against the NBN per se (we all want fast reliable internet) but we object to having a 40m tower (it will actually be nearer to 43m) positioned in such a prominent position in the heart of Wandi. It will be such an awful blight on our beautiful landscape and streetscape. It is visual pollution at its worst and a complete desecration of what the vast majority of residents hold dear.

Our main objection is of course the visual impact.

It will also have a detrimental impact on the affected property values.

There are also the potential negative health implications. The World Health Organisation has designated electromagnetic radiation as a potential carcinogen and Lloyds of London won't insure against claims of damages.

There is also the psychological impact of having to live with these towers which have been imposed on the community without any proper democratic process and with virtually no right of appeal.

The State Planning policy 5.2 (telecommunications infrastructure) states ... *must be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

The tower will obliterate my significant view of the city skyline. As mentioned it will also dramatically affect the Wandi streetscape/landscape. As such I don't believe the policy has been complied with - at least in the spirit of its intent.

Have other sites been considered or is this just the most convenient and cost effective?

We all know the government and NBN Co are under enormous political pressure to get the NBN rolled out as quickly and cheaply as possible.

Unfortunately, with the wireless network (compared to fibre optic cable), we will be left with a sub-standard broadband at the personal cost to many affected residents and communities.

7 COMMUNITY SUBMISSIONS CONTINUED

Anyway, having said all that, it seems pretty certain that this proposal will go ahead. Many communities before us have objected and been over-ridden by the NBN Co although the Shire of Kalamunda recently knocked back approval for a tower in Pickering Brook due to its visual impact on the residents and community.

We live in hope.

The shire officers, NBN Co, me and our neighbours have been in several discussions over a compromise solution. We have finally all agreed that if the tower has to go ahead then it would be better if it was moved slightly further north to provide more screening and be a little bit further from our boundaries. It's the best of a bad bunch of options.

We now have heard that the land owners have reneged on this agreed site change.

It would be a complete travesty and unethical if the council approved a less desirable location for us simply because the land owners have changed their minds. It is of no disadvantage to them - they will still be get their money - but it would mean a great deal to me and my neighbours to have a slightly better compromise location.

I trust the Council will make the right decision.

7.2 Lucy Lai regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandí

I am a resident of a neighbouring property of the proposed location of the Wandí Telecommunications Tower. The Acting Director City Development and the Planning Officer have spent many hours with us negotiating and looking at different proposed locations that provide more screening in terms of vegetation and are further away from our properties. Site 6 is the three adjoining neighbours most preferred position. My biggest concern is that if for some reason that this site is not agreed upon by the hosting family and NBN were looking to appeal and go back to original site, then there would be serious concerns about the original site and any of the other proposed sites as well. Our third neighbour was unable to attend tonight and she has asked me to express that option 6 is also who most preferred location.

7.3 Joel Gajic, Aurecon regarding item 15.4, Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandí

Firstly I would like to acknowledge the efforts of the Assessing Officer and the Director of City Development to work with the landowners, the neighbours and Aurecon in our capacity as the Applicant on behalf of the NBN to mediate an alternative location for the NBN Wandí North facility on the subject land that seeks to further mitigate potential visual impact.

7 COMMUNITY SUBMISSIONS CONTINUED

Essentially it is this balance between the potential visual impact and the community benefit that fixed-wireless facilities or mobile phone base stations deliver that the State Planning Policy seeks to address.

The nbn™ is a Federal Government mandated upgrade to Australia's existing telecommunications network. It is designed to provide all Australians with access to fast, affordable and reliable internet services.

Nbn™'s fixed wireless network in Wandi is designed to offer service providers with wholesale access speeds of up to 50Mbps (megabits per second) for downloads and 20Mbps for uploads.

Current metropolitan ADSL (asymmetrical digital subscriber line) services are capable of peak speeds of just 24Mbps – although actual ADSL operational rates are often much slower and in the range of 3Mbps – 8Mbps).

There are presently sixty (60) organisations, including tier one providers such as Telstra, Optus and iinet, offering nbn™ packages. This has increased competition in the market and has ensured the costs to an end user is reduced.

Reliable internet access is now more than ever an integral component of daily life, so much so that its absence is considered a social disadvantage. We submit that the introduction of the nbn™ fixed-wireless service to the Wandi community will provide a tangible benefit in terms of available speeds, reliability of service and affordability.

We agree with the Officer's Report that the localised visual and amenity impacts of the proposed technology are balanced by the benefits to the wider community of improved broadband services. We also agree and as outlined in our submission the proposal is consistent with the planning policy framework.

However, I make this deputation tonight to respectfully request the Council approve the development of the NBN Wandi North facility within or in the immediate vicinity of the shedding adjacent to alternative locations two (2) or three (3) if not in location one (1) as originally proposed and as identified in the Officer's Report. We feel approval of the nbn facility in vicinity of the sheds is a reasonable compromise to all parties and respects those dwellings in closest proximity.

Following a request by Planning staff to consider moving the compound in the order of ten metres off the boundaries we consulted the landowners. The rationale for seeking a nearby location was to reduce the visibility of ground level infrastructure when viewed along fire breaks and to take advantage of existing vegetation within the subject property. The landowners of the subject property were amenable to relocating the compound on the proviso that the views afforded from the north-facing major openings and aspect of their dwelling were not unreasonably impacted. Alternative locations two (2), three (3) and five (5) met this criteria. The Planning staff agreed that alternative location three (3) affording the greatest level of screening of ground level infrastructure and it was understood at that time this would be the location recommended to Council for approval.

7 COMMUNITY SUBMISSIONS CONTINUED

We understand that location six (6) now before Council was presented a further alternative at the subsequent request of the neighbours to the south. It provides (115) metres separation from their dwelling rather than one hundred (100) metres. At the time of the Officer's Report being drafted it was understood that the landowners were amenable to again relocating the compound to this location. Upon full reflection this subsequent location six (6) was considered by the landowners to adversely impact on the principal northerly views from their dwelling. As such the nbn is unable to secure a lease for the compound in this location now before Council.

We would understand that the visual impact of the proposed facility when viewed from the dwelling to the south would not be substantively different in location six (6) rather than location three (3). The principal aspect of this dwelling appears from aerial imagery to be downslope and to the southeast across their outdoor living and extensive lawn area in the opposite direction. Location six (6) is additionally closer to Wandi Drive that we understand to be the most utilised local road in the immediate area, no further from the boundary to the west, or no further from the nearest neighbour's dwelling.

We submit that the Officer's Recommendation should be supported, but with an amendment to the wording of 1(1) replacing reference to Attachment K and instead referencing the immediate vicinity of alternative three (3).

8 Minutes to be Confirmed:

8.1 Ordinary Meeting of Council held on 8 June 2016:

COUNCIL DECISION

234

MOVED CR S MILLS

SECONDED CR B THOMPSON

That the Minutes of the Ordinary Meeting of Council held on 8 June 2016 be confirmed as a true and correct record of the meeting.

**CARRIED
8/0**

8.2 Special Meeting of Council held on 13 June 2016:

COUNCIL DECISION

235

MOVED CR S LEE

SECONDED CR B THOMPSON

That the Minutes of the Special Meeting of Council held on 13 June 2016 be confirmed as a true and correct record of the meeting.

**CARRIED
8/0**

9 Referred Standing / Occasional / Management /Committee Meeting:

9.1 Executive Appraisal Committee Meeting held on 17 May 2016:

COUNCIL DECISION

236

MOVED CR S MILLS

SECONDED CR W COOPER

That the Minutes of the Executive Appraisal Committee Meeting held on 17 May 2016 be confirmed as a true and correct record of the meeting.

**CARRIED
8/0**

9.2 Executive Appraisal Committee Meeting held on 13 June 2016:

COUNCIL DECISION

237

MOVED CR R ALEXANDER

SECONDED CR W COOPER

That the Minutes of the Executive Appraisal Committee Meeting held on 13 June 2016 be confirmed as a true and correct record of the meeting.

**CARRIED
8/0**

10 Petitions:

Nil

11 Notices of Motion:

Nil

12 Reports – Community

Nil

13 Reports – Economic

Nil

14 Reports – Natural Environment

Nil

15 Reports – Built Infrastructure

15.1 Adoption of Local Development Plan – Lot 54 and 55 Kenby Chase, Wandi

SUMMARY:

A Draft Local Development Plan (LDP) for Lots 54 and 55 Kenby Chase, Wandi has been received for consideration under the City of Kwinana's Town Planning Scheme No. 2 (Scheme) (Attachment A – Location Plan).

The Draft LDP (Attachment B) sets out the design requirements for the development of the lots within the LDP boundaries. These requirements apply in addition to the normal Scheme and State Planning Policy No. 3.1 (Residential Design Codes of Western Australia) (R-Codes) requirements and will permit certain variations to achieve an optimal form of development.

The Draft LDP has been assessed and supported by City Officers. It is recommended that Council approves the Draft LDP in accordance with Clause 52(1)(a) of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

OFFICER RECOMMENDATION:

1. That Council approves the Local Development Plan for Lots 54 and 55 Kenby Chase, Wandi (as per Attachment B), pursuant to Clause 52(1)(a) of Schedule 2 – Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015, subject to the following provision being added to the LDP:
 - a. Lots with a frontage of 10m or less shall be constructed so that dwellings provide an appropriate, high quality design interface with the surrounding streetscape, through the use of a second storey element.

DISCUSSION:

Land Status

Metropolitan Region Scheme:	'Urban' Zone
Town Planning Scheme No. 2:	'Residential'

A LDP is a planning tool which allows certain design requirements to be imposed on subsequent development proposals. These design requirements may allow variations to the Scheme and R-Code provisions to enable optimal design outcomes to be achieved.

The design requirements will often cover aspects including dwelling placement and design, solar orientation, private open space, setbacks, garage placement and design, fencing, store areas and service provision. Requirements vary depending on the type of land and design outcome being sought.

Most importantly is the LDP's ability to vary Scheme and R-code provisions, where such variations are needed to achieve the most optimal design outcome.

15.1 ADOPTION OF LOCAL DEVELOPMENT PLAN – LOT 54 AND 55 KENBY CHASE, WANDI

The Draft LDP (Attachment B) has been specifically required as a condition of the WAPC's subdivision approval for the subject land. Consistent with the Scheme, the Draft LDP establishes design requirements relating to:

- a) Dwelling setbacks
- b) Open space
- c) Vehicular access and garages/carports

Built form and Streetscape

There has been considerable discussion at City Officer and Councillor level about the most appropriate built form and streetscape outcomes for small lot subdivisions with narrow lot frontages. In this regard, there is a strong view that single storey development on frontages less than 7.5 metres is contributing to poor amenity and streetscape outcomes. There is the view that this could well apply to lot frontages up to and including 10 metres wide.

Discussion has focused on the application of two storey built form on these lot types to provide an improved scale and streetscape presence. Council has in fact, resolved to apply mandatory two storey frontages on lots at or less than 7.5 metre wide frontages within the Living Edge Estate (with lot frontages between 7.5 and 10 metres having Specific Design Criteria for single storey dwellings).

In assessing this LDP, City Officers considered two options, one being application of a mandatory two storeys for all lots with frontages of 10 metres and less or only requiring mandatory two storeys for lots with frontages of 7.5 metres or less. The applicant has requested that this LDP be considered by Council. In the absence of a formal Council policy or draft policy, City Officers have taken the view that a conservative approach to the built form design is preferred and hence are recommending mandatory two storey on 10 metre or less lot frontages. It is worth noting that City Officers are intending to discuss the draft strategy and policy with Councillors at a Councillor Forum to be held on 27 June 2016.

Bushfire

The draft LDP also identifies lots that are subject to specific building design requirements for bushfire in accordance with the Bush Fire Attack Level (BAL) ratings as specified in the Fire Management Plan for this area. The proposed BALs were reviewed by the City's Fire Consultant who concurred with the findings.

Quiet House Design

A number of lots in the Draft LDP are subject to *Quiet House Design* provisions, being in close proximity to the Kwinana Freeway. A Noise Assessment was undertaken which identifies lots that are required to have protected courtyards. These lots are identified on the LDP map.

Conclusion

It is considered that the LDP will be a single point of reference that will provide clarity and certainty to builders, property owners and City Officers.

15.1 ADOPTION OF LOCAL DEVELOPMENT PLAN – LOT 54 AND 55 KENBY CHASE, WANDI

LEGAL/POLICY IMPLICATIONS:

For the purpose of Councillors considering financial or impartiality interests, the land owner is Newsonic Pty Ltd, and the applicant is Rowe Group.

The following strategic and policy based documents were considered in assessing the application;

- City of Kwinana Town Planning Scheme No. 2
- State Planning Policy No. 3.1 (*Residential Design Codes of Western Australia*)
- Liveable Neighbourhoods Operational Policy
- WAPC Planning for Bushfire Protection Guidelines (Edition 2) (2010)
- WAPC Draft Planning for Bushfire Risk Management Policy
- Local planning and other related policies

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial or budget implications as a result of this application.

ENVIRONMENTAL IMPLICATIONS:

The LDP encourages the use of passive solar urban design.

STRATEGIC/SOCIAL IMPLICATIONS:

LDPs allow for variations to the Scheme and R-Codes which take into account specific site characteristics and configuration of lots, particularly smaller lots. The use of such mechanisms is common practice, and is encouraged to allow for the most optimal form of urban development to occur.

RISK IMPLICATIONS:

Council approves development under its Town Planning Scheme to meet its statutory obligations and facilitate proper and orderly development of the municipality.

The Draft LDP seeks to include the construction standards required for bushfire protection. It is anticipated that compliance with the stipulated BAL ratings would minimise the impact of bushfires thereby reducing the threat to life, property and the environment.

