



City of Kwinana
Local Planning Scheme No. 2
Amendment No. 164

Summary of Amendment Details

- a) *Rezone Lot 132 Wirra Corner, Part Lot 9002 and Lot 9035 Lyon Road, Wandi from 'Rural Water Resource' and 'Special Rural' to 'Development' (Attachment 2); and*
- b) *Amend the boundary of Development Contribution Area 5 Wandi and Development Contribution Area Wandi/Anketell to include the subject land.*

Planning and Development Act 2005
RESOLUTION TO ADOPT AMENDMENT 164
TO LOCAL PLANNING SCHEME

Local Planning Scheme No. 2
Amendment No. 164

Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

- a) Rezoning Lot 132 Wirra Corner, Part Lot 9002 and Lot 9035 Lyon Road, Wandí (5.07ha) from 'Rural Water Resource' and 'Special Rural' to 'Development' (Attachment 2); and
- b) Amending the boundary of Development Contribution Area 5 Wandí and Development Contribution Area Wandí/Anketell to include the subject land.

The amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

- a) An amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan.

Dated this 19th day of December 2023



(Chief Executive Officer)

INTRODUCTION

The City of Kwinana has prepared this report as rationale for amending Local Planning Scheme No. 2 (LPS2) to rezone the subject land from 'Rural Water Resource' and 'Special Rural' to 'Development'.

The subject land is legally described as:

Address	Deposited Plan	Volume/Folio
Lot 132 (No.23) Wirra Corner	P421718	4010/164
Part Lot 9002 (No. 548)	P423833	4029/503
Lot 9035 Lyon Road	P408837	2910/182

The subject land was recently rezoned from 'Rural- Water Protection' to 'Urban' under Metropolitan Region Scheme (MRS) Amendment 1381/57. The Amendment was Gazetted on 23 December 2022.

Under Part 9 Section 124(2) of the *Planning and Development Act 2005*, the Local Government is required to resolve to amend its Local Planning Scheme to be consistent with the MRS, within ninety (90) days of the Region Scheme Amendment having affect. To align with the MRS, the subject land should be rezoned from 'Special Rural' to 'Development' under LPS2.

Also included in this amendment is the extension of the boundaries of Development Contribution Areas 5 and 9, to include the subject land.

The amendment is considered to fall under the complex requirements, under clause 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, due to the amendment to the boundary of Development Contribution Areas 5 and 9.

BACKGROUND

The amendment area is situated approximately 29km south of the Perth CBD and is near the Kwinana Freeway to the west. The amendment area is situated adjacent to the developing Honeywood and Whistling Grove residential estates. The Honeywood Primary School and playing fields are in close proximity to the south. The Aubin Grove rail station is approximately 3.9km to the north and the Kwinana rail station is approximately 4.9km to the south.

The majority of the amendment area is utilised for intensive market gardening operations under non-conforming use rights. There are no existing Water Corporation extraction bores within or abutting the subject land. The total area subject to this amendment is approximately 5.07ha.

The Department of Agriculture, Water and the Environment (DAWE) has granted approval to develop the site (subject to conditions) under the *Environmental Protection Biodiversity Conservation Act 1999* (EPBC Act). The site does not contain or abut any Bushforever or wetland areas.

Indicative Concept Plan

The amendment is supported by a concept plan which indicates residential subdivision with densities likely ranging between R30 and R40 providing for a yield of approximately 88 dwellings, comprising single residential lots and grouped dwellings. The proponent advises that the lot sizes

are commensurate of the existing adjoining development and specific lot typologies consistent with the abutting Wandí North Structure Plan.

The subject land was recently rezoned from 'Rural- Water Protection' to 'Urban' under Metropolitan Region Scheme (MRS) Amendment 1381/57. The approved amendment was Gazetted on 23 December 2022. The proponent for the MRS amendment was Terranovis and Satterley Property Group. Under Part 9 Section 124(2) of the *Planning and Development Act 2005* the Local Government is required to amend its Local Planning Scheme to be consistent with the MRS.

