



POSITION STATEMENT

SUBDIVISION COMPLIANCE AND ENFORCEMENT

Background

The Western Australian Planning Commission (WAPC) determines subdivision applications. The assessment process includes consultation with relevant and affected service agencies (including local governments and utility providers) prior to decisions being made. Determinations include conditions of approval reflecting the interests of those agencies, with the aim of facilitating the best subdivision outcome.

Subdivision often requires partial or total clearing of land. Where clearing occurs that breaches approval conditions requiring the preservation, enhancement or establishment of natural attributes, unauthorised works can be impossible to rectify. Further, where clearing occurs other than in accordance with a condition of subdivision approval, often the breach would not trigger compliance action under environmental legislation.

This means that if a developer does not comply with a condition of approval there is no effective remedy available. The only option is prosecution, however, any penalty imposed will not remedy the loss of vegetation or natural features.

Penalties for breaches of the *Planning and Development Act 2005* are significant with fines of up to \$1 million and \$125,000 per day for continuing breaches. These penalties should provide a significant deterrent to undertaking subdivision other than in accordance with conditions of approval, however, their effectiveness as a deterrent relies on active enforcement of subdivision approvals.

Council's Position

1. The Agency responsible for issuing a statutory approval ought to be responsible for monitoring and enforcing compliance with that approval and any associated conditions.
2. Council calls upon the Western Australian Planning Commission to actively monitor and enforce compliance with conditions of subdivision approval, particularly in relation to compliance with conditions which, if breached (such as those intended to preserve vegetation and native fauna), cannot be reversed.
3. The City will continue to monitor and inspect subdivision works to ensure they are undertaken in accordance with approved plans and report instances of non-compliance to the Western Australian Planning Commission.