15.1 ADOPTION OF LOCAL DEVELOPMENT PLAN – LOT 54 AND 55 KENBY CHASE, WANDI

COUNCIL DECISION

238

MOVED CR S LEE

SECONDED CR W COOPER

1. That Council approves the Local Development Plan for Lots 54 and 55 Kenby Chase, Wandi (as per Attachment B), pursuant to Clause 52(1)(a) of Schedule 2 – Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015, subject to the following provision being added to the LDP:
 - b. Lots with a frontage of 10m or less shall be constructed so that dwellings provide an appropriate, high quality design interface with the surrounding streetscape, through the use of a second storey element.

**CARRIED
8/0**

15.2 Amended Joint Development Assessment Panel Applications – SAMI & PUMA - General Industry – Bitumen Storage, Processing and Distribution Facilities – Part Lot 9002 Port Road, Kwinana Beach

SUMMARY:

Council has received two proposals to amend development applications that were previously approved by the Metro South-West Joint Development Assessment Panel (JDAP) in 2015 and 2016 respectively at Lot 9002 Port Road, Kwinana Beach. The two approvals were on land leased by the two operators, with PUMA Energy operating from the eastern leased area and SAMI Bitumen (SAMI) operating from the western leased area of the property. The owner of the land is Landcorp.

The two operators entered into a joint venture (JV) agreement to share three tanks across the two leasehold sites. This JV partnership allows the two operators to share facilities and operations. Given the proposed changes, two Responsible Authority Reports (RAR's) have been prepared and are attached (Attachments A & B) to this report.

It is noted that no development has taken place on site.

A summary of the two applications is as follows;

1. PUMA Energy

The Metro South-West JDAP at its meeting held on 12 January 2015 approved an application for a proposed General Industry – Bitumen Storage and Distribution Facility and Fuel Depot on Lot 9002 Kwinana Beach Road and Lot 1003 Patterson Road, Kwinana Beach. A Form 2 approval was subsequently approved by the JDAP on 18 August 2015 for some minor amendments.

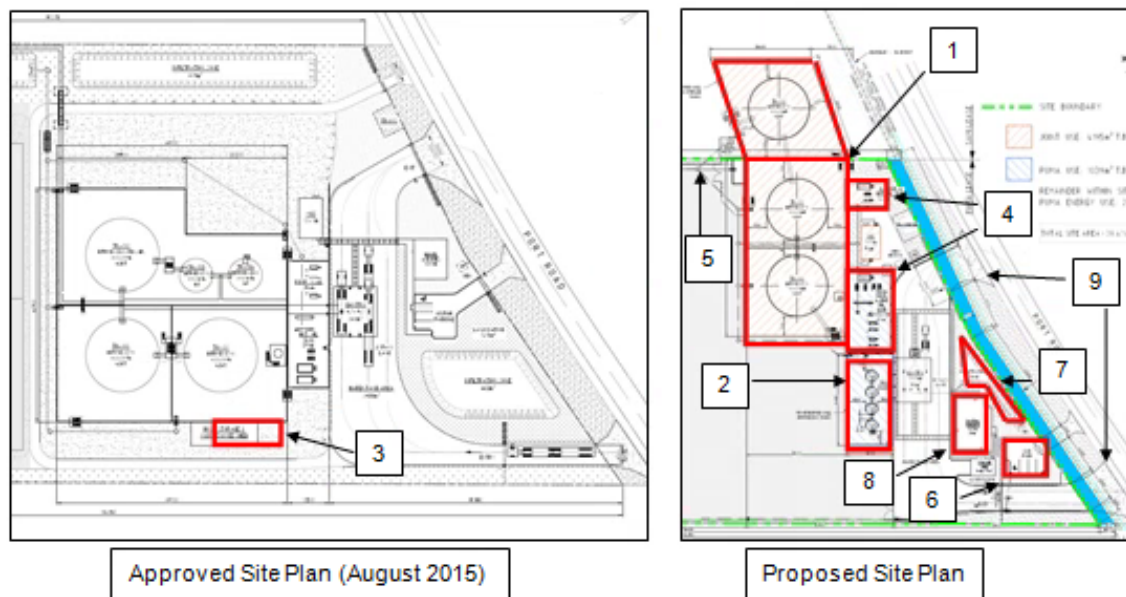
Summary of Proposed Amended Development Application

The applicant seeks to amend the planning approval granted by the JDAP on the 18 August 2015 for the proposed General Industry – Bitumen Storage and Distribution Facility and Fuel Depot by modifying the layout of the development on the site.

The modifications proposed to the development are as follows:

1. Two 6.3kT bitumen storage tanks proposed within the Puma lease area, linked to a third 6.3kT located within the adjoining SAMI Bitumen leasehold area. The site was previously approved with three 6.3kT storage tanks located exclusively on the Puma leasehold area.
2. Four 0.25kT day tanks. This is in lieu of two 1kT day tanks that were previously approved.
3. Removal of the hose and maintenance shed
4. Relocated plant facilities (hot oil slab and pump slab)
5. A revised transfer pipeline to the Kwinana Bulk Terminal (via Lot 1003)
6. Relocated staff parking (4 bays)
7. Relocation of infiltration zones
8. Reconfiguration of the Control/Amenities Building and inclusion of a storage shed
9. Rearrangement of the vehicle access ways with dual access and egress points from the two crossovers

15.2 AMENDED JOINT DEVELOPMENT ASSESSMENT PANEL APPLICATIONS – SAMI & PUMA - GENERAL INDUSTRY – BITUMEN STORAGE, PROCESSING AND DISTRIBUTION FACILITIES – PART LOT 9002 PORT ROAD, KWINANA BEACH



The main changes in the application are the result of the partnership with SAMI to share three 6.3kT storage tanks and associated facilities (JV pump and hot oil slab and MCC Control building) across the two leasehold areas.

Officer's Comment

The proposed amendment to the application largely represents the rearrangement of the approved buildings and facilities on the site to provide for the joint venture agreement with the two leaseholders. The amendments will also provide better traffic flow and separate workers from the plant areas. The proposed amendments do not materially change the intent of the application nor do they give rise to additional conditions being required.

Upon assessment of the development against the objectives and requirements of TPS No.2, it is considered that the amended application can be approved subject to the conditions of the DAP approval granted on the 18 August 2015. The development largely complies with the requirements of TPS No.2 and represents effective use of currently underutilised industrial land within KIA.

2. SAMI

The Metro South-West JDAP at its meeting held on 13 January 2016 approved an application for a proposed General Industry – Bitumen Storage, Processing and Distribution Facility for SAMI on Part Lot 9002 Port Road, Kwinana Beach. The approval was issued on the 2.4815 hectare western portion leased area.

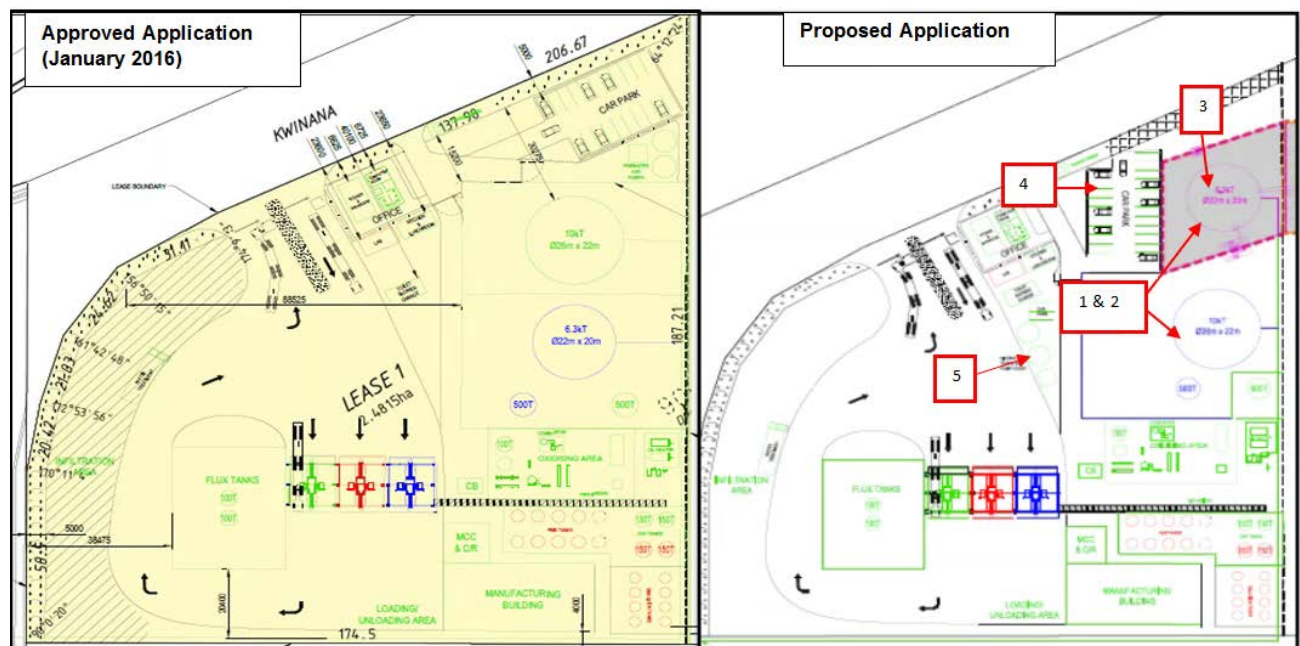
Summary of Proposed Amended Development Application

SAMI entered into a joint venture (JV) agreement with the neighbouring lease holder Puma Energy to share three tanks across the two leasehold sites. One of these tanks will be on the SAMI side of the lease boundary. This JV partnership allows the two operators to share facilities and operations.

15.2 AMENDED JOINT DEVELOPMENT ASSESSMENT PANEL APPLICATIONS – SAMI & PUMA - GENERAL INDUSTRY – BITUMEN STORAGE, PROCESSING AND DISTRIBUTION FACILITIES – PART LOT 9002 PORT ROAD, KWINANA BEACH

The applicant seeks to amend the planning approval granted by the JDAP on the 13 January 2016 by modifying the layout of the development on the site. The modifications proposed to the development are as follows;

1. The 10 kT and 6.3 kT storage tanks exchanging location, with both tanks repositioned slightly further forward towards the northern front boundary. The two tanks are to be located a minimum of 15m from the front boundary, in compliance with TPS 2 requirements.
2. The two storage tanks will also be repositioned closer to the eastern side of the lease area boundary (approximately 4.2m). These two tanks were originally located approximately 15m and 17m respectively from the lease boundary with Puma Energy. This is considered acceptable as the Scheme stipulates a minimum 6m side setback from a cadastral boundary. The lease area boundary is not considered a cadastral boundary, hence the 6m setback requirement does not apply.
3. The 6.3kT storage tank will be physically linked to the two 6.3 kT storage tanks located within the Puma Energy leasehold area. The development on the subject site will therefore entail the use of approximately 2305m² of the area within the Puma Energy leasehold area.
4. Rearrangement of the car park layout and location from an east-west to a north-south-orientation. The number of car parks has been increased from 20 to 24. The proposed development requires a minimum of 13 car parks. The access arrangements into and out of the site remain the same.
5. Relocation of the firewater tanks and pump house from the northern side of the property towards the middle of the lease area.



All of the operations and activities approved on site will not change as a result of the proposed amendments. It is not considered that the proposed changes will increase the level of offsite risk as detailed below;

15.2 AMENDED JOINT DEVELOPMENT ASSESSMENT PANEL APPLICATIONS – SAMI & PUMA - GENERAL INDUSTRY – BITUMEN STORAGE, PROCESSING AND DISTRIBUTION FACILITIES – PART LOT 9002 PORT ROAD, KWINANA BEACH

Offsite Risk

The quantitative risk assessment (QRA) reports submitted for both applications indicate that the proposed amendments do not increase the level of off-site risk and that the changes have little impact on the intent and operations of the developments. The following is noted for the two developments;

PUMA

The original approval had a bitumen storage capacity of 16 Mega litres (ML). The amended application that was previously approved increased this capacity to 18.6 Kilo Tonnes (Kt) (the unit of measurement of Mega litres and Kt is the same when calculating the volume of bitumen) that was located wholly on the Puma lease area. The application proposes a reduction to two 6.3Kt storage tanks on the Puma Energy lease site and one shared 6.3Kt storage tank within the SAMI lease area

An updated Preliminary Hazard Analysis Report provided with this application shows the risk contours which apply to the reconfigured bitumen tank storage areas, including the tank storage on the SAMI site.

SAMI

The SAMI application states that the key changes that impact the inputs to the QRA is that the 10KT bitumen feed storage tank has been swapped in position with the 6.3kT bitumen feed storage tank. The 6.3kT tank is now positioned further towards the north of the site. Given that the layout changes do not result in an increase in flammable materials stored at the facility and that no other flammable materials have been introduced, it is considered that there would be limited impact on the risk contours.

City Officers are satisfied that the proposed changes do not alter the conclusion of the QRA that stipulates that Location Specific Individual Fatality Risk contours remain within the site boundary. A review of the QRA is not required in this instance as the proposed changes do not entail changes to the higher flammability materials. However, the proponent submitted a revised hazard assessment map showing the risk contours remaining within the property boundary.

Officer's Comment

City Officers have prepared the Responsible Authority Reports (RARs) in accordance with the JDAP Regulations for Council's consideration and determination. The amended development applications are a "P" (Permitted) use under TPS 2 and do not require advertising. However, the applications were advertised to Fremantle Ports as the owners of the Kwinana Bulk Jetty Terminal for comment and no submissions were received.

City Officers have reviewed the proposed minor amendments and are satisfied that they meet TPS 2 requirements. The amendments do not increase the level of off-site risk and provide an operational solution between the JV partners. The changes will have little impact on the intent and operations of the developments.

City Officers have recommended the applications be approved subject to the same conditions and advice notes of the 18 August 2015 and 13 January 2016 approvals respectively.