The proposed amendment also includes provisions to extend the boundary of Developer Contribution Area 5 and Developer Contribution Area 9 to include the subject land to ensure contributions can be sought providing transparency and equality in line with the equity principle set out in SPP 36 – Infrastructure Contributions. Residents will benefit from the community infrastructure funded by DCA 5 and 9.

PLANNING CONTEXT

State & Regional Planning Context

Perth and Peel @ 3.5 Million - The South Metropolitan Peel Sub-regional Planning Framework

The *South Metropolitan Peel Sub-Regional Planning Framework* (the Sub-regional Framework) is a subset of the over-arching *Perth and Peel @3.5million Regional Strategy*, the sub-regional planning framework provides strategic guidance for the future development of the South Metropolitan and Peel areas.

The Sub-regional Framework considers where future homes and jobs will need to be located and they are the first step in the ongoing process of refining and detailing planning proposals for an area. The Sub-regional Framework's state that this refinement will continue through the MRS, local planning schemes, structure planning, subdivision and/or development.

Notwithstanding the site's designation as 'Rural-Residential' in the *South Metropolitan Peel Sub-regional Planning Framework*, the Western Australian Planning Commission (WAPC) supported the urbanisation of the site, through MRS amendment 1381/57, as it is a relatively unique urban infill site which completes the urbanisation of the locality, removes an existing non-conforming market garden use (including the storage and use of pesticides and fertilisers) and water extraction licence would not set a precedent for other similar proposals in the Wandí locality and positively contribute to the provision of employment, investment and in supporting the State Government's COVID-19 recovery.

State Planning Policy 2.3 – Jandakot Groundwater Protection

State Planning Policy No. 23 – Jandakot Groundwater Protection (SPP2.3) aims to protect the Jandakot Groundwater Protection Area from development land uses that may have a detrimental impact on the water resource.

In order to protect the quality of the public drinking water source there is a presumption against new urban or industrial land uses in the Water Catchment reservation and the Rural – Water Protection zone of the MRS. SPP 2.3 states:

"Amendments to the MRS will only be supported where the land has been identified for development in the manner proposed through a strategic planning

document approved or prepared by the WAPC, such as a sub-regional planning framework or sub-regional structure plan.”

SPP 2.3 (Section 6.3(c)) states that planning for more intense land uses through strategic planning instruments (such as subregional planning framework or sub-regional structure plan) and subsequent MRS amendments should have regard to a range of considerations. The WAPC, in assessing MRS amendment 1381/57 has considered the proposed amendment against section 6.3(c) and notes that there are situations where development may be appropriate following a government led strategic planning process which determines an Urban rezoning is the preferred outcome for the land.

The site is designated as ‘Rural-Residential’ in the *South Metropolitan Peel Sub-Regional Planning Framework*, and as the decision -maker in initiating MRS amendments the WAPC does have discretion when considering the merits of a particular case, as they did in MRS amendment 1381/57.

Following finalisation of MRS amendment 1381/57 the Department of Water and Environmental Regulation (DWER) are taking action to amend the priority water status over the subject land from Priority 2 (P2) to Priority 3 (P3). In P2 areas low risk and intensity of development consistent with the Rural Zoning is generally supported, subject to appropriate conditions. In P3 areas, the acceptability of land uses in urban and industry zones is based on the objective of risk management. P3 areas include the need for reticulated sewerage and implementing best management practises.

Land within the policy area that is rezoned from Rural-Water Protection to Urban after gazettal of State Planning Policy 2.9 (SPP 2.9) may be subject to the following land use restrictions beyond what is normally provided for in P3 areas. The following conditions may apply:

- Restrictions on the type of non-residential land uses permitted - land uses provided for should be consistent with the special conditions for areas changed from P1/P2 to P3 contained within Water Quality Protection Note 25: Land use compatibility in public drinking water source areas;
- The use of public open space to protect existing and proposed drinking water abstraction bores; and
- Drainage in wellhead protection zones is to be directed away from existing or proposed bores, and infiltrated as far away from existing or proposed bores to the maximum extent possible.

