



**ORDINARY COUNCIL MEETING
9 NOVEMBER 2021**

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13.2.4 PROPOSED AMENDMENT TO SOUTHERN RIVER PRECINCT 3C (SOUTH) LOCAL STRUCTURE PLAN

Director:	C Terelinck
Author's Declaration of Interest:	Nil.
Property Number:	206586 - Various
Application No:	PF20/00029
Applicant:	Taylor Burrell Barnett
Owner:	Polkamp Pty Ltd
Location:	Lots 1793, 1794 and 1795 Matison Street, Southern River
Zoning:	MRS: Urban
TPS No. 6:	Residential Development
Review Rights:	Yes. State Administrative Tribunal against any discretionary decision of Council.
Area:	40,500.96m ²
Previous Ref:	11 July 2017 (Resolutions 216, 217, 218 and 219)
Appendix:	13.2.4A Southern River Sub-Precinct 3C Structure Plan Map
	13.2.4B Amended Southern River Sub-Precinct 3C Structure Plan Map
	13.2.4C Department of Biodiversity Conservation and Attractions submission
	13.2.4D Wetland Buffer Assessment – Vegetation Condition Plan

PURPOSE OF REPORT

For Council to consider endorsing a proposed amendment to the Southern River Precinct 3C (South) Local Structure Plan at 1793, 1794 and 1795 Matison Street, Southern River.

BACKGROUND

The Local Structure Plan (LSP) for the subject land was endorsed by Council on 11 July 2017, then subsequently approved by the Western Australian Planning Commission (WAPC) on 19 October 2019. Subdivision approval for Stage 1 of the development was granted by the WAPC on 21 February 2020, with 39 lots being cleared and titles issued in December 2020. Subdivision approval for Stage 2 of the development was granted by the WAPC on 10 November 2020, and subdivision works are currently being undertaken. The LSP amendment area is located within the Stage 2 development area as shown in Appendix 13.2.4B.