15.2 AMENDED JOINT DEVELOPMENT ASSESSMENT PANEL APPLICATIONS – SAMI & PUMA - GENERAL INDUSTRY – BITUMEN STORAGE, PROCESSING AND DISTRIBUTION FACILITIES – PART LOT 9002 PORT ROAD, KWINANA BEACH

It is noted that the SAMI original approval included a condition (condition 18 in Attachment B) requiring the submission of certification from a suitably qualified acoustic consultant confirming that the noise emissions resulting from the operations on site comply with the Environment Protection Act and Regulations. This condition was imposed on the SAMI site and not the PUMA site due to the noise emissions anticipated to result from the larger gantry loading area on this site.

OFFICER RECOMMENDATION:

That Council consider and adopt the recommendations of the Responsible Authority Reports (Attached to this report) to the South West Metropolitan Joint Development Assessment Panel for;

1. Proposed General Industry – Bitumen Storage, Processing and Distribution Facility (Attachment A), on Lot 9002 Kwinana Beach Road and Lot 1003 Patterson Road, Kwinana Beach; and
2. Proposed General Industry – Bitumen Storage, Processing and Distribution Facility (Attachment B), on Part Lot 9002 Port Road, Kwinana Beach.

COUNCIL DECISION

239

MOVED CR D WOOD

SECONDED CR P FEASEY

That Council consider and adopt the recommendations of the Responsible Authority Reports (Attached to this report) to the South West Metropolitan Joint Development Assessment Panel for;

- 1. Proposed General Industry – Bitumen Storage, Processing and Distribution Facility (Attachment A), on Lot 9002 Kwinana Beach Road and Lot 1003 Patterson Road, Kwinana Beach; and**
- 2. Proposed General Industry – Bitumen Storage, Processing and Distribution Facility (Attachment B), on Part Lot 9002 Port Road, Kwinana Beach.**

**CARRIED
8/0**

Mayor Carol Adams left the Council Chambers at 7:27pm, Deputy Mayor Peter Feasey took the position as the Presiding Member.

15.3 Main Roads WA – 36.5m long Road Train Trial in Kwinana Beach Road

SUMMARY:

Main Roads Western Australia (MRWA) is seeking approval from the City of Kwinana to trial 36.5 metre long combination of road trains in the Kwinana Industrial Area (KIA) for a period of four months, as detailed in Attachment A. The proposed trial is in response to a joint application made to the Minister for Transport by the Kwinana Industries Council, CSBP, Coogee Chemicals and Toll Transport, seeking approval for 36.5m road train access into KIA. The proposed trial route consists of Kwinana Freeway - Thomas Road - Rockingham Road – Patterson Road and Kwinana Beach Road, see Attachment A. It is recommended that Council authorise the Mayor and City officers to commence discussions with MRWA to transfer care and control of Anketell Road to the State, and should the road train trial be successful that Anketell Road be used instead of Thomas Road.

The proposed route is mainly within MRWA controlled road network except Kwinana Beach Road, which is under the care and control of the City of Kwinana. The proposed route impacts specifically the initial 500 metres of Kwinana Beach Road between Patterson Rd and Coogee Chemicals' entrance.

It is anticipated that the use of 36.5m road trains will result in a 50% reduction in the number of heavy vehicle movements transporting goods to/from Coogee Chemicals and CSBP.

The trial vehicles will be monitored and controlled by MRWA for route compliance using the Intelligent Access Program (IAP), refer Attachment B. This program will also provide data on the number of vehicle movements.

The trial period will be for a period of four months starting in June/July 2016, which will be reviewed after three months with a view to extend the permit for twelve months if the trial is successful.

OFFICER RECOMMENDATION:

That Council:

1. Approve the use of Kwinana Beach Road for the proposed trial of 36.5 m long road trains to access Coogee Chemicals and CSBP in Kwinana Beach, as detailed in Attachment A.
2. Authorise the Mayor and the City of Kwinana officers to proceed with requesting the care and control of Anketell Road be transferred to MRWA.

DISCUSSION:

Road train access to KIA is currently controlled by the Restricted Access Vehicle (RAV) 3 scheme which is managed by MRWA. In accordance with the RAV3 scheme, heavy freight vehicles up to 27.5 metres in length are permitted to access the KIA subject to approval from MRWA, and where the City of Kwinana owned roads are being used, the City of Kwinana approval is also required.

15.3 MAIN ROADS WA – 36.5M LONG ROAD TRAIN TRIAL IN KWINANA BEACH ROAD

In an attempt to reduce the number of truck movements and increase operating efficiencies, the Kwinana Industries Council, CSBP, Coogee Chemicals and Toll Transport have applied to the Department of Transport for a permit to use 36.5 metre long combination of road trains to access KIA. The proposed travel route will consist of Kwinana Freeway - Thomas Road - Rockingham Road – Patterson Road and Kwinana Beach Road.

The proposed route is mainly within the MRWA controlled road network except Kwinana Beach Road, which is under the care and control of the City of Kwinana. As Kwinana Beach Road is part of the proposed travel route, MRWA are seeking the approval of the City of Kwinana to implement the trial. The proposed route impacts specifically the initial 500 metres of Kwinana Beach Road between Patterson Rd and Coogee Chemicals' entrance (i.e. 500 metres west from Patterson Road).

The roads selected for this trial have been assessed by MRWA and found to be suitable for operation of 36.5m road trains. The proposed route is currently used for operating heavy vehicle combinations of up to 27.5m in length.

It is anticipated that the number of truck movements will decrease by 50% if the 36.5m long road trains are used instead of the 27.5m long road trains. As part of the proposed trial, CSBP will use 40 of the 36.5m long road train combinations, reducing the existing 27.5m long road train numbers by 40 whilst maintaining the total tonnage of material transported.

The City of Kwinana has used various strategies in the past in an attempt to discourage heavy freight using Thomas Road to access the KIA and promote the use of Anketell Road instead. However Thomas Road is under the care and control of MRWA and unless an alternative freight route is constructed, MRWA have indicated that Thomas Rd will remain a freight route between Kwinana Beach and Kwinana Freeway. In preliminary discussions with officers from MRWA, the City of Kwinana officers have requested MRWA to consider using Anketell Road instead of Thomas Road for the 36.5m long road trains, should the trial prove to be successful and be extended into the future. MRWA have agreed to undertake an assessment of Anketell Road for 36.5m long road train traffic during the trial period so that if Anketell Road was found to be suitable, a decision could be made at the end of the trial period to use Anketell Road instead of Thomas Road.

The care and control of Anketell Road is currently the responsibility of the City of Kwinana, however it is classified as a high and wide freight corridor by MRWA. Anketell Road is the main freight route for the northern part of the KIA and Latitude 32. Freight traffic volume in Anketell Road will increase substantially in future as more land is developed in Latitude 32 and the future Outer Harbour. It is therefore becoming more relevant for Anketell Rd to be classified as a Primary Regional Road (red road) and care and control of Anketell Road be transferred to MRWA. For this purpose more needs to be done to promote Anketell Road as the primary freight route into KIA, including lobbying State Government and MRWA to expedite the take over of Anketell Road.

Efficient and safe movement of freight in Western Australia is essential to the state economy. According to the Department of Planning, the freight industry is growing rapidly and the volume of freight and number of freight movements in the Perth Metropolitan Region is expected to increase significantly over the next 30 years. KIA is the primary area of heavy industrial development in the State and any increase in freight movements is likely to have a major impact on the City of Kwinana road network.

15.3 MAIN ROADS WA – 36.5M LONG ROAD TRAIN TRIAL IN KWINANA BEACH ROAD

This trial will provide an opportunity to assess the impacts of allowing 36.5m road trains within the local road network. When considering the proposal, the Minister for Transport acknowledged the safety and efficiency benefits of having direct access from Kwinana when transporting fuel and other dangerous goods northward without having to stop for reassembly through Kewdale Freight Terminal (KFT). Currently, some of the 27.5m long road trains transporting goods to the north of the State need to stop at KFT to reassemble the trailers to a longer combination. Allowing the 36.5 long road trains to use the road network from the origin of the trip where the cargo is loaded until the destination where the cargo is off loaded will eliminate the need for reassembly at KFT which will be a significant benefit for the transport industry as well as the economy as a whole.

LEGAL/POLICY IMPLICATIONS:

There are no legal/policy implications identified.

FINANCIAL/BUDGET IMPLICATIONS:

There are no direct financial implications related to this report.

ASSET MANAGEMENT IMPLICATIONS:

The number of truck movements will decrease by 50% as a result of the trial, however the total tonnage of cargo transported will remain unchanged. Accordingly, the trial is not anticipated to cause any excessive deterioration of Kwinana Beach Road pavement.

ENVIRONMENTAL IMPLICATIONS:

There are no environmental implications identified.

STRATEGIC/SOCIAL IMPLICATIONS:

Use of 36.5m long road trains instead of 27.5m long road trains will reduce the number of truck movements by up to 50% which should result in noise reduction along Thomas Rd where some Medina residents are adversely affected by freight traffic. This can be considered as a positive impact on residential areas of Medina adjacent to Thomas Rd.

RISK IMPLICATIONS:

In preparation for the trial, MRWA have undertaken an assessment of the road geometry and condition and found the roads to be suitable for the trial. MRWA have not identified any risk associated with the movement of 36.5m road trains.

15.3 MAIN ROADS WA – 36.5M LONG ROAD TRAIN TRIAL IN KWINANA BEACH ROAD

COUNCIL DECISION

240

MOVED CR B THOMPSON

SECONDED CR W COOPER

That Council:

- 1. Approve the use of Kwinana Beach Road for the proposed trial of 36.5 m long road trains to access Coogee Chemicals and CSBP in Kwinana Beach, as detailed in Attachment A.**
- 2. Authorise the Mayor and the City of Kwinana officers to proceed with requesting the care and control of Anketell Road be transferred to MRWA.**

**CARRIED
7/0**

Mayor Carol Adams returned to the Council Chambers at 7:29pm and resumed her position as the Presiding Member.

15.4 Proposed Telecommunications Infrastructure (NBN Fixed Wireless Facility), Lot 131 (223) Bodeman Road, Wandí

SUMMARY:

The City of Kwinana has received a development application to construct Telecommunications Infrastructure (an NBN Fixed Wireless Facility) on Lot 131 (223) Bodeman Road, Wandí (subject lot) (Attachment A).

The proposed NBN facility features a monopole and ancillary components which form part of the NBN fixed wireless infrastructure. The monopole is proposed to have a maximum height of 40 metres and be located in the south-western corner of the subject lot (Attachments B - E). It is intended that the facility will provide high speed wireless broadband coverage to the surrounding Wandí area for 203 premises within a 2km radius.

The subject site is zoned 'Special Rural' under the City's Town Planning Scheme No. 2 (TPS 2). Telecommunications Infrastructure is listed as an 'SA' use under Table 1 of TPS 2, which means it is a use which Council has the discretion to approve after notice of the application has been given in accordance with Clause 2.3 of TPS 2.

The application was initially advertised to 31 neighbouring properties within a 300 metre radius of the subject lot, for 14 days, in accordance with the *Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Kwinana's Local Planning Policy - *Advertising SA and Town Planning Scheme Amendment*.

During the advertising period, a number of submissions were received from landowners who commented there was the lack of consultation by the City and that the advertising period was too short. In addition, there was a discussion held on the application at a Wandí Progress Association meeting in February 2016. Community members at the meeting requested that they be able to comment on the application. City officers decided that the best way to proceed was to re-advertise the proposal to all 'Special Rural' properties in Wandí for a further 21 days. A total of 285 properties were consulted. City officers consider that the additional advertising period has given landowners sufficient opportunity to view and comment on the proposed Telecommunications Infrastructure. In total, 20 submissions were lodged with the City during the two periods of advertising, with 14 submissions objecting to the proposal and 6 in support (Attachment H – Schedule of Submissions).

The key concerns raised by the objections related to the adverse visual impact which the telecommunications infrastructure would have on the area and the potential adverse impacts on health due to electromagnetic radiation. A number of submitters also raised concern about impacts on property values.

In respect to the submissions and application as a whole, the City is required to consider these against the relevant local and state government policies which address telecommunications infrastructure.

State Planning Policy (SPP) 5.2 – Telecommunications Infrastructure

State Planning Policy 5.2 – *Telecommunications Infrastructure* (SPP 5.2) was gazetted in September 2015. The intent of SPP 5.2 is to provide guidance pertaining to the siting, location and design of telecommunications Infrastructure.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

Clause 5.1.1 of SPP 5.2 states that *'the benefit of improved telecommunications services should be balanced with the visual impact on the surrounding area'*.

The applicant has argued that in order to provide the best coverage across the intended 203 premises, a number of criteria need to be met (including height, centrality to target catchment, limiting environmental damage, available site, etc). The proponent argues that the subject lot and proposed site meets these criteria to provide the improved wireless service to the community.

City Officers are of the view that the telecommunications infrastructure will have a visual impact at the site as the monopole tower of 40 metres high will be visible to varying degrees from nearby landholdings and beyond within the Special Rural area.

In considering the site against SPP 5.2, the proposal is not in an area of designated Landscape Protection identified in TPS 2 nor in a locality of important cultural, heritage, social or an area considered to have significant landscape views, vistas, panoramas over and above the existing special rural character of the locality (which is of course of special value to individual landowners).

It is noted that the infrastructure is situated in a corner of the subject lot and has existing mature vegetation around it at varying heights which assist in reducing visual impact, particularly for ground level infrastructure (see Attachments F - G). Apart from the dwelling on the subject property, the nearest dwelling is about 60 metres away to the west which is reflective of the nature of the Special Rural Zone.