Draft State Planning Policy - 2.9 Water Resources

Draft SPP 2.9 and its guidelines outline how water resource management should be integrated into planning processes.

Draft SPP 2.9 states that the protection of public drinking water source areas and other sources of public drinking should not be compromised. There is a presumption against development of land uses that pose an increased risk to public drinking water source areas. Scheme amendments should be referred to DWER and the relevant licenced water service provider for advice, prior to making a determination.

The draft policy states that P3 areas should be identified as Special Control Areas.

State Planning Policy 2.8 – Bushland Policy for the Perth Metropolitan Region

State Planning Policy 2.8 – Bushland Policy for the Perth Metropolitan Region (SPP 2.8) aims to provide a policy and implementation framework that will ensure bushland protection and management issues are addressed and integrated with broader land use planning and decision-making. In general, the policy does not prevent development where it is consistent with policy measures and other planning and environmental considerations.

The site is primarily cleared of vegetation, however an area of Banksia Woodland TEC remains in the northern portion of the site. The Commonwealth Department of Agriculture, Water and Environment has granted approval to develop the site (subject to conditions) under the EPBC Act.

State Planning Policy 3.6 – Infrastructure Contributions

State Planning Policy 3.6 Infrastructure Contributions sets out the principles and requirements that apply to the establishment and collection of infrastructure contributions in new and established areas. The policy provides the framework to ensure that the infrastructure contributions system is transparent, equitable and accountable and provides for efficient dispute resolution at critical junctures in the process to ensure effective administration of the system. The key principle in the application of infrastructure contributions is that the ‘beneficiary pays’.

The policy sets out six principles which underly infrastructure contributions which are:

- Need and the nexus
- Transparency
- Equity
- Certainty
- Efficiency
- Consistency
- Accountable
- Right of Consultation and Review.

State Planning Policy 3.7 – Planning in Bushfire Prone Area

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) seeks to guide the implementation of effective risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure.

The accompanying Guidelines for Planning in Bushfire Prone Areas provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7. A Bushfire Management Plan has been approved for the site by the Department of Fire and Emergency Services, subject to modifications being undertaken in future planning stages.

Local Planning Context

Draft Local Planning Strategy

It is considered that the amendment achieves the following direction of the draft Local Planning Strategy:

Direction:

Ensure a range of lot sizes and dwelling types for a diversity of households, allowing residents to stay in their communities as they age as well as providing a range of housing options for young people and families with a high level of amenity.

Local Planning Scheme 2

The objectives of the 'Development' zone in Local Planning scheme 2 are:

- (a) Designate land for future development;
- (b) Provide a planning mechanism for the identification and protection of areas of conservation value whilst facilitating the growth of the Town;
- (c) Provide for the orderly planning of large areas of land for residential, commercial, industrial and associated purposes through a comprehensive structure planning process;
- (d) Enable planning to be flexible and responsive to changing circumstances throughout the development stages of the area; and
- (e) Provide sufficient certainty for demand forecasting by service providers.

As per Clause 5.16.2 the subdivision use and development of land is to generally be in accordance with a Structure Plan that has been prepared and adopted under the provisions of Clause 5.16 of the Scheme. Satterley and Terranovis (the landowners) have confirmed that they will be seeking to include the subject land within the existing Wandi North Local Structure Plan by way of a Structure Plan amendment.

Wandi North Structure Plan

The Wandi North Structure plan, endorsed in 2014, outlines land uses, zones, reserves and densities of dwellings applicable within the structure plan area. Subdivision and development of the structure plan area shall be generally in accordance with the Structure Plan map.

The landowners will be seeking a structure plan amendment to reflect the MRS and Scheme amendments.

PROPOSAL

This Scheme Amendment seeks to rezone land at Lot 132 Wirra Corner, Part Lot 9002 and Lot 9035 Lyon Road from 'Rural Water Resource' and 'Special Rural' to 'Development'. The amendment also seeks to extend the boundary of Development Contribution Areas 5 and 9 to include the subject land.