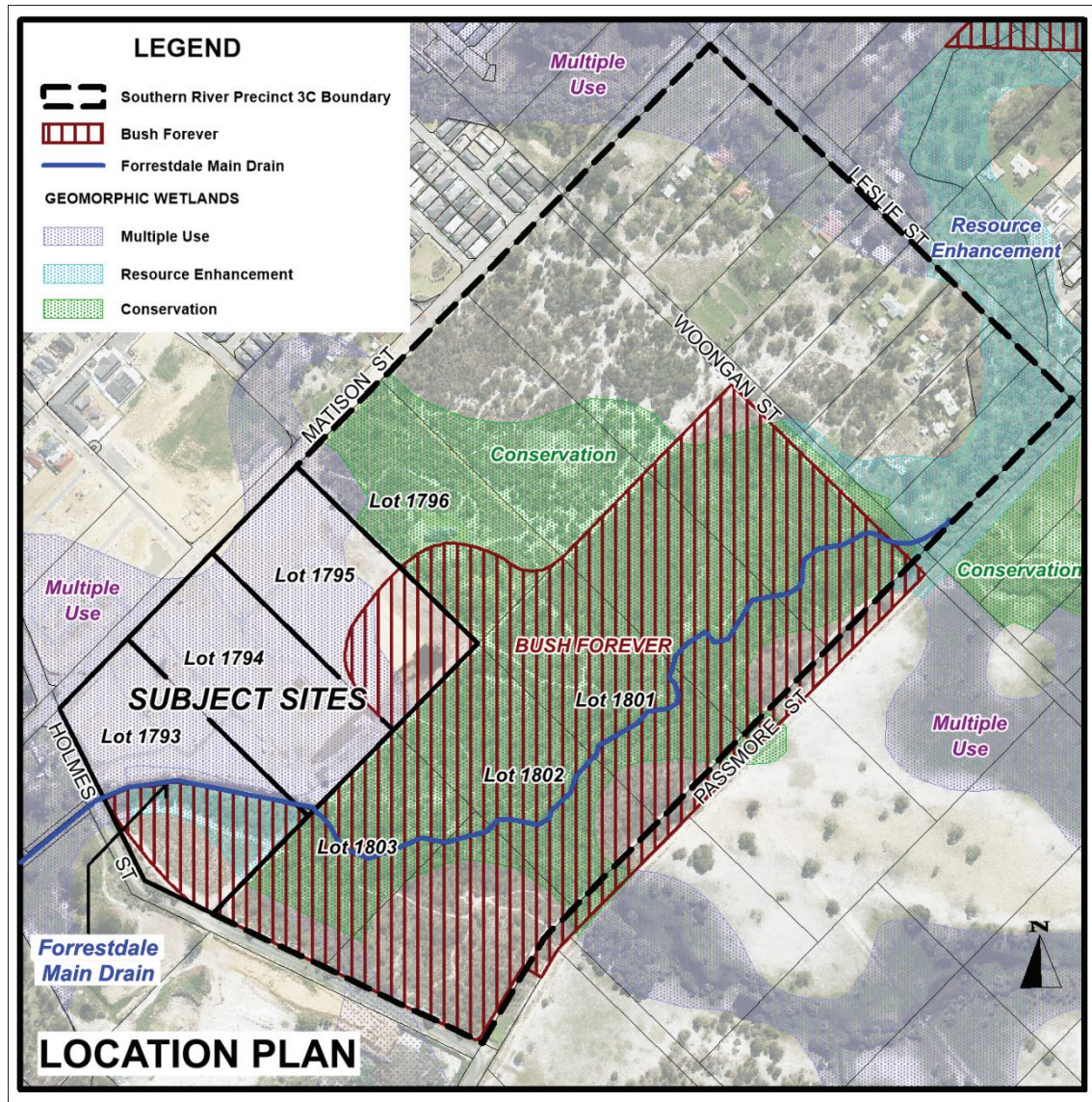
DISCUSSION**Site Description**

The current approved LSP relates to three original land parcels of 12.6ha in area abutting Holmes Street, Matison Street, and Bush Forever Site 464 and Conservation Category Wetland to the north-east and south-east. The Forrestdale Main Drain runs through the southern portion of the site.

The site was previously cleared and used for sand extraction in the 1970's and 1980's. Remnant native vegetation which remained in the north-eastern portion of the site post

sand extraction was in a severely degraded state and has been subsequently cleared as allowed as part of the subdivision approval.

A map identifying the location of the subject land follows.



Proposal

The proposed amendment seeks to modify the Southern River Precinct 3C (South) LSP as follows:

1. Amending the Structure Plan Map to reflect a 30m buffer to the Conservation Category Wetlands (CCW) in lieu of the current 50m buffer.
2. Extending the Residential R25 and Residential R40 zones to accommodate the area previously contained in the wetland buffer area.
3. Amending a section (4.1.2 – Local Open Space), of the structure plan text, to reflect the proposed 30m buffer to the CCW.

4. Amending a section (4.1 – Bushfire Management), of the structure plan text, to reflect an updated Bushfire Management Plan to support the proposed amendment.

The proposed amendment would increase the lot yield from 112 (currently approved) to 132 lots. The applicant's justification for a reduction of the 50m wetland buffer to 30m is:

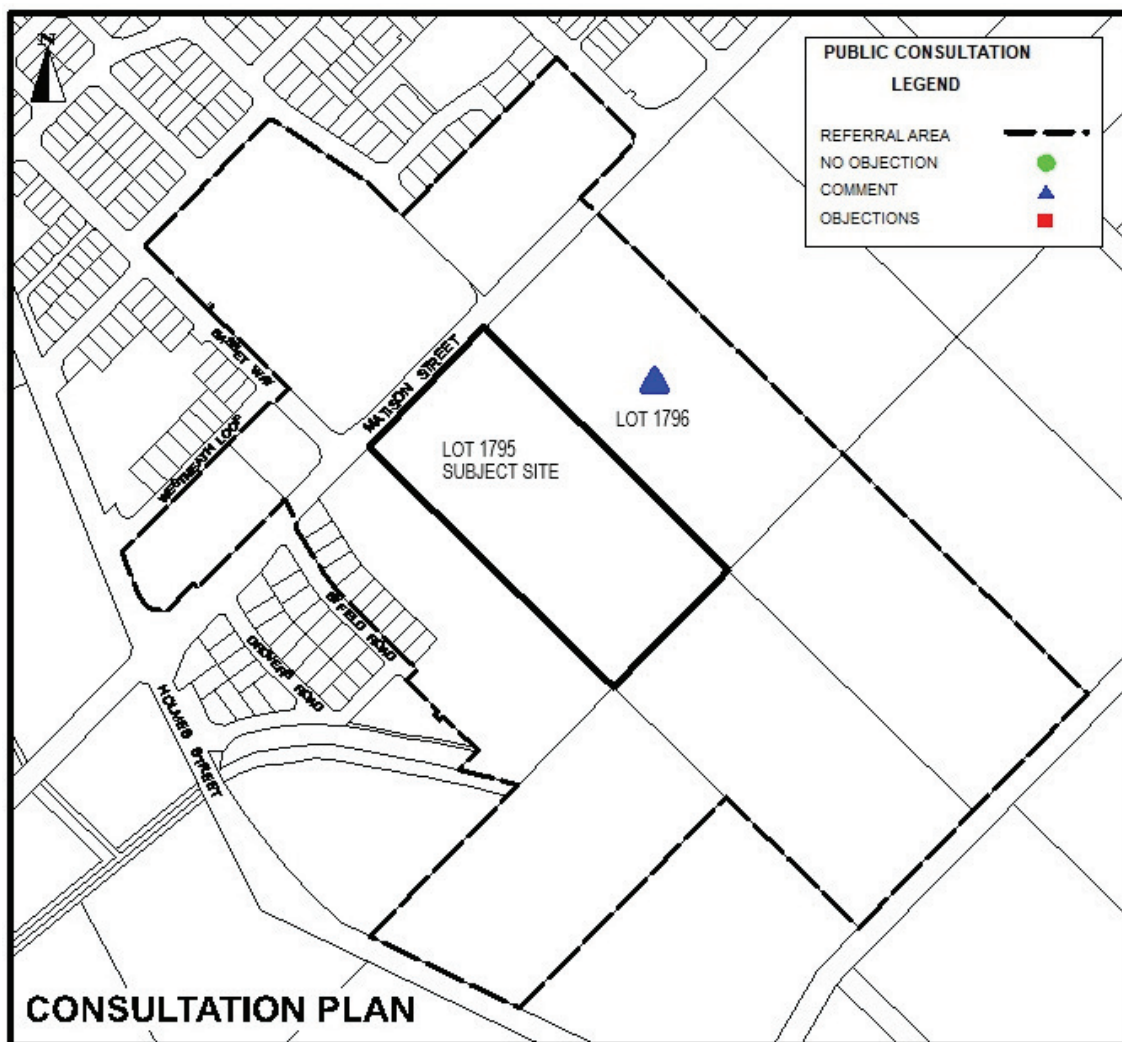
- The adjoining lot to the north-east (Lot 1796 Matison Street) which contains a CCW is in private ownership and has been recently developed with a new single house. Additionally, the land containing the CCW has been degraded from an environmental and native vegetation point of view.
- The buffer area contained on the subject land has been extensively cleared and will require revegetation as part of the subdivision approval.
- The proposed reduction in the wetland buffer is supported by a site specific Wetland Buffer Assessment, and a Wetland and Wetland Buffer Management Plan.

A copy of the current approved LSP is contained in Appendix 13.2.4A and a copy of the draft amended LSP is contained in Appendix 13.2.4B.

Consultation

In accordance with Clause 18 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Council Policy, the proposal was advertised for a period of 42 days, from 20 July 2021 to 1 September 2021 by way of letters to directly affected and immediately surrounding landowners within a 100m radius, and by notice on the City's website.

A map identifying the extent of the consultation area follows.