The proponent is proposing landscaping around the infrastructure to provide additional screening for the ground level infrastructure. City Officers believe this is important, particularly for the property to the west which has a clear sight line from its garden area to the infrastructure and other neighbouring properties to the south and south east (all of whom objected) (See Attachments F and G). City Officers take the view that the current landscaping plans are not sufficient and should include a combination of 100 litre native trees with 5 litre shrub pots in staggered fashion for immediate effect and screening. An amended Landscape Plan condition would be recommended to be provided to the City within 60 days of the approval to address this.

In comparison to a lattice tower. The monopole is considered the least visually intrusive structure to support antennas at the minimum height. It is to remain unpainted (galvanised steel), which the applicant states has been demonstrated to most successfully blend with lighter backgrounds such as the sky.

In considering the site against SPP5.2, City officers take the view that the negative impact of the facility on the visual amenity of the locality is balanced by the increased reliability of the telecommunication services that would be provided for the 203 properties.

With regards to Electromagnetic Emissions (EME), a number of submissions have raised concerns about its impacts on health. This is a very important consideration and SPP 5.2 states that all telecommunication carriers must comply with the Australian Communications and Media Authority (ACMA) Radiocommunications Licence Conditions (apparatus Licence) Determination, 2003.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY),
LOT 131 (223) BODEMAN ROAD, WANDI

The licence conditions make mandatory the limits set in the Commonwealth's Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiofrequency (RF) Standard for human exposure to RF electromagnetic fields from all sources, including telecommunications infrastructure. These licence conditions effectively govern providers such as NBN to ensure community health is a priority and met. As such, SPP 5.2 also makes it clear that health and safety standards should not be addressed in local planning schemes or local planning policies (and hence part of planning assessments) but are addressed via these Standards.

The ARPANSA is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation. SPP 5.2 notes *"Measurement surveys undertaken by ARPANSA demonstrate that environmental radiofrequency levels near base stations for the mobile telephone network are extremely low. The ARPANSA surveys reported that typical exposures to radiofrequency fields were well below one per cent of the Standard's public exposure limits. It concluded that given the very low levels recorded and the relatively low power of these types of transmitters, it is unlikely that the radiofrequency radiation from base stations would cause any adverse health effects, based on current medical research"*.

The applicant will require a licence and has submitted an EME Report indicating that the exposure levels from the site are noted to be 0.097% of the maximum permissible level, which is substantially less than 1% of the maximum permissible level at the source.

Local Planning Policy - Telecommunications Installations

The proposal is subject to assessment under the City's Telecommunications Installations Policy. This Local Planning Policy (LPP) provides for the location of towers within industrial, commercial and rural areas. The subject site (and majority of surrounding area) is zoned 'Rural Water Resource' under the Metropolitan Region Scheme and 'Special Rural' under Town Planning Scheme No.2. These are considered Rural zones for the purposes of planning legislation (just as 'Light industry'/'General industry' are considered 'Industrial' zones).

The LPP seeks to facilitate telecommunication coverage within the City while minimising, amongst other things, landscape impacts, visual impacts, visual clutter and impact on amenity of the area. As detailed above, there will be adverse visual impacts associated with the proposal particularly for the surrounding local landholdings, but there are no broader cultural, heritage, social or important landscape impacts affected. The location within a Special Rural area assists in this regard as this allows for reasonable separation from dwellings and for existing and new screening to be introduced to reduce the impact.

The proponent is proposing landscaping to soften the impact of the infrastructure and, City Officers take the view that additional landscaping will be required.

The LPP requires towers to be of monopole construction to be least visually obstructive and to have an external colour to blend with the background landscape. As discussed, the proposed monopole is to remain unpainted (galvanised steel), which the applicant stated has been demonstrated to most successfully blend with lighter backgrounds such as the sky.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

The LPP also refers to health and safety considerations particularly referencing buffers from residential uses and schools etc. As discussed, the ARPANSA provides reassurance that the impacts on human health from environmental radiofrequency levels near base stations for mobile telephone networks are extremely low. Further, NBN has provided a report to the City detailing that exposure levels will be 0.097% of the maximum permissible level for radiofrequency fields.

Notwithstanding this, it is noted however that the LPP has yet to be updated since the gazettal of the SPP 5.2 and hence, still makes reference to health implications (which the SPP 5.2 makes clear should not be a planning consideration under the scheme as discussed above). In this respect, health is a relevant consideration under the LPP but legal advice obtained by the City states that considerable weight should be given to the SPP given the inconsistency with the LPP.

Alternative location

Although the proposal can be considered to comply with the requirements of the relevant legislation in terms of location and visual impact, it is acknowledged that the monopole will be highly visible to the immediate surrounding landowners in its proposed location.

As such, City officers conducted site visits to the subject lot and adjoining properties and met with the affected owners to determine if the tower location could be adjusted to be more adequately screened. The proposed location in the south western corner of the lot is highly visible to the adjoining landowners, particularly Lot 46 The Horseshoe which has a direct sight line to the tower down the fire break from the dwelling.

After conducting site visits to the subject lot and neighbouring properties and following on site meetings and discussions with the owners, City Officers felt that a shift away from the boundaries would better screen the ground level infrastructure and position the monopole further from the surrounding dwellings. A number of alternative sites were considered and discussed with the immediate neighbours. These locations are shown below (Image 1). The preferred alternative location to both City Officers and the affected neighbours (No.6) will position the tower approximately 27m from the western boundary and 50m from the southern boundary (in lieu of the proposed 3m setback to the compound from the southern and western boundaries). Whilst some vegetation may be removed, it is considered the best long term location and landscaping can be conditioned to be undertaken around the infrastructure to compensate and screen.

This alternative location will screen the structure behind existing vegetation on the subject lot and increase the setback to the dwelling on Lot 46 The Horseshoe from 60m to 80m. Lot 130 to the south has mature vegetation toward the rear of the dwelling and a number of large trees on the northern boundary. The alternative location will better screen the monopole behind this vegetation. The revised location also meets the setback requirements under the Scheme.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROA, WANDI

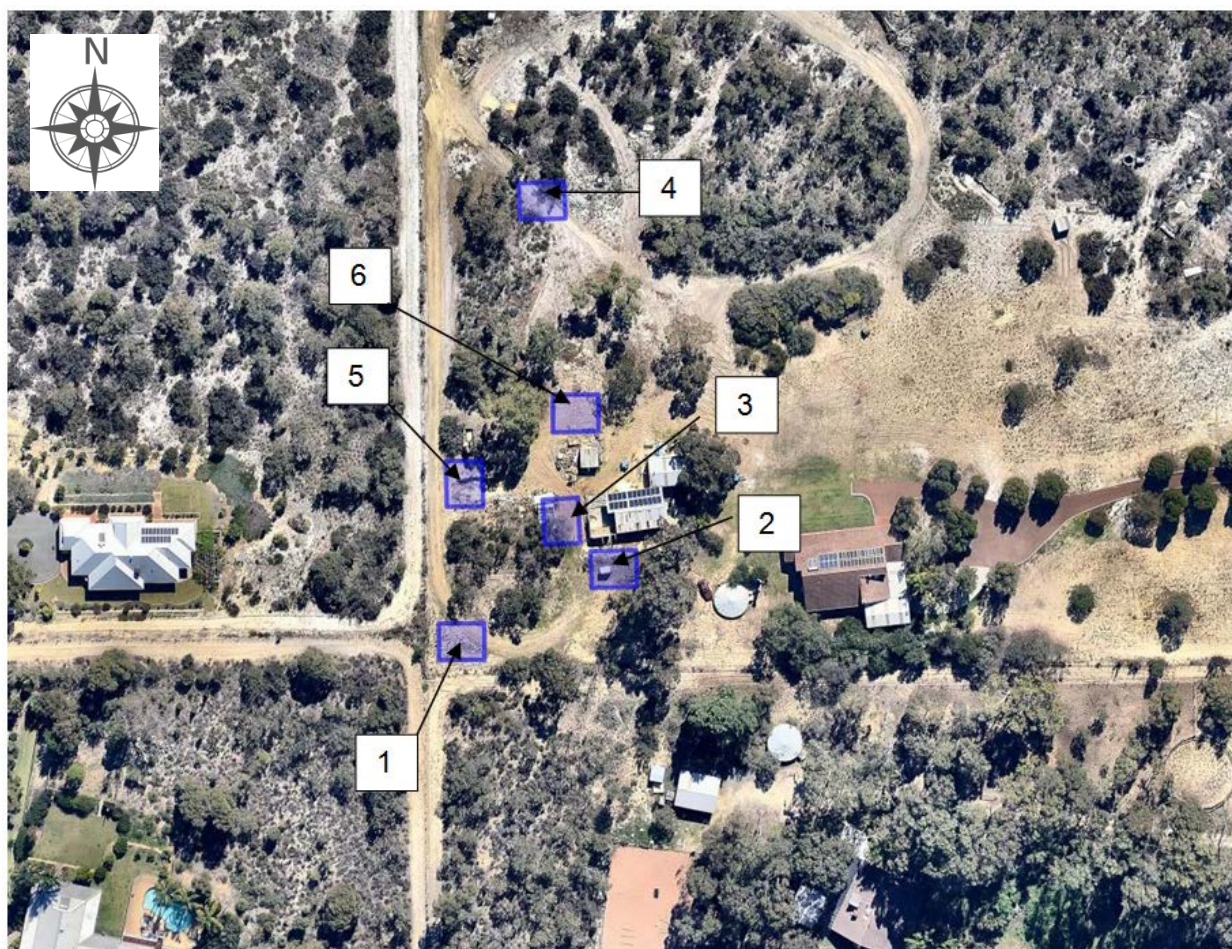


Image 1: Alternative locations considered

The City consulted with the applicant who advised they are supportive of the relocation.

City Officers did also consider an alternative site further north downhill on the subject property (No. 4) which would have further separated the tower from adjoining residents. The advice of NBN was however that the tower would need to be increased in height and a lattice structure (rather than the preferred monopole).

Conclusion

City Officers take the view that whilst there will be localised visual and amenity impacts, the proposal is consistent with both SSP 5.2 and the City's own LPP dealing with telecommunications infrastructure. It is considered by City Officers that the visual impacts are balanced by the benefits to the wider community of improved wireless services. It is appropriate however that the NBN make every effort to minimise local visual impacts and additional landscaping is required to have immediate impact.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

OFFICER RECOMMENDATION:

That Council takes the following action:-

1. Approve the proposed Telecommunications Infrastructure on Lot 131 (223) Bodeman Road, Wandi subject to the following conditions and advice:
 - (1) An amended site plan shall be prepared and submitted to the City of Kwinana for endorsement within 90 days of the date of this approval which demonstrates the relocation of the telecommunications infrastructure in accordance with Attachment K.
 - (2) The premises being kept in a neat/tidy condition and free from graffiti at all times by the owner/occupier to the satisfaction of the City of Kwinana. Any graffiti shall be removed from the structure within 48 hours.
 - (3) Stormwater drainage from roofed and paved areas to be disposed of on site.
 - (4) The applicant shall implement dust control measures for the duration of site works to the satisfaction of the City of Kwinana.
 - (5) The monopole tower shall be constructed of galvanised steel.
 - (6) An amended Landscaping Plan shall be provided to the City within 90 days of the date of this approval.
 - (7) The proponent shall install screening vegetation as per the approved Landscaping Plan within 60 days of the installation of the tower.
 - (8) This approval is valid for 24 months only. If development is not completed within this period a fresh approval must be obtained before commencing or continuing with the development.

ADVICE NOTES:

- (1) The applicant is advised that all future development must be submitted to the City of Kwinana prior to the commencement of works or alteration of land use.
- (2) Should the applicant be aggrieved by the decision or any condition imposed, then a right of review should be lodged with the State Administrative Tribunal within 28 days of the date of this decision.
- (3) The applicant is further advised that this is not a building licence the City of Kwinana issues to enable construction to commence. A building licence is a separate Council requirement and construction cannot be commenced until a building licence is obtained.
- (4) The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the Environmental Protection Act 1986 and Regulations, Health Act 1911 and Regulations, Contaminated Sites Act 2003 and the National Construction Code.

DISCUSSION:

Land Status

Metropolitan Region Scheme: Rural Water Resource
Town Planning Scheme No.2: Special Rural

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY),
LOT 131 (223) BODEMAN ROAD, WANDI

Proposal Description

An application has been received for Telecommunications Infrastructure (NBN Fixed Wireless Facility) at Lot 131 (223) Bodeman Road, Wandí (Attachment A).

The Fixed Wireless Facility comprises:

- a 40m high monopole;
- 3 panel antennas;
- 1 parabolic dish antenna
- 2 ancillary equipment cabinets

The total area of the compound to house the proposed structures will be approximately 80m². The compound will be fenced with a 2.4m height chainwire security fence, with 3m wide access gates.

The monopole is proposed to have a maximum height of 40 metres and be located in the south-western corner of the subject lot (Attachments B - E). The facility is proposed to provide high speed wireless broadband coverage to the Wandí area.

Telecommunications Installations are addressed legislatively by the *Commonwealth Telecommunications Act 1997*. Under this Act, the proposal is classed as a High Impact Facility that requires planning approval.

Site Selection

The applicant has advised that approximately 203 premises within a 2km radius of the subject site require connection to the NBN network. The facility has been designed to have an antenna height sufficient to transmit a service to a roof-mounted receiver at these premises. Localised topography and physical obstructions such as the height of vegetation is modelled when assessing coverage objectives.

The applicant considered a number of suitable sites for the NBN facility in the area but advised that the subject site was preferred for the following reasons:

- To provide the optimal required quality of service as required by NBN for the Wandí area;
- The proposed facility is located in a low density semi-rural area;
- The structure is proposed in an elevated location with surrounding dwellings facing away from the facility;
- The surrounding landscape includes a number of man-made structures (power poles), as well as mature vegetation, which will minimise visual impact;
- The impact on the physical environment is negligible; and
- The construction and land tenure costs are acceptable in the context of the locality.