Address	Deposited Plan	Volume/Folio
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Planning Rationale

Under provisions of Part 9 Section 124(2) of the Planning and Development Act 2005 the Local Government is required to amend its Local Planning Scheme to be consistent with the MRS:

"If a region planning scheme is inconsistent with a local planning scheme, the local government of the district in which the land directly affected is situated is

to, not later than 90 days after the day on which the region planning scheme has effect, resolve to prepare:

- (a) A local planning scheme which is consistent with the region planning scheme; or*
- (b) An amendment to the local planning scheme which renders the local planning consistent with the region planning scheme, and which does not contain or removes, as the case requires, any provisions which would be likely to impede the implementation of the region planning scheme.”*

Following gazettal of MRS Amendment 1381/57, the City is now required to amend Local Planning Scheme No.2 to ensure consistency with the MRS.

The City considers that in rezoning the subject land to ‘Development’ the boundary of DCA 5 and 9 should also be amended to cover the subject land and enable contributions to be sought through the development of the 112 additional lots proposed on the subject land.

Previous to the MRS rezoning of this land the boundary of DCA 5 and 9 extended to the edge of the ‘Development’ zone and it makes sense to reflect the change in zone for the subject land and to include the site in DCA 5 and 9.

Extending the boundary of the DCA aligns with the principles of ‘need and nexus’ and ‘equity’ as set out in Section 6 of State Planning Policy Infrastructure Contribution.

- *Need and the nexus:* The need for the infrastructure must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- *Equity:* Infrastructure contributions should be levied equitably from identified stakeholders within a contribution area, based on the relative contribution to need.

Current concept planning anticipates an additional 88 lots at the R30 density code consistent with the form and pattern of the existing surrounding residential development and which will comprise the final development stages of the Honeywood and Whistling Grove Estates. Whilst an additional 88 lots will not generate any additional infrastructure requirements, new dwellings in this final stage will be able to make use of the infrastructure funded by developer contributions (see below) and the developers should therefore share the cost.

DCA 5 and 9 funds the following infrastructure in Wandí supporting maps can be found in the appendix:

DCA 5	DCA 9
Anketell Road	Local Community Centre Large Scale – Wandí
Lyon Road	Local Sporting Ground with Pavilion – Wandí
Internal Collector (Honeywood Avenue)	Local Sporting Ground with community Sports Building A – Anketell North
Public Open Space	Local sporting Ground with Community Sports

	Facility Building B (Shared Use) – Wandí
Wandí Playing Fields	District A Youth Centre
Casuarina District Sporting Ground	Dry Recreation Centre
Branch Library	Branch Library
Community Centre	District Sporting Ground
District Youth Centre	Destination Park Calista
	Well Beach Foreshore Upgrade
	Community Knowledge and Resource Centre (Regional)
	Sub Regional Sporting Ground (Thomas Oval/Kelly Park Extension/Upgrade)

CONCLUSION

The proposed amendment will amend Local Planning Scheme No. 2 to be consistent with the MRS in accordance with Part 9 Section 124(2) of the *Planning and Development Act 2005*. The amendment will also extend the boundaries of Developer Contribution Areas 5 and 9 to ensure developer contributions can be sought from development on the subject land.