The City received one submission from an adjoining land owner who did not object nor did support the proposal, however, raise a number of concerns which are outlined in the table below with a corresponding response.

Concern / Matter Raised	Technical Response
The buffer area was not supposed to be touched. They have replaced all the original Bassendean Sand with contaminated and dirty sand from across the site.	The clearing of the wetland buffer is currently being investigated. The filling activities and removal of soil / vegetation that has occurred within the buffer area will need to be addressed and resolved in the Wetland and Wetland Buffer Management Plan.
Mulch has been spread over the buffer area. There is castor oil and bamboo mulch in the mixture that has been spread. Neither of these are native to the region. They are also not in the declared weed list. They need to be removed before they spread to neighbouring properties. This cannot be done with chemical sprays.	Weed control obligations are established in the Wetland and Wetland Buffer Management Plan. Prior to accepting management of the wetland buffer, the City would ensure that the area is free of weeds to an acceptable standard.

Owners of Lot 1796 were told to expect a 50m buffer, and took that into account when planning the layout of the property.	Noted, however the dwelling on the Lot 1796 was constructed within an existing cleared area which provided a logical location of the dwelling considering the CCW present on the property. Revegetation works within the proposed 30m buffer area can be undertaken providing significant screening opportunities between the subject land and Lot 1796.
The tube stock that is being used to replace the vegetation that was removed from the original buffer area is not sufficient to replace the mature trees that were destroyed. To destroy natural vegetation and replace it with one tree per 10 square metres is not good enough.	When considering the revegetation of the Wetland Buffer the inclusion of advanced trees (i.e. minimum 1 – 4 metre tall) can be required so as to provide immediate height in the revegetation area.
On the proposed development plan there is a track through the buffer zone. According to the original plans there would be no access to the buffer zone.	The track has been provided for maintenance, fire management purposes and walking trails.
The buffer area originally consisted of diverse flora. Is this going to be replaced in a like manner? Or will it be a single variety planting?	Species composition and diversity will be stipulated in the Wetland and Wetland Buffer Management Plan. The revegetation of the buffer will provide for species diversity found in the locality.

Referrals

The proposal was referred to the following government agencies:

- Department of Education (DoE)
- Department of Biodiversity, Conservation and Attractions (DBCA).

The City received one submission in support of the proposal from DoE and one objection to the proposal from DBCA.

The main issues raised in the DBCA's submission are as follows:

- The Environmental Protection Authority's *Guidance Statement 33 Environmental Guidance for Planning and Development (2008)* recommends that 'all Conservation category wetlands and appropriate buffers are fully protected' and that 'wetlands that are to be protected require a minimum 50 metre buffer distance'. The proposed 30m buffer distance is non-compliant with the EPA's guidance statement.
- The adopted stormwater management strategy included discharging treated stormwater into the CCW through the 50m vegetated wetland buffer. A significant reduction in the buffer width would not comply with the adopted

stormwater management strategy. DBCA notes that an updated Local Water Management Strategy was not provided as part of this amendment.

A copy of the submission provided by the DBCA is contained in Appendix 13.2.4C.

These issues are discussed in the following sections, along with any other applicable technical matters.

Environmental Considerations

A Wetland Buffer Assessment (WBA) was submitted with the proposal which evaluated the condition of vegetation within the buffer areas on the subject land and within the CCW on adjoining lots. The WBA was undertaken to examine the viability of the reduced buffer area, and affirm the location of boundaries to the CCW. This is based on vegetation, fauna habitat, soil characteristics and hydrology to identify the relevant wetland values, functions and processes.

The WBA categorised vegetation in the buffer area on the subject land as being “degraded” and “completely degraded”, whilst vegetation in the CCW on the adjoining Lot 1796 Matison Street ranges in condition from “excellent” to “completely degraded”. The land to the south-east of the subject site is Bush Forever Site 464 and is a continuation of the CCW (Lot 1803 Holmes Street, and Lots 1801 and 1802 Passmore Street). Vegetation within this portion of Bush Forever and CCW has been assessed as being in “excellent” to “very good” condition with a very small portion of land being considered “degraded/completely degraded”. Since the WBA was undertaken, the wetland buffer area on the subject land has been completely cleared and is devoid of any vegetation. A copy of the WBA – Vegetation Condition plan is provided in Appendix 13.2.4D.