The applicant has advised the City that NBN's fixed wireless network in Wandí is designed to offer service providers with wholesale access speeds of up to 50 megabits per second (Mbps) for downloads and 20Mbps for uploads. The applicant notes that end user experience including the speeds actually achieved over the NBN depends on some factors outside NBN's control like equipment quality, software, broadband plans and how the end user's service provider designs its network.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY),
LOT 131 (223) BODEMAN ROAD, WANDI

The applicant advises that current metropolitan ADSL services are capable of peak speeds of just 24Mbps – although actual ADSL operational rates are often much slower. It is also noted by the applicant that NBN's fixed-wireless end-users in Wandi will be able to access monthly data allowances of up to 250GB per month through some internet service providers – enough to watch 250 hours of streaming video per month.

Planning Scheme Implications

Under TPS 2, a Telecommunications Infrastructure use is described in Appendix 4 (Interpretations) as: *"land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or use in or in connection with, a telecommunications network."*

Telecommunications Infrastructure is listed as an 'SA' use under Table 1 of TPS 2, which means it is a use which Council has the discretion to approve after notice of the application has been given in accordance with Clause 2.3 of TPS 2.

Setback requirements

TPS 2 requires a 10m setback from side and rear boundaries for all buildings where there is not an approved building envelope on site. The security fencing is proposed to be setback 3m from the southern and western side boundaries. The ground level infrastructure is proposed to be setback 4.64m from the southern boundary and 5.23m from the western boundary. The monopole tower is proposed to be located approximately 5m from the southern boundary and 7.5m from the western boundary.

The City has been in discussions with the proponent to modify the location of the NBN tower on the lot to reduce the visual impact on the adjoining properties. The new location recommended by City Officers is approximately 50m from the southern boundary and 27m from the western boundary. This is in lieu of the original proposed 3m setback in the S/W corner of the lot. The new location meets the 10m side boundary setback requirement under the TPS.

SPP 5.2 – Telecommunications Infrastructure

SPP 5.2 was gazetted in September 2015. The intent of SPP 5.2 is to provide guidance pertaining to the siting, location and design of telecommunications Infrastructure.

Clause 5.1.1 of SPP 5.2 states that *'the benefit of improved telecommunications services should be balanced with the visual impact on the surrounding area'*.

Officers assessed the proposal against the requirements of the SPP:

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

SPP 5.2 Policy measures	Officer assessment against proposal
a) be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;	There are no identified scenic routes, lookouts or recreation sites near the proposed tower site.
b) be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land	There are no significant views that will be impacted as a result of the proposal. It is noted however that the greatest impact will be on adjoining landowners with one landowner to the west having a direct sight line to the telecommunications infrastructure from garden areas at a distance of about 60 metres. There will be varying visual impacts further afield with the tower being 40 metres in height. City officers believe that additional landscaping will be required for the ground level infrastructure such that there will be an immediate screening effect. This will reduce the impact to the landowners to the west and south east (See Attachments F and G). The alternative location for the infrastructure should also reduce the visual impact.
c) not be located on sites where environmental, cultural heritage, social and visual landscape values maybe compromised, and;	The preferred site is currently largely cleared although there may be some limited vegetation removed. There is no social or wider landscape values impacted although there will be some visual intrusion given the monopole tower for certain parts of the Special Rural area.
d) display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;	It is noted that monopoles are seen to be the least visually intrusive structure to support antennas at the minimum height able to achieve coverage objectives. The monopole is to remain unpainted (galvanised steel), which has been demonstrated to most successfully blend with lighter backgrounds such as the sky.

The benefit of the telecommunication infrastructure is that much of the Wandi Special Rural area will receive improved wireless services. When balanced against the visual impacts, City Officers take the view that these impacts are acceptable.

Local Planning Policy - Telecommunications Installations

Council's Telecommunications Installations Policy defines various criteria against which telecommunications infrastructure are to be assessed.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

Local Planning Policy Provisions	Officer assessment against proposal
<p>Towers shall not be located within 300 metres of residential zoned land (whether subdivided, developed or not, or land that has been identified by Council as having urban potential), or schools (including ovals & playgrounds), child care facilities or other land used for children's activities.</p>	<p>Complies - Infrastructure is proposed on a Rural zoned Lot (Special Rural). The subject site (and majority of surrounding area) is zoned 'Rural Water Resource' under the Metropolitan Region Scheme and 'Special Rural' under Town Planning Scheme No.2. These are considered Rural zones for the purposes of planning legislation (just as 'Light industry'/'General industry' are considered 'Industrial' zones).</p> <p>The LPP does not clearly specify if the purpose of the setback is to address health and safety concerns or visual amenity. With respect to health however, it is noted that the LPP has yet to be updated since the gazettal of the SPP 5.2 which clearly states that the matter of health should not be a planning consideration under the scheme. Legal precedent has held that in the event of conflict between provisions of a LPP and SPP 5.2, the latter should prevail.</p> <p>It is noted that the Commonwealth Governments ARPANSA provides reassurance that the impacts on human health from the NBN infrastructure will be extremely low. NBN has provided a report to the City detailing that exposure levels will be 0.097% of the maximum permissible level.</p>
<p>Towers shall generally be located in Industrial, Commercial and Rural areas.</p>	<p>Complies - The subject site (and majority of surrounding area) is zoned 'Rural Water Resource' under the Metropolitan Region Scheme and 'Special Rural' under Town Planning Scheme No.2. These are considered Rural zones for the purposes of planning legislation (just as 'Light industry'/'General industry' are considered 'Industrial' zones).</p>

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

Co-location of Antennae Facilities on single towers will be required except where technical impediments preclude such co-location or where in the opinion of Council, the visual impact of two or more towers is less than that of co-located facilities.	Complies - There are no other facilities in the area available for co-location. A single, monopole tower is proposed.
Towers shall not be located within areas designated for Landscape Protection under Council's operative Town Planning Scheme.	Complies - Property is not located in an area of landscape protection under TPS 2.
Towers shall be sited so to not intrude, encroach, obscure or detract from significant landscape features, vistas or views identified under Council's Rural Strategy.	Complies - There are no significant landscape features, vistas or views identified.
Towers shall be of mono-pole construction, although lattice or other towers may be supported by Council where the proponent demonstrates to the satisfaction of Council the technical necessity of such a tower, in terms of achieving the necessary elevation of antennas.	Complies - Proposed tower is of monopole construction.
The external colour and texture of towers shall be so as to harmonise and blend with the background landscape and this will be dependent of the siting of the facility and the surrounding topography	Complies - Tower has a proposed galvanised steel finish. This colour is seen to blend best with the sky background.
The base of the tower and associated installations shall be screened by established vegetation.	Complies - Screening vegetation is proposed to be established around the base of the tower, along the southern and western boundaries. City Officers are recommending additional screening.
Council will not support towers where antennae can be established on existing structure/buildings with the concurrence of the landowner.	N/A – There are no established structures in the area where the facility can be co-located.

City Officers take the view that the proposal complies with the LPP requirements.

Advertising

The application was initially advertised for 14 days in accordance with the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City of Kwinana's Local Planning Policy - *Advertising SA and Town Planning Scheme Amendment*.

Thirty one neighbouring properties within a 300 metre radius of the subject lot were notified.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

During the advertising period, a number of submissions were received from landowners who commented there was the lack of consultation by the City and that the advertising period was too short. In addition, there was a discussion held on the application at the Wandi Progress Association meeting in February with a desire for those community members present to be able to comment on the application. The City decided the best way to proceed was to re-advertise the proposal to all Special Rural properties in Wandi for a further 21 days. A total of 285 properties were notified. The City considers that the additional advertising period has given landowners the opportunity to view and comment on the proposal.

A total of 20 submissions were lodged with City, including 14 submissions objecting to the proposal and 6 in support (See Attachment H – Schedule of Submissions).

OBJECTORS

The City's responses to the main objections raised are as follows:-

Visual Impacts

A number of objectors raised the issue of the visual impact of the structure to their properties.

Officer Response

As discussed previously in reference to the planning policies, there is no doubt that the telecommunications infrastructure will be visible to varying degrees from nearby landholdings and beyond within the Special Rural area.

As also discussed, the proposal is not however in an area of designated Landscape Protection identified in TPS 2 nor in a locality of designated cultural, heritage, social importance and is not considered to be in an area of significant landscape views or vistas.

The most significant impacts will be local, although the tower will likely be visible further afield. In comparison to a lattice tower, the monopole is considered the least visually intrusive structure to support antennas at the height required and is to remain unpainted (galvanised steel) to blend with lighter backgrounds such as the sky. Attachment J was prepared by the proponent and contains a series of photo montages of the proposed tower from the surrounding area. The montages show the expected visibility of the tower from three surrounding locations.

In respect to immediate local impacts, it is the view of officers that the most significant impact will be on the property to the immediate west where the ground level infrastructure and tower will be visible from the garden area on the southern side of the dwelling. Other neighbouring dwellings tend to be screened with bushes and trees to soften the impact. Whilst the proponent is proposing landscaping around the infrastructure to provide screening, City Officers believe more screening is required and that the landscaping plans should be amended to show a staggered configuration to planting and for semi mature plants to be provided for immediate impact.

City Officers have considered SPP 5.2 and that *'the benefit of improved telecommunications services should be balanced with the visual impact on the surrounding area'*.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

City Officers take the view that the visual impacts are balanced by the benefits the improved telecommunications services would have on the entire community.

To better inform City Officers and for the benefit of Council, City Officers undertook research into some relevant State Administrative Tribunal (SAT) cases considering this aspect of the legislation. It was felt worthwhile providing a summary of this research in this Report.

Telstra Corporation Limited and the City of Wanneroo [2011] WASAT 77

The application was for a telecommunications facility comprising a 40.4 metre tall monopole mobile telephone base station in a rural zone adjacent to residential zoned land at Pinjar Road, Mariginiup. The City of Wanneroo argued the proposed facility would be in conflict with its policy on mobile telephone base stations because it would be within 500 metres of residential zoned land and would have an adverse impact on the visual amenity of the locality. The facility was also said to be in conflict with the State policy on mobile telephone infrastructure because of the impact the facility was considered to have on visual amenity of the locality.

The Tribunal found that there were existing inadequacies in the mobile telephone and data transfer services in the locality and these most likely would become worse. The Tribunal further found that the proposed facility was a desirable addition to the applicant's telecommunications network in the service area. The proposed facility would satisfy the requirements of the State and City of Wanneroo policies for an appropriate level of mobile telephone services to be delivered and maintained.

The Tribunal also formed the opinion that the impact of the proposed facility would be reduced by its profile and by the variations in topography across the locality. The Tribunal found that, on balance, the overall impact of the facility on the locality would not be so significant as to outweigh the benefits that would result from the addition to the telecommunications services for the service area. In the circumstances, the Tribunal decided to grant development approval for the proposed facility.

Telstra Corporation Limited and the City of Mandurah [2013] WASAT 135

The City of Mandurah refused an application for planning approval for a 25 metre high monopole telephone base station at the rear of an existing telephone exchange in Lakes Road, Greenfield because it considered that the adverse visual impact of the monopole would outweigh the benefit to telecommunications in the locality.

The Tribunal found that the proposed monopole facility could be supported because it would be in a location that would best serve existing and planned land uses in the locality and would not have an impact on visual amenity that would outweigh the benefit to local telecommunications.

Health Impacts

A number of submitters noted that the proposal would pose a radiation threat to health.

Officer Response

The question of health and safety impacts associated with telecommunications infrastructure is a very important one for the community and City alike.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY),
LOT 131 (223) BODEMAN ROAD, WANDI

As discussed however, SPP 5.2 makes it clear that health impacts associated with such infrastructure is a matter of separate assessment by the ACMA based on standards established by the Australian Government Agency ARPANSA (as the foremost authority) rather than planning assessments undertaken at Local or State Government levels. Licences are required and compliance must be demonstrated.

To provide reassurance to those residents making submissions on this matter, the following provision in relation to electromagnetic emissions is included in SPP 5.2:

“The use of mobile telephones has raised public concern about possible health issues associated with exposure to electromagnetic emissions. However, telecommunications carriers must comply with the Australian Communications and Media Authority (ACMA) Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003. These licence conditions make mandatory the limits in the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiofrequency (RF) Standard which sets limits for human exposure to RF electromagnetic fields from all sources, including telecommunications infrastructure. ARPANSA is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation. Measurement surveys undertaken by ARPANSA demonstrate that environmental radiofrequency levels near base stations for the mobile telephone network are extremely low. The ARPANSA surveys reported that typical exposures to radiofrequency fields were well below one per cent of the Standard’s public exposure limits. It concluded that “given the very low levels recorded and the relatively low power of these types of transmitters, it is unlikely that the radiofrequency radiation from base stations would cause any adverse health effects, based on current medical research”.

The EME report submitted by the applicant with this application indicated that the maximum exposure using worst case conditions to be 0.097% of the public exposure limit specified in the Australian Radiation Protection and Nuclear Safety Agency’s (ARPANSA) radiation protection standard No. 3 “Maximum Exposure Levels to Radio Frequency Fields – 3KHz to 300 GHz”. The ACMA mandates the exposure limitations of the ARPANSA Standard.

At a statutory level, under cl.67 of the Deemed Provisions, in considering an application for development approval the City is required to have due regard to any approved SPP (cl. 67(c)), any LPP for the Scheme area (cl.67(g)) together with the amenity of the locality including any environmental impacts of the development (cl. 67 (n)). It has already been noted that the LPP has yet to be updated since the gazettal of the SPP 5.2. Legal precedent has held that in the event of conflict between provisions of a LPP and SPP 5.2, the latter should prevail.