Planning and Development Act 2005
RESOLUTION TO AMEND LOCAL PLANNING SCHEME

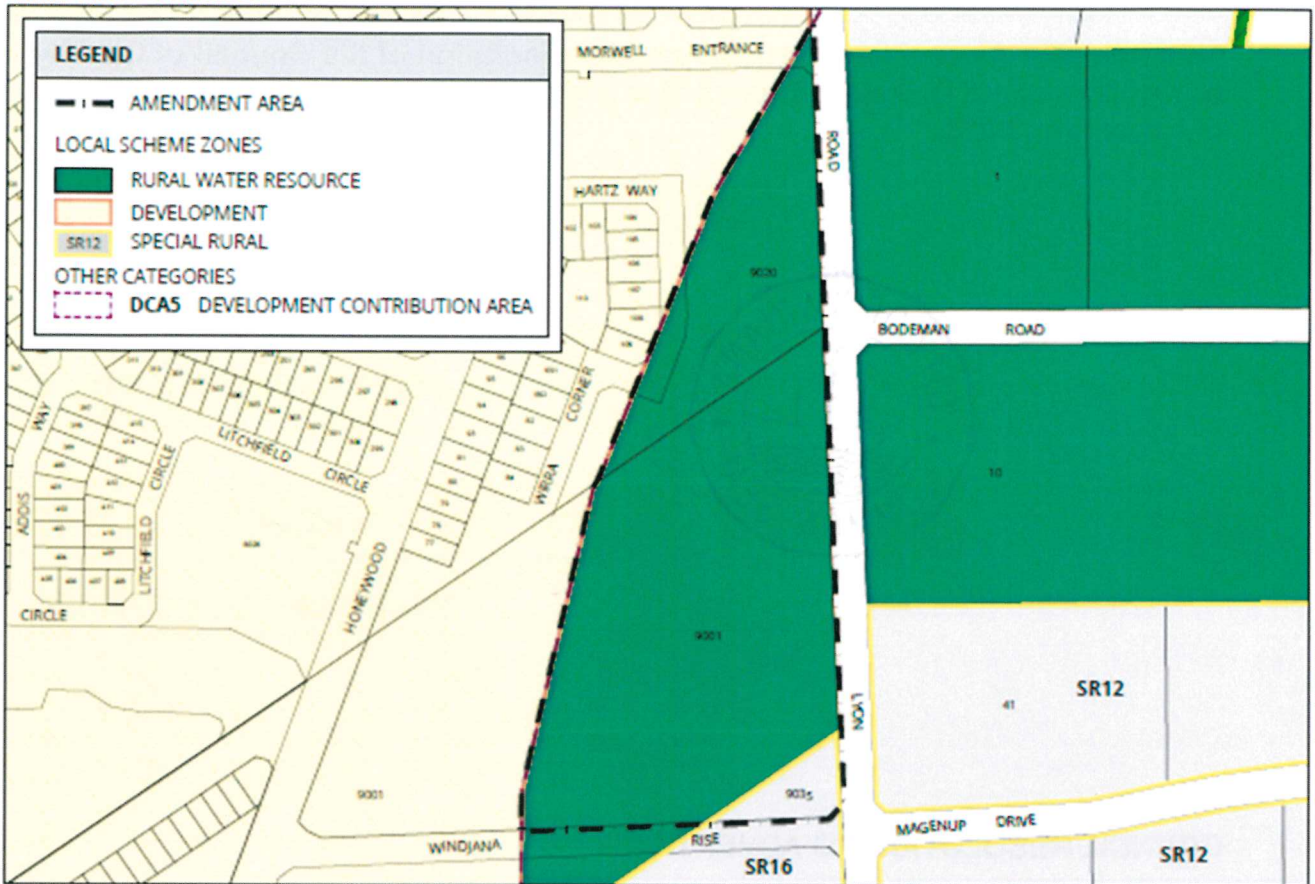
City of Kwinana
Local Planning Scheme No. 2
Amendment No. 164