In addition to the submission of the WBA, in accordance with Council’s Policy 6.2.2 – Retention, Rehabilitation and Revegetation of Natural Areas, the applicant prepared a Wetland and Wetland Buffer Management Plan (WWBMP) to support the proposed 30m wetland buffer. The objective of the WWBMP is to protect the adjacent wetland habitat from potential impacts associated with proposed residential development. The WWBMP establishes the revegetation and management regimes for the wetland buffer, and outlines the water management principles to be undertaken to ensure that water quality entering the CCW is of an acceptable level. The WWBMP is considered satisfactory, however, should the WAPC approve this amendment, a condition should be imposed requiring its final endorsement by the City in accordance with Council Policy.

Whilst the objection provided by the DBCA is noted, the environmental value of the CCW located on the adjoining Lot 1796 Matison Street (which is a neighbouring lot outside the development area) has been compromised and is no longer intact. Following the WAPC’s assessment and approval of the current LSP in 2019, an area of approximately 4000m² of Lot 1796 Matison Street has been developed to accommodate a single house, outbuildings and associated landscaping areas, and further clearing has been undertaken to create vehicle access tracks/firebreaks throughout the property. As such, the environmental value of the portion of CCW located on Lot 1796 Matison Street has been severely diminished and it is unlikely that its value will be increased in the foreseeable future.

In considering the advice of the DBCA, meetings were held with the applicant to discuss potential options and possible further changes to the proposed amendment. The environmental value and land tenure matters of the adjoining land containing CCW's were discussed in detail. During these meetings it was noted that the vegetation in the adjoining Lot 1796 Matison Street was classified as 'excellent' to 'completely degraded'. Additionally, vegetation contained in the adjoining Bush Forever Site was classified as 'very good' to 'excellent' quality and should be afforded the highest level of protection and buffer.

On the basis of the recent construction of a dwelling and associated development within the CCW on the adjoining Lot 1796 Matison Street, and the findings of the vegetation condition assessment on the subject site as discussed above, a reduction in the wetland buffer is considered to have merit. However, an alternative buffer option is considered appropriate whereby a 50m wetland buffer to the land adjoining Bush Forever Site is retained as this land represents the highest environmental value, and a 30m buffer be provided to Lot 1796 Matison Street as this land has the least environmental value and is unlikely to change considering its private ownership.

Water Management

The WAPC's Better Urban Water Management (2008) guidelines stipulate that a Local Water Management Strategy (LWMS) is to accompany a structure plan. Typically, a LWMS is a broad drainage strategy for a specific development area that addresses the management of additional quantities of stormwater created from urban development. The current LWMS was approved by the City in April 2019.

The DBCA is concerned that the applicant has not submitted an amended LWMS, and has advised that *'under the original LSP, the DBCA accepted a stormwater management strategy by the applicant which included discharging treated stormwater into the CCW through the 50 metre vegetated wetland buffer. A significant reduction in the buffer width would impact the acceptability of the proposed stormwater management strategy. DBCA notes that an updated Local Water Management Strategy was not provided as part of this amendment.'*

Whilst an updated LWMS was not provided, the WBA provides a hydrological assessment in regard to surface water modelling. This assessment notes the adopted LWMS allows the discharge of stormwater to the 50m wetland buffer in rainfall events exceeding the first 15mm rainfall event (equivalent to a 1 year 1-hour rainfall event). To ensure stormwater flows into the CCW are appropriate with a reduced buffer, the hydrological assessment provided stormwater modelling to determine the stormwater flow rates and volumes entering the CCW with both a 30m and 50m buffer.

The stormwater modelling identified that the stormwater runoff volumes discharging into the CCW with the current approved 50m buffer will increase pre-development water flow rates by 133m³ - 245m³, and the runoff volumes discharging into the CCW with a 30m buffer will increase pre-development flow by 354 m³ - 861 m³ (dependent on the rain event type).