Again, City Officers have researched and had regard to recent SAT Appeals and decisions regarding health impacts of telecommunications infrastructure which are summarised below for consideration by Council.

Telstra Corporation Limited v Shire of Murray [2009] WASAT 117

The proposal was for a 56m high tower on rural land. Officers recommended approval but was refused by Council. The refusal was on the basis of amenity and health.

The Shire argued against the tower because Telstra was 'unable to guarantee that the facility will not cause negative health impacts'.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

The uncontradicted evidence pointed to the safe operation of the tower. The Tribunal said that it was 'disingenuous to demand a guarantee of no adverse health impact when all the currently available expert material in this field suggest[ed] that the issue simply does not arise on the basis of present knowledge and research'.

The Tribunal has cautioned a local government to refuse approval for telecommunication infrastructure on ground of unsubstantiated health concerns relating to electromagnetic emissions.

Property Values

Several submissions said that the proposed facilities will reduce the value of their properties.

Officer Comment

Potential impacts on land values are not a relevant planning consideration by Local Governments when determining a planning application based on the public interest. Impacts on visual amenity are relevant and have been discussed in this Report.

Supporting Submissions

There were six submissions received supporting the application.

Alternative locations

Although the proposal can be considered to comply with the requirements of the relevant legislation in terms of location and visual impact, it is acknowledged that the monopole will be highly visible to the immediate surrounding landowners in its proposed location.

As such, City officers conducted site visits to the subject lot and adjoining properties and met with the affected owners to determine if the tower location could be adjusted on the property to be more adequately screened. The proposed location in the south western corner of the lot is highly visible to the adjoining landowners, particularly Lot 46 The Horseshoe which has a direct sight line to the tower down the fire break from the dwelling.

After conducting site visits to the subject lot and neighbouring properties and following on site meetings and discussions with the owners, City Officers felt that a shift away from the boundaries would better screen the ground level infrastructure and position the monopole further from the surrounding dwellings. A number of alternative locations were examined and these are shown below. The preferred alternative location (Location 6 and Attachment K) will position the tower approximately 27m from the western boundary and 50m from the southern boundary (in lieu of the proposed 3m setback to the compound from the southern and western boundaries). City officers have also recommended a condition be added to the approval requiring an amended landscaping plan to be submitted for approval.

The alternative location will screen the structure behind existing vegetation on the subject lot and increase the setback to the dwelling on Lot 46 The Horseshoe from approximately 60m to 90m. Lot 130 to the south has mature vegetation toward the rear of the dwelling and a number of large trees on the northern boundary. The alternative location will better screen the monopole behind this vegetation. The alternative location will be approximately 120m from the dwelling on Lot 130, in lieu of the original 100m setback.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

The City consulted with the applicant who advised they are supportive of the relocation. The revised location also meets the setback requirements under the Scheme and is unlikely to result in the removal of any substantial vegetation.

City Officers also considered a number of alternative sites on the subject property which are shown on the image below. A summary is provided for each location.



1. Original proposed location.
2. This location would not result in the removal of vegetation but did not provide for adequate screening to the adjoining neighbour to the south.
3. This location would result in the removal of some mature trees but would provide for more screening to the neighbour to the west. Two adjoining landowners were consulted regarding this location but did not feel this provided adequate screening or separation. This location was preferred by City Officers over the original location and was supported the proponent.
4. This location would have further separated the tower from adjoining residents (and was favoured by an adjoining landowner). The advice of NBN was however that the tower would need to be increased in height and a lattice structure (rather than the preferred monopole).
5. This location was suggested to Officers but is considered to more visible to Lot 46 The Horseshoe.
6. This is the location recommended by Officers (attachment K). The image below is taken of the recommended location from Lot 46.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI



Location No.6 (Taken looking east from Lot 46 The Horseshoe)

LEGAL/POLICY IMPLICATIONS:

For the purpose of Councillors considering a declaration of interest only, the landowner is John Brendan & Julieann Harkins and the applicant is Aurecon Australasia Pty Ltd on behalf of NBN Co.

The following strategic and policy based documents were considered in assessing the application:

- City of Kwinana Town Planning Scheme No. 2
- City of Kwinana Telecommunications Installation Local Planning Policy
- State Planning Policy 5.2 – Telecommunications Infrastructure

FINANCIAL/BUDGET IMPLICATIONS:

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL IMPLICATIONS:

The property is not considered to be an area of Landscape Protection. Landscaping around the base of the tower is proposed.

STRATEGIC/SOCIAL IMPLICATIONS:

The provision of high quality telecommunications services to the community is important. This proposal seeks to improve telecommunication services for the Wandí area.

15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY), LOT 131 (223) BODEMAN ROAD, WANDI

RISK IMPLICATIONS:

Council approves development under its Town Planning Scheme to meet its statutory obligations and facilitate proper and orderly development of the municipality to accommodate development in accordance with the objectives of Council's Strategic Plan.

Ultimately, the applicant will have the ability to seek appeal to the State Administrative Tribunal (SAT) should they be dissatisfied with the decision of the matter. Given the history of the SAT decisions in recent years on this matter, it is quite possible that an appeal would have a good possibility of success.

Officers note that the application has exceeded the 90 day statutory timeframe the City has to determine the application. If the application is not determined the applicant may apply to the State Administrative Tribunal for a review, in accordance with the Planning and Development Act 2005 as if the responsible authority had refused to approve the application.

COUNCIL DECISION

241

MOVED CR P FEASEY

SECONDED CR S MILLS

That Council takes the following action:-

- 1. Approve the proposed Telecommunications Infrastructure on Lot 131 (223) Bodeman Road, Wandi subject to the following conditions and advice:**
 - (1) An amended site plan shall be prepared and submitted to the City of Kwinana for endorsement within 90 days of the date of this approval which demonstrates the relocation of the telecommunications infrastructure in accordance with Attachment K.**
 - (2) The premises being kept in a neat/tidy condition and free from graffiti at all times by the owner/occupier to the satisfaction of the City of Kwinana. Any graffiti shall be removed from the structure within 48 hours.**
 - (3) Stormwater drainage from roofed and paved areas to be disposed of on site.**
 - (4) The applicant shall implement dust control measures for the duration of site works to the satisfaction of the City of Kwinana.**
 - (5) The monopole tower shall be constructed of galvanised steel.**
 - (6) An amended Landscaping Plan shall be provided to the City within 90 days of the date of this approval.**
 - (7) The proponent shall install screening vegetation as per the approved Landscaping Plan within 60 days of the installation of the tower.**
 - (8) This approval is valid for 24 months only. If development is not completed within this period a fresh approval must be obtained before commencing or continuing with the development.**

ADVICE NOTES:

- (1) The applicant is advised that all future development must be submitted to the City of Kwinana prior to the commencement of works or alteration of land use.**

*15.4 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE (NBN FIXED WIRELESS FACILITY),
LOT 131 (223) BODEMAN ROAD, WANDI*

- (2) Should the applicant be aggrieved by the decision or any condition imposed, then a right of review should be lodged with the State Administrative Tribunal within 28 days of the date of this decision.**
- (3) The applicant is further advised that this is not a building licence the City of Kwinana issues to enable construction to commence. A building licence is a separate Council requirement and construction cannot be commenced until a building licence is obtained.**
- (4) The applicant should ensure the proposed development complies with all other relevant legislation, including but not limited to, the Environmental Protection Act 1986 and Regulations, Health Act 1911 and Regulations, Contaminated Sites Act 2003 and the National Construction Code.**

**CARRIED
8/0**

16 Reports – Civic Leadership

16.1 Accounts for Payment up to 30 April 2016

SUMMARY:

This is a List of Accounts paid by the City of Kwinana.

OFFICER RECOMMENDATION:

That the List of Accounts paid for the period ended 30 April 2016 be noted.

DISCUSSION:

The following list of accounts summarises all cheques and electronic funds transfer (EFT) drawn for the period to 30 April 2016. It is in agreement with the attached List of Accounts.

FUND	CHEQUE NO	AMOUNT	TOTAL
MUNICIPAL A/C	Cheque # 18298 to 18365 EFT # 3254 to 3271		
	Creditors Cheques and EFT	\$ 3,967,005.08	
	Non Creditors Cheques	\$ 12,951.48	
	Cancelled Cheques/EFT	\$ -	
	Payroll 27/04/16, 13/04/16, Payroll interim 05/04/16	\$ 1,149,039.77	
TRUST A/C	EFT NO	\$	
TOTAL			<u>\$5,128,996.33</u>

LEGAL/POLICY IMPLICATIONS:

In accordance with Local Government (Financial Management) Regulations 1996, Regulation 13 where the power has been delegated to the Chief Executive Officer (CEO), a list of accounts paid by the CEO is to be prepared and presented to Council each month. The list is to show each payment, payee's name, payment amount and date of payment and sufficient information to identify the transaction.

FINANCIAL/BUDGET IMPLICATIONS:

Various, but understood to be consistent with budget/budget review position and allowable variations therein.

16.1 ACCOUNTS FOR PAYMENT UP TO 30 APRIL 2016

ASSET MANAGEMENT IMPLICATIONS:

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified as a result of this report or recommendation.

STRATEGIC/SOCIAL IMPLICATIONS:

No strategic implications have been identified as a result of this report or recommendation.

RISK IMPLICATIONS:

No risk implications have been identified as a result of this report or recommendation.

COUNCIL DECISION

242

MOVED CR S LEE

SECONDED CR B THOMPSON

That the List of Accounts paid for the period ended 30 April 2016 be noted.

**CARRIED
8/0**

16.2 Accounts for Payment up to 31 May 2016

SUMMARY:

This is a List of Accounts paid by the City of Kwinana.

OFFICER RECOMMENDATION:

That the List of Accounts paid for the period ended 31 May 2016 be noted.

DISCUSSION:

The following list of accounts summarises all cheques and electronic funds transfer (EFT) drawn for the period to 31 May 2016. It is in agreement with the attached List of Accounts.

FUND MUNICIPAL A/C	CHEQUE NO	AMOUNT	TOTAL
	Cheque # 18366to 18447 EFT # 3272 to 3289		
	Creditors Cheques and EFT	\$ 4,784,662.11	
	Non Creditors Cheques	\$ 34,218.18	
	Cancelled Cheques/EFT	\$ 31,191.73	
	Payroll 25/05/16 and 11/05/16	\$ 1,142,438.06	
TRUST A/C	EFT NO	\$	
TOTAL			<u>\$5,992,510.08</u>

LEGAL/POLICY IMPLICATIONS:

In accordance with Local Government (Financial Management) Regulations 1996, Regulation 13 where the power has been delegated to the Chief Executive Officer (CEO), a list of accounts paid by the CEO is to be prepared and presented to Council each month. The list is to show each payment, payee's name, payment amount and date of payment and sufficient information to identify the transaction.

FINANCIAL/BUDGET IMPLICATIONS:

Various, but understood to be consistent with budget/budget review position and allowable variations therein.

16.2 ACCOUNTS FOR PAYMENT UP TO 31 MAY 2016

ASSET MANAGEMENT IMPLICATIONS:

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified as a result of this report or recommendation.

STRATEGIC/SOCIAL IMPLICATIONS:

No strategic implications have been identified as a result of this report or recommendation.

RISK IMPLICATIONS:

No risk implications have been identified as a result of this report or recommendation.

COUNCIL DECISION

243

MOVED CR P FEASEY

SECONDED CR R ALEXANDER

That the List of Accounts paid for the period ended 31 May 2016 be noted.

**CARRIED
8/0**

16.3 Monthly Statement of Financial Activity for the Period Ending 30 April 2016

SUMMARY:

The Monthly Statement of Financial Activity and explanation of material variances for the period ending 30 April 2016 has been prepared for Council acceptance.

OFFICER RECOMMENDATION:

That Council accepts:

1. The Monthly Statements of Financial Activity for the period ending 30 April 2016; and
2. The explanations for material variances for the period ending 30 April 2016.

DISCUSSION:

Variance percentages between budget estimates to the end of April and actual amounts to the end of April have been presented in the attached Statement of Financial Activity.

The material variances that are required to be reported on are:

Description	Actual	Y-T-D Budget		Variance (%)
Directorate City Living Expenditure	15,661,703	13,838,362	▲	13.18%
Directorate City Strategy Expenditure	(3,588,831)	(4,741,783)	▼	24.31%
Directorate Corporate and Engineering Services Expenditure	(16,826,565)	(22,903,453)	▼	26.53%
Directorate City Development Expenditure	(2,904,183)	(3,784,007)	▼	23.25%
Depreciation on Assets	5,589,890	9,632,338	▼	41.97%
Purchase Computing Equipment	(254,900)	(387,900)	▼	34.29%
Purchase Plant and Machinery	(248,460)	(557,113)	▼	55.40%
Purchase Transportation Vehicles	(782,618)	(954,225)	▼	17.98%

16.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 APRIL 2016

Description	Actual	Y-T-D Budget		Variance (%)
Purchase Land & Buildings	(1,130,876)	(1,898,027)	▼	40.42%
Purchase Reserve Development	(672,369)	(1,057,784)	▼	36.44%
Purchase Playground Equipment	(1,567,708)	(45,850)	▲	(3,319.21%)
Purchase Infrastructure – Urban Road Grant	(1,787,022)	(2,314,135)	▼	22.78%
Purchase Infrastructure – Roads to Recovery	(462,017)	(1,159,269)	▼	60.15%
Purchase Infrastructure – Road Resurfacing	(90,600)	(301,825)	▼	69.98%
Purchase Infrastructure – Drainage	(554,290)	(1,102,840)	▼	49.70%
Purchase Infrastructure – Municipal Roadworks	(524,290)	(679,550)	▼	22.85%
Proceeds from Disposal of Assets	333,561	436,800	▼	23.64%
Transfer to Reserves (Restricted Assets)	(3,933,439)	(4,882,418)	▼	19.44%
Transfer from Reserves (Restricted Assets)	3,745,531	5,264,565	▼	28.85%

Note: A negative (%) variance indicates additional expenditure or reduced revenue than budgeted. A positive % variance indicates additional revenue or reduced expenditure than budgeted.