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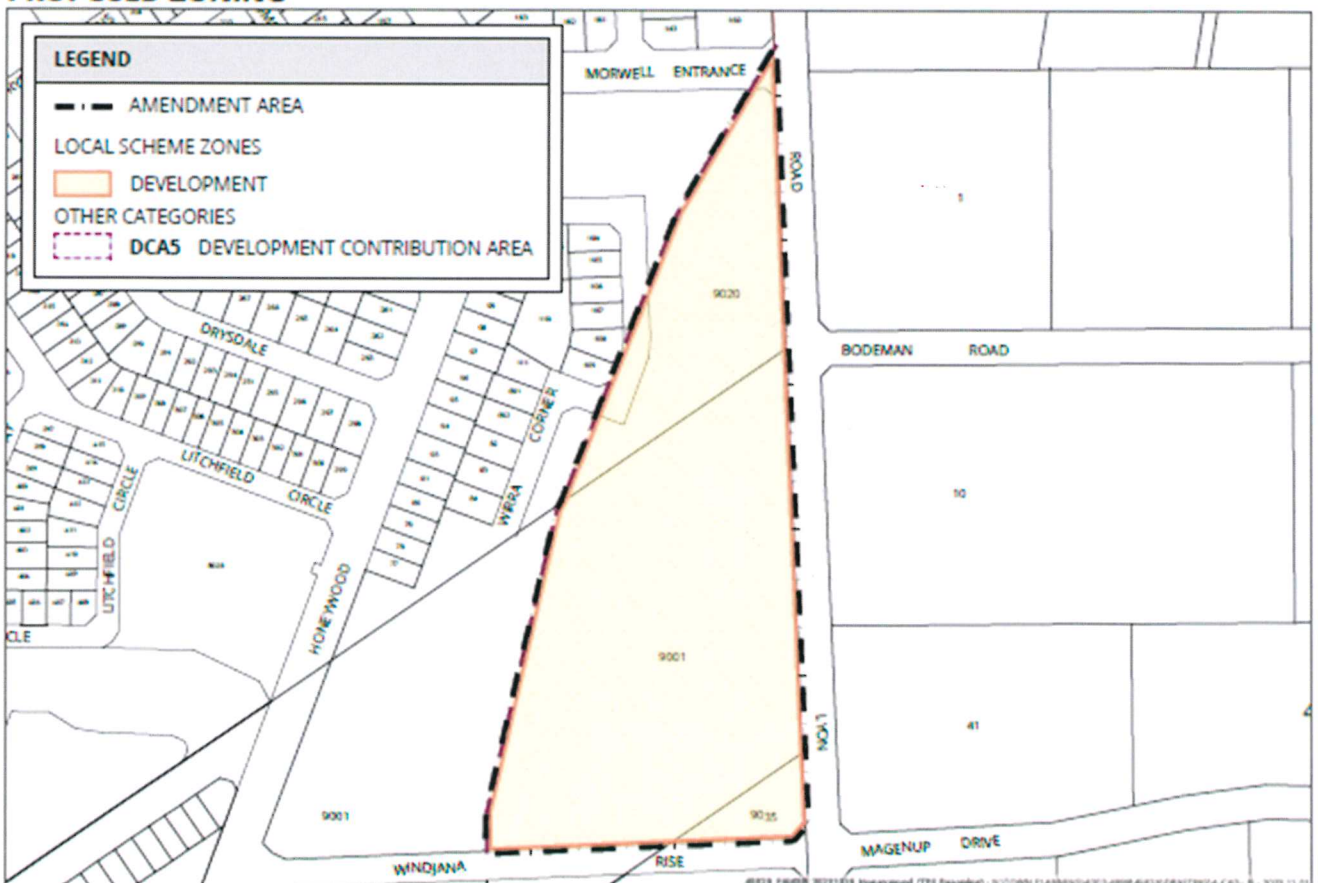
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- b) *Amending the boundary of Development Contribution Area 5 Wandi and Development Contribution Area Wandi/Anketell to include the subject land.*

AMENDMENT MAP

EXISTING ZONING



PROPOSED ZONING



COUNCIL ADOPTION

This Complex Amendment was adopted by resolution of the Council of the City of Kwinana at the Ordinary Council Meeting of the Council held on the 22nd day of November, 2023.



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MAYOR/SHIRE PRESIDENT

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CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the City of Kwinana at the Ordinary Meeting of the Council held on the 22nd day of November, 2023, proceed to advertise this Amendment.



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MAYOR/SHIRE PRESIDENT

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CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended [for support/ not to be supported] by resolution of the [LOCAL GOVERNMENT] at the [NAME] Meeting of the Council held on the [number] day of [month], 20[year] and the Common Seal of the [LOCAL GOVERNMENT] was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
MAYOR/SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....
**DELEGATED UNDER S.16 OF
THE P&D ACT 2005**

DATE.....

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....