The modelling indicates that the current approved LSP would raise the flood water depth across the CCW by 0.5mm - 1mm with a 50m wetland buffer, and by 1.4mm - 3.4mm with a 30m wetland buffer. The assessment concludes that due to the high infiltration capacity of the soils, the additional water within the wetland is likely to

dissipate in less than a few days and is considered to have negligible impact on the wetland habitat. Additionally, due to stormwater being pre-treated in bio-retention swales, the water quality entering the wetland is the same between a 30m and 50m buffer.

The comments and modelling provided in the hydrological assessment are considered satisfactory and should be subject to the submission of an updated LWMS supporting the assessment. As such, should Council support the proposal, any recommendation to the WAPC should be subject to the submission of an updated LWMS.

Public Open Space

The draft Structure Plan proposes Public Open Space (POS) in different forms including Local Open Space, Bush Forever, the Forrestdale Main Drain, and Conservation Category Wetlands (CCW) and Resource Enhancement Wetlands buffers.

POS provides a range of functions, including recreation, conservation and drainage. The WAPC's operational policy "Liveable Neighbourhoods" acknowledges that land for conservation and/or drainage can provide some recreation functionality. Therefore provision is made for land ceded for conservation and drainage to contribute to the 10% POS requirement, although there are limitations on credit allowances. These allowances/limitations include:

- A minimum of 80% of the POS for the purpose of active and passive recreation, which may include drainage areas that do not accommodate storm events equal to or less often than a 1 in 5 year rainfall event.
- The remaining 20% may comprise restricted POS, being areas that incorporate stormwater captured from between 1 in 1 and 1 in 5 year rainfall events, and Resource Enhancement Wetlands and Multiple Use Wetlands where they can be used for recreational purposes.

An assessment of the proposed POS against the WAPC's Liveable Neighbourhoods is set out in the following table:

Public Open Space Calculations Table	
Total Site Area	12.606ha
Less	
• Regional Road Widening (Matison Street and Holmes Street)	0.2700ha
• 1:1 year Drainage	0.0232ha
• Bush Forever (includes Resource Enhancement Wetland)	2.0576ha
• Surplus Restricted POS (includes buffer to REW)	1.4369ha
Gross Subdivisible Area	8.8182ha
POS Requirement 10%	0.8818ha
POS may comprise	
80% unrestricted use - minimum	0.7054ha
20% restricted use - maximum	0.1764ha
POS Provided	
Unrestricted use	0.7022ha
Restricted POS	0.1764ha
Total creditable POS provided	0.8786ha
% of Gross Subdivisible Area	9.96%

As can be seen from the above table, the proposed structure plan provides a 9.96% POS contribution, making it non-compliant with Liveable Neighbourhoods standards. In considering the shortfall, it should be noted that it represents a 32m² shortfall of unrestricted POS which is considered to be minor. Further, the site is bound to the south by Bush Forever and is within walking distance to other local parks, which collectively adds to the availability of nearby POS.

For the reasons mentioned above, the POS allocation is considered acceptable, however, is subject to the final endorsement and approval of the WAPC.

Bushfire Management

To support the proposed amendment, a Bushfire Management Plan (BMP) addendum was prepared to assess the bushfire implications of a reduction in the wetland buffer width. The BMP has identified that the wetland buffer will be revegetated to a vegetation standard and density of 'Woodland' which is consistent with the revegetation requirements of the City for the wetland buffer area.

The BMP identifies that lots adjacent to the wetland buffer will be subjected to a Bushfire Attack Level (BAL) BAL-12.5 to BAL-29. The BAL ratings for the amended LSP demonstrate that proposed future dwellings would be able to comply with the requirements of SPP3.7 – Planning in Bushfire Prone Areas.

The BAL addendum provided with the LSP is considered to be satisfactory.