Directorate City Living – 13.18%

This area shows increased income mainly due to the following areas:

- Family Day Care (*FDC General*) – higher than anticipated participation rate. Self funded area that has been reviewed in the annual budget review however budgets have been allocated in April resulting in a timing variance.
- Family Day Care (*FDC In-Home*) – higher than anticipated participation rate. Self funded area that has been reviewed in the annual budget review however budgets have been allocated in April resulting in a timing variance.

Directorate City Strategy Expenditure – 24.31%

This area shows reduced expenditure mainly due to the following areas:

- Executive Office (*Marketing and Communications*) – expenditure in relation to the new Corporate Website and Intranet had been forecasted to occur in previous months however the project has since been split into two separate streams, meaning the payment cycles have become less aligned than planned. The funds will be spent as planned by end of financial year.
- Governance (*Governance and Compliance*) – expenditure in relation to the Transformation project is yet to be approved until project documentation is complete.
- Human Resource Management (*Human Resources*) – a timing variance has resulted in expenditure being less than budgeted to date for staff training and staff employment expenditure. Purchase orders have been raised and training and recruitment is scheduled to occur in May and June. Staff vacancies, work load and limited availability of suitable conferences and seminars has resulted in a variance for conference expenditure.

16.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 APRIL 2016

Directorate Corporate and Engineering Expenditure – 26.53%

This area shows reduced expenditure mainly due to the following;

- a. Engineering Services (*Engineering Services Overheads*) – due to the allocation of overheads.
- b. Facilities Management (*Reserves and Parks*) – Reserve and Park maintenance programs are ongoing, purchase orders are in the system and will continue throughout the year.

Directorate City Development Expenditure – 23.25%

This area shows reduced expenditure mainly due to the following areas:

- a. Planning and Building Services (*Developer Contributions Administration*) – Consultants have been engaged with funds committed. Partial payments paid.
- b. Planning and Building Services (*Strategic Planning*) – Consultants have been engaged to finalise the Local Planning Strategy and undertake related planning studies. The updates required from these studies are unlikely to take place this financial year and have been budgeted for the 2016/2017 financial year.

Depreciation on Assets – 41.97%

Nil effect on rates as non-cash item. Less than budgeted due to the delayed processing of depreciation resulting in a timing variance.

Purchase Computing Equipment – 34.29%

Purchase of software to enable online bookings of the City's facilities is currently being evaluated. It is unlikely that this will be completed prior to end of financial year.

Purchase Plant and Machinery – 55.40%

Purchase of a 4.5T Drainage Truck for the Depot was budgeted to commence in December however the request for quote was issued at the end of February 2016. Evaluation is anticipated to take up to 4 weeks at which time funds will be committed.

Purchase Transportation Vehicles – 17.98%

Purchase orders have been raised for all remaining vehicles and deliveries are scheduled over the coming months.

Purchase Land and Buildings – 40.42%

Delayed adoption of the annual budget made it necessary to reschedule a number of projects. The majority of projects have now commenced with purchase orders raised in the system and invoices are anticipated upon completion of works. The Leda Hall replacement of Kitchen Cabinetry and Thomas Oval Netball Clubroom roof repairs projects have been delayed until May 2015. Chalk Hill Lookout remedial repairs are further delayed due to vandalism that has changed the project. Specialist services are now being sought and the possibility of an insurance claim investigated.

Purchase Reserve Development – 36.44%

Delayed adoption of the annual budget contributed to postponements for all projects. Works on carried forward projects, Hennessy and Skottowe Parks are now substantially complete and invoices are expected. The M^cGuigan Park upgrade was initially delayed by the contractor and availability of equipment; works are almost complete with invoices expected in the coming weeks. The discovery of asbestos at Kwinana Beach Road delayed the streetscape beautification project. Completion will now occur in April/May when the weather is more conducive to the planting of tube stock.

16.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 APRIL 2016**Purchase Playground Equipment – (3,319.21%)**

Environmental Industries were awarded the contract for construction of the Calista Oval Destination Adventure Playground. Works are now underway with purchase orders raised in the system. The budget had been allocated mostly to the months of May and June 2016 as it was unclear when the project would commence resulting in a timing variance.

Purchase Infrastructure – Urban Road Grant – 22.78%

Structure plans submitted by land owners adjoining the Bertram Road dual carriageway project for subdivision have resulted in the deferment of the project possibly until 2017/18.

Infrastructure – Roads to Recovery – 60.15%

The Moombaki Avenue extension project commenced during the month and is expected to be complete towards the end of May 2016. Purchase orders have been raised and costs are anticipated throughout April and May.

Infrastructure – Road Resurfacing – 69.98%

Delayed adoption of the annual budget made it necessary to reschedule a number of projects. Most projects commenced during the month and are expected to be complete by early April 2016.

Infrastructure – Drainage – 49.70%

Mandurah Road drainage works were incomplete due to the contractor being in liquidation. A replacement contractor was engaged and works are substantially complete. Invoices are expected during the next month. The Lee Road and Office Road Drainage works are anticipated to be completed during April 2016 with costs expected to follow.

Infrastructure – Municipal Roadwork's – 22.85%

The Cromer Gardens and Inglis Court projects have now commenced and are expected to be complete in mid May 2016. Purchase orders are in the system for all other projects and works are ongoing.

Proceeds from Disposal of Assets – 23.64%

Nil effect on rates as non-cash. The sale of a number of City Assist vehicles have been delayed as a result of the delayed arrival of a dog lift and the outcome of discussions on the requirement of vehicle for a Volunteer organisation.

Transfers to Reserves – 19.44%

Transfers to Reserves are processed monthly as funds are received.

Transfers from Reserves – 28.85%

Transfers from Reserves are processed monthly as costs are realised.

Investment activity April 2016

- *Tier 1* – Investment rates available to the City were not favourable therefore no funds were invested in this tier.
- *Tier 2* – Funds invested with National Australia Bank exceeded the allowable limit at month end due to maturities in other tiers and the City's cash requirements at the time. This will be remedied in May 2016.
- *Tier 3* – Funds were allocated in accordance with the guidelines of the Investment Policy.
- *Tier 4* – Funds were allocated in accordance with the guidelines of the Investment Policy.

16.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE PERIOD ENDING 30 APRIL 2016

LEGAL/POLICY IMPLICATIONS:

Local Government (Financial Management) Regulations – Clause 34.

FINANCIAL/BUDGET IMPLICATIONS:

As outlined in the 'Discussion' and 'Risk' sections.

ASSET MANAGEMENT IMPLICATIONS:

No asset management implications have been identified as a result of this report or recommendation.

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified as a result of this report or recommendation.

STRATEGIC/SOCIAL IMPLICATIONS:

Continuous monitoring and review ensures the future sustainability of the City through the implementation of sound revenue and expenditure policies, and seeking additional revenue sources.

RISK IMPLICATIONS:

The report is provided to highlight 'over' and 'under' provisions, revenues and expenditures. Monitoring the City's financials enables the City to suitably manage these financial risks by allowing for suitable responsible adjustments to be proposed if necessary. No such adjustments are considered to be required at this point in time.

COUNCIL DECISION

244

MOVED CR S MILLS

SECONDED CR W COOPER

That Council accepts:

1. **The Monthly Statements of Financial Activity for the period ending 30 April 2016; and**
2. **The explanations for material variances for the period ending 30 April 2016.**

**CARRIED
8/0**

16.4 Amendments to the Register of Delegated Authority – Local Government to Chief Executive Officer, Officers and Committees 2016

SUMMARY:

At its 10 February 2016 meeting, Council resolved to delegate certain functions to the Chief Executive Officer (CEO), Officers and Committees, to have the discretion to exercise delegated authority under the relevant legislation.

As part of the ongoing review to ensure that all delegations and appointments have been captured, an additional delegation that is at Attachment A, has been identified and is recommended for adoption in relation to approving heavy vehicles access onto local government roads within the City of Kwinana, that are included in the Restricted Access Vehicle (RAV) Network.

OFFICER RECOMMENDATION:

That Council:

1. Grant the following Delegation to the Chief Executive Officer, as detailed in Attachment A:
 - 1.16 Approval of Restricted Access Vehicles onto local government roads.

NOTE – AN ABSOLUTE MAJORITY OF COUNCIL IS REQUIRED

DISCUSSION:

The delegation is required to ensure the services the local government provides, in relation to powers and duties of the local government under the *Local Government Act 1995* and other legislation for which a local government has responsibility, can be delivered in a timely and efficient manner.

Main Roads WA have provided the following information in regard to their control of certain heavy vehicles onto local and state roads:

“With increasing demand for Heavy Vehicle access on Local and State roads within Western Australia, there is a need to ensure Main Roads Heavy Vehicle Services, Main Roads Regions, Local Government and other road owner’s work together to achieve strong partnerships and mutual benefit in relation to heavy vehicle access.

Main Roads is committed to addressing issues with a focus on continuous improvement and working collaboratively with key stakeholders. This ensures heavy vehicle access on the West Australian Restricted Access Vehicle (RAV) Network has been approved through consultation and communication with all relevant parties.

Main Roads Heavy Vehicle Services is responsible for providing clear direction for Local Government, Main Roads Regions and other road owner’s in relation to heavy vehicle access.”

16.4 AMENDMENTS TO THE REGISTER OF DELEGATED AUTHORITY – LOCAL GOVERNMENT TO CHIEF EXECUTIVE OFFICER, OFFICERS AND COMMITTEES 2016

The Commissioner of Main Roads is empowered under the *Road Traffic Act 1974* to approve RAV access on the public road network. The Commissioner has delegated these powers to the Heavy Vehicle Access Planning Branch, however, no delegation has been provided to local governments to control the access of these identified roads within the RAV Network.

Main Roads policies include that local governments must be consulted and have input into RAV access on the public road network. The Main Roads 'Framework for applying for adding local government roads to Restricted Access Vehicle Networks' states that it seeks approval from the relevant road owner before RAV access is approved. In addition, the requirement is formalised where it is a condition (CA07), that RAV Network users obtain written approval from the relevant local government as part of the approval process required by Main Roads.

Further written advice received from Main Roads stated that:

When Main Roads receives an application to add a Local Government road to the RAV Networks or AMMS Networks (or under previous concessional permits), written endorsement by the relevant local government needs to be provided at that time, which has been the long standing agreement between local governments and Main Roads.

Where a road is approved for RAV access, Main Roads may apply the access condition CA07 in certain cases, which requires operators to carry current written approval (from the local government), to operate on the particular road as per the condition outlined in the approval. This enables the local government to monitor the number of vehicles using the particular road and may also provide an opportunity for a local government to apply a road user charge in certain circumstances.

Local government has discretion (to approve or refuse the use), however they must ensure equity, i.e. the road is already approved by Main Roads and included on the Network, therefore, they will need to provide justification if they decline access or only provide access to certain operators.

It is this policy condition (CA07) that allows a local government discretion to approve or refuse an operator of a RAV access to roads controlled by the City of Kwinana under the RAV Network, that is sought as a delegation to the Chief Executive Officer.

LEGAL/POLICY IMPLICATIONS:

Local Government Act 1995

5.41. Functions of CEO

The CEO's functions are to —

- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required.

16.4 AMENDMENTS TO THE REGISTER OF DELEGATED AUTHORITY – LOCAL GOVERNMENT TO CHIEF EXECUTIVE OFFICER, OFFICERS AND COMMITTEES 2016

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

FINANCIAL/BUDGET IMPLICATIONS:

There are no direct financial implications related to this report.

ASSET MANAGEMENT IMPLICATIONS:

There are no direct asset management implications related to this report.

ENVIRONMENTAL IMPLICATIONS:

There are no direct environmental implications related to this report.

STRATEGIC/SOCIAL IMPLICATIONS:

The role of Council is to ensure that the Council's delegations are aligned with the key goals and aspirations as set out in our Plan for the Future.

RISK IMPLICATIONS:

There are no risk implications related to this report.

COUNCIL DECISION

245

MOVED CR S LEE

SECONDED CR D WOOD

That Council:

- 1. Grant the following Delegation to the Chief Executive Officer, as detailed in Attachment A:**
 - 1.16 Approval of Restricted Access Vehicles onto local government roads.**

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL
8/0

16.5 Adoption of Dogs Amendment Local Law 2016

SUMMARY:

The proposed Dogs Amendment Local Law 2016 was advertised for the required period, as prescribed by the Local Government Act 1995, and a copy of this local law was forwarded to the Minister for Local Government and Communities. The Department of Local Government and Communities (DLGC) has recommended numerous style, formatting and grammar changes and these recommendations have been applied and are incorporated into the final version of the local law as attached at Attachment A. The Dog Local Law is detailed in Attachment D.

No public submissions were received in response to this notice.

OFFICER RECOMMENDATION:

1. That the Presiding Member reads aloud the Dogs Amendment Local Law 2016 purpose and effect:
 - a) The purpose of this local law is to provide for the regulation, control and management of the keeping of dogs within the City of Kwinana.
 - b) The effect of this local law is to establish the requirements with which owners and occupiers of land within the City of Kwinana must comply in order to keep dogs and provides the means of enforcing the local law.
2. That Council resolve to:
 - a) Adopt the Dogs Amendment Local Law 2016 with minor amendments from the local law originally proposed, which do not impact on the purpose or effect of this local law at Attachment A; and
 - b) Cause the Dogs Amendment Local Law 2016 to be published in the Government Gazette and provide a local public notice stating when the local law comes into operation and that copies are available for public information.
 - c) Authorise the Mayor and Chief Executive Officer to sign the Explanatory Memorandum and Statutory Procedures Checklist of the process used at Attachment C, as is required to be provided to the Joint Standing Committee on Delegated Legislation and the Minister for Local Government and Communities within 10 working days of the Gazettal Notice publication date.

NOTE: ABSOLUTE MAJORITY OF COUNCIL REQUIRED

DISCUSSION:

The **purpose** of this local law is to provide for the regulation, control and management of the keeping of dogs within the City of Kwinana.

16.5 ADOPTION OF DOGS AMENDMENT LOCAL LAW 2016

The **effect** of this local law is to establish the requirements with which owners and occupiers of land within the City of Kwinana must comply in order to keep dogs and provides the means of enforcing the local law.

The City's current *Dogs Local Law 2010* was adopted on 10 November 2010 and while a number of changes have been proposed in this review, it was considered manageable and economical to give effect to changes to this local law by way of an amendment to the current local law.

A number of staff working group meetings and an elected member's forum have taken place to review the current local law with the resulting draft local law presented to Council at the Ordinary Council Meeting of 13 April 2016 and subsequently advertised for public submission.

No public submissions were received in relation to this local law during the consultation period, however, the Department of Local Government and Communities (DLGC) provided comments which were of a minor nature and amendments have been made accordingly. A copy of the comments received from the Department of Local Government and Communities is at Attachment B, including a copy of the local law as advertised and provided to DLGC for comment.

A summary of the changes recommended by DLGC include:

- Deletion of clause 2.4 in its entirety as under section 43 of the *Dog Act 1976*, it is an offence to remove an impounded dog from lawful custody or damage any structure in which a dog is lawfully detained so this clause is not required.
- Amendments and rewording of some penalties.
- Minor rewording of some clauses.
- Renumbering of some clauses consistent with current practice.

DLGC further advised that the comments provided:

- have been provided to assist the City with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the City's consideration; and
- should not be taken as an approval of content.

A copy of the Explanatory Memorandum and Statutory Procedures Checklist of the process used, as is required to be provided to both the Joint Standing Committee on Delegated Legislation and the Minister for Local Government and Communities, is at Attachment C.

LEGAL/POLICY IMPLICATIONS:

Section 3.12 of the Local Government Act 1995 sets out the procedure to be followed to make a local law as follows:

- The purpose and effect of the proposed local law needs to be included in the agenda and minutes of this meeting.

16.5 ADOPTION OF DOGS AMENDMENT LOCAL LAW 2016

- State wide and local public notice that the local government wants to make a local law and its purpose and effect is to be undertaken. Copies are to be made available for public comment over a six week period and the closing date for public submissions is to be provided in the advertisement.
- A copy of the proposed local law is to be provided to the Minister for Local Government and Communities.
- The local government is to consider any submissions made before making the local law.
- The local government is to publish the local law in the Government Gazette.
- Local public notice is to be given of when the local law comes into operation and that copies are available for public information.
- The local government is to provide an explanatory memorandum of the process used to the Minister for Local Government and Communities.

FINANCIAL/BUDGET IMPLICATIONS:

Budget Item Name:	Governance Advertising and Promotions
Budgeted Amount:	\$30,000
Expenditure to Date:	\$22,731
Proposed Cost:	\$500
Balance:	\$6,769

*NOTE: All figures are exclusive of GST

ASSET MANAGEMENT IMPLICATIONS:

There are no direct asset management implications related to this report.

ENVIRONMENTAL IMPLICATIONS:

There are no direct environmental implications related to this report.

STRATEGIC/SOCIAL IMPLICATIONS:

The role of Council is to ensure that the Council's local laws are aligned with the key goals and aspirations as set out in our Plan for the Future.

RISK IMPLICATIONS:

Creating local laws that guide the operations of the City will play a valuable role in reducing risk to levels acceptable to Council.

16.5 ADOPTION OF DOGS AMENDMENT LOCAL LAW 2016

COUNCIL DECISION

246

MOVED CR S LEE

SECONDED CR P FEASEY

1. That the Presiding Member reads aloud the Dogs Amendment Local Law 2016 purpose and effect:
 - a) The purpose of this local law is to provide for the regulation, control and management of the keeping of dogs within the City of Kwinana.
 - b) The effect of this local law is to establish the requirements with which owners and occupiers of land within the City of Kwinana must comply in order to keep dogs and provides the means of enforcing the local law.
2. That Council resolve to:
 - a) Adopt the Dogs Amendment Local Law 2016 with minor amendments from the local law originally proposed, which do not impact on the purpose or effect of this local law at Attachment A; and
 - b) Cause the Dogs Amendment Local Law 2016 to be published in the Government Gazette and provide a local public notice stating when the local law comes into operation and that copies are available for public information.
 - c) Authorise the Mayor and Chief Executive Officer to sign the Explanatory Memorandum and Statutory Procedures Checklist of the process used at Attachment C, as is required to be provided to the Joint Standing Committee on Delegated Legislation and the Minister for Local Government and Communities within 10 working days of the Gazettal Notice publication date.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

8/0

16.6 Budget Variations

SUMMARY:

To amend the 2015/2016 budget to reflect various adjustments to the General Ledger with nil effect to the overall budget as detailed below. Due to the nature of these variations, they fall outside the annual budget review.

OFFICER RECOMMENDATION:

That the required budget variations to the Adopted Budget for 2015/2016 as outlined in the report be approved.

NOTE: AN ABSOLUTE MAJORITY OF COUNCIL IS REQUIRED

DISCUSSION:

ITEM #	LEDGER ACCOUNT	DESCRIPTION	OPERATING BUDGET	INCREASE/ DECREASE	REVISED BUDGET
1	400094.1600	Project Expense	(254,669)	(25,000)	(279,669)
	300158.1600	Project Revenue	138,000	25,000	163,000
	Reason:	<i>CDO Recreation and Leisure – revenue in excess of adopted budget. Additional Department of Sport and Recreation funding received for 2015/2016 for Kidsport voucher program.</i>			
2	600019.1002	Capital Expense	(838,127)	(6,900)	(845,027)
	600016.1002	Capital Expense	(246,400)	6,900	(239,500)
	Reason:	<i>Recreation and Culture Facility – transfer of identified savings from Kwinana South and Mandogalup Fire Station automated roller doors for Thomas oval netball clubrooms roof repairs due to roller door quotes being less than originally quoted</i>			
3	600016.1002	Capital Expense	(239,500)	(5,000)	(244,500)
	600019.1002	Capital Expense	(845,027)	5,000	(840,027)
	700044.1898	Transfer from Reserve	7,400	5,000	12,400
	700013.1012	Transfer from Reserve	199,030	(5,000)	194,030
	Reason:	<i>Law Order and PS Facility – Transfer of funds from Leda Hall kitchen cabinets replacement to Casuarina/Wellard Fire Station. Public health issue identified requiring urgent replacement of UV filter at Casuarina/Wellard Fire Station, Leda Hall kitchen works deferred to 2016/17.</i>			
4	600019.1002	Capital Expense	(840,027)	(4,000)	(844,027)
	400490.1004	Project Expense	(287,456)	3,000	(284,456)
	400492.1004	Project Expense	(1,772,760)	1,000	(1,771,760)
	Reason:	<i>Recreation and Culture Facility – transfer of funds from Budden Way gutter guard to Wandi Hall. Public health issue identified requiring urgent replacement of UV filter at Wandi Hall, Budden Way works deferred to 2016/17.</i>			
5	600031.1001	Capital Expense	(23,935)	(2,400)	(26,335)
	500003.1486	Capital Revenue	3,300	2,400	5,700
	Reason:	<i>Infrastructure Management Overheads – revenue in excess of adopted budget. Trade in of three traffic counters with purchase of new traffic counters.</i>			
6	600001.1001	Capital Expense	(2,210)	(645)	(2,855)
	400104.1144	Operating Expense	(17,420)	645	(16,775)
	Reason:	<i>Library - transfer of funds from expendable equipment to capital to purchase a television stand due to audio visual shelving not being able to be provided by supplier.</i>			

16.6 BUDGET VARIATIONS

LEGAL/POLICY IMPLICATIONS:

The Local Government Act 1995 Part 6 Division 4 s 6.8 (1) requires the local government not to incur expenditure from its municipal fund for an additional purpose except where the expenditure-

(b) is authorised in advance by resolution*

“additional purpose” means a purpose for which no expenditure estimate is included in the local government’s annual budget.

*requires an absolute majority of Council.

FINANCIAL/BUDGET IMPLICATIONS:

Budget Item Name:	Various items as listed above.
Budgeted Amount:	
Expenditure to Date:	
Proposed Cost:	Nil effect.
Balance:	

*NOTE: All figures are exclusive of GST

ASSET MANAGEMENT IMPLICATIONS:

The allocation of funds towards the upgrading and renewal of existing City assets in the capital expenditure items is in line with the Asset Management Strategy and will reduce the current asset management gap.

ENVIRONMENTAL IMPLICATIONS:

No environmental implications have been identified as a result of this report or recommendation.

STRATEGIC/SOCIAL IMPLICATIONS:

Council’s Strategic Community Plan for the period 2015 to 2025 provides that Council will ensure the future sustainability of the City of Kwinana through the implementation of sound revenue and expenditure policies, and seeking additional revenue sources.

RISK IMPLICATIONS:

Refer to Legal/Policy comments for risk implications.

16.6 BUDGET VARIATIONS

COUNCIL DECISION

247

MOVED CR P FEASEY

SECONDED CR R ALEXANDER

That the required budget variations to the Adopted Budget for 2015/2016 as outlined in the report be approved.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL
8/0

17 Urgent Business

COUNCIL DECISION

248

MOVED CR R ALEXANDER

SECONDED CR B THOMPSON

That Council deal with the item of urgent business as presented in the Addendum to the Agenda, and that it be dealt with Behind Closed Doors due to its confidential nature as item 21.2.

**CARRIED
8/0**

18 Councillor Reports

18.1 Councillor Bob Thompson

Councillor Bob Thompson reported that he had attended the Apple iPad Training and thoroughly enjoyed it.

18.2 Councillor Dennis Wood

Councillor Dennis Wood reported that he had attended the Bendigo Bank First Birthday event.

Councillor Dennis Wood advised that he had attended the Apple iPad Training.

19 Response to Previous Questions

Nil

20 Mayoral Announcements (without discussion)

Mayor Carol Adams stated that she had been very saddened to hear of the death of Parmelia teenager Aaron Pajich, and she passed on her condolences to his family. The Mayor advised that the City has been contacted and advised that a candle light vigil will be held tomorrow evening at 6pm on the Council Green. The Mayor further advised that she would attend and represent the City.

The Mayor reported that she had attended Indian Ocean Gateway meetings with Senator Nick Xenophon and Western Australian (WA) Senate Candidate, Luke Boulton.

The Mayor attended the Fremantle Chamber of Commerce State of The State Luncheon with guest speaker, Treasurer Dr Mike Nahan MLA.

The Mayor attended a South West Group Meeting with Senator Glenn Sterle.

20 MAYORAL ANNOUNCEMENTS (WITHOUT DISCUSSION) CONTINUED

The Mayor attended the Connecting Communities for Kids Initiative Inaugural Meeting.

The Mayor mentioned that she had attended the Darius Wells Library and Resource Centre 3rd Birthday Celebrations and that she had the honour of cutting the cake.

21 Matters Behind Closed Doors

COUNCIL DECISION

249

MOVED CR D WOOD

SECONDED CR B THOMPSON

That in accordance with Section 5.23(2)(a) and 5.23(2)(d) of the Local Government Act 1995, Council move behind closed doors to allow discussion of the Matters Behind Closed Doors items.

CARRIED
8/0

The public and press left the Council Chambers at 7:49pm

COUNCIL DECISION

250

MOVED CR P FEASEY

SECONDED CR R ALEXANDER

That Council deal with item 21.2 prior to item 21.1.

CARRIED
8/0

21.2 Legal Agreement between the City of Kwinana and Land Owners of Authority Parcel Numbers 9405, 9509 and 9615

COUNCIL DECISION

251

MOVED CR P FEASEY

SECONDED CR B THOMPSON

That Council:

1. Supports Option A as detailed in this Council Report.
2. Authorises the Chief Executive Officer to undertake any of the actions under the Agreement, excluding any action that would vary the intent and purpose of the Agreement.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL
8/0

21.1 Chief Executive Officer Performance Review 2015/16 and setting of the 2016/17 Key Performance Indicators and Remuneration

All City Officers except the Acting Director City Strategy left the Council Chambers at 7:53pm.

COUNCIL DECISION

252

MOVED CR S MILLS

SECONDED CR W COOPER

That Council:

- 1. Adopt the final feedback summary report from the Appraisal Agent as provided by the Appraisal Agent, in Attachment A.**
- 2. Adopt the agreed 2016/17 Key Performance Indicators, outlined in Attachment B.**
- 3. Increase the Chief Executive Officer's salary (cash component) by 2% and adjust superannuation and FBT according to legislative requirements as outlined in Attachment C.**
- 4. Authorise the Mayor to execute the variations to the Chief Executive Officer's contract.**
- 5. Endorse the Committee's finding that the Chief Executive Officers performance has been of a very high standard, and that the overall rating is 'Outstanding'.**

**CARRIED
8/0**

NOTE - That the Executive Appraisal Committee recommendation point three has been changed to reflect the proposed increase to the Chief Executive Officer's salary (cash component).

COUNCIL DECISION

253

MOVED CR W COOPER

SECONDED CR P FEASEY

That Council come out from behind closed doors.

**CARRIED
8/0**

The Council Chambers reopened at 8:03pm

22 Meeting Closure

The Mayor declared the Meeting closed 8.04pm.

Chairperson:

13 July 2016