Statutory Process

In accordance with Clause 20(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* - Schedule 2 - Deemed Provisions, the local government must provide a report to the WAPC containing the following:

- (a) *A list of submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under Clause 19(2);*
- (b) *any comments by the local government in respect of those submissions;*
- (c) *a schedule of any proposed modifications to address the issues raised in the submissions;*
- (d) *the local government's assessment of the proposal based on appropriate planning principles;*
- (e) *a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any modifications."*

CONCLUSION

For the reasons discussed in the report, it is proposed that Council recommends to the WAPC that the amended structure plan be approved, subject to the following modifications and/or information requirements:

No.	Recommended Modification and/or Information Requirement	Reason(s)
1.	The width of the buffer to the CCW to be amended to be 30m where it adjoins the property boundary with Lot 1796 Matison Street and 50m in width where it adjoins the property boundary with Bush Forever Site 464, and where required, the structure plan map be updated.	To address the City's assessment of the proposed amendment.
2.	Updating the Local Structure Plan text to reference a 30m wetland buffer to the property boundary with Lot 1796 Matison Street, and a 50m wetland buffer to the property boundary with Bush Forever Site 464.	To ensure the Local Structure Plan map and text are consistent.
3.	Endorsement of the Wetland and Wetland Buffer Management Strategy by the City.	To accord with the requirements of Council Policy 6.2.2 - Rehabilitation and Revegetation of Natural Areas.
4.	The submission of an updated Local Water Management Strategy to support the amendment to be endorsed by the City and the Department of Water and Environmental Regulation.	To provide a broad drainage strategy for the site so as to inform any future detailed drainage strategies forming part of the subdivision proposals.

FINANCIAL IMPLICATIONS

All costs associated with the LSP amendment will be borne by the applicant.

STATUTORY IMPLICATIONS

- *Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions.*
- Town Planning Scheme No. 6.
- Metropolitan Region Scheme.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION (1 OF 3)**Moved Cr G Dewhurst Seconded Cr S Patterson**

That Council, pursuant to Clause 20(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions*, notes the submissions received in respect of the proposed Southern River Precinct 3C (South) Structure Plan amendment and endorses the responses to those submissions, as outlined in this report.

STAFF RECOMMENDATION (2 OF 3)**Moved Cr G Dewhurst Seconded Cr S Patterson**

That Council, pursuant to Clause 20(2)(d) of the *Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions*, endorses the assessment of the proposed Southern River Precinct 3C (South) Structure Plan amendment, as outlined in this report.

STAFF RECOMMENDATION (3 OF 3)**Moved Cr G Dewhurst Seconded Cr S Patterson**

That Council, pursuant to Clause 20(2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions*, recommends to the Western Australian Planning Commission that the proposed Southern River Precinct 3C (South) Structure Plan amendment be approved, subject to:

No.	Recommended Modification and/or Information Requirement	Reason(s)
1.	The width of the buffer to the CCW to be amended to be 30m in width where it adjoins the property boundary with Lot 1796 Matison Street and 50m in width where it adjoins the property boundary with Bush Forever Site 464, and where	To address the City's assessment of the proposed amendment.

No.	Recommended Modification and/or Information Requirement	Reason(s)
	required, the structure plan map be updated.	
2.	Updating the Local Structure Plan text to reference a 30m wetland buffer to the property boundary with Lot 1796 Matison Street, and a 50m wetland buffer to the property boundary with Bush Forever Site 464.	To ensure the Local Structure Plan map and text are consistent.
3.	Endorsement of the Wetland and Wetland Buffer Management Strategy by the City.	To accord with the requirements of Council Policy 6.2.2 - Rehabilitation and Revegetation of Natural Areas.
4.	The submission of an updated Local Water Management Strategy to support the amendment to be endorsed by the City and the Department of Water and Environmental Regulation.	To provide a broad drainage strategy for the site so as to inform any future detailed drainage strategies forming part of the subdivision proposals.

Foreshadowed Motion

During debate Cr A Hort foreshadowed that he would move the following motion if the motion under debate was defeated:

“That Council, pursuant to Clause 20(2)(e) of the Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions, recommends to the Western Australian Planning Commission that the proposed Southern River Precinct 3C (South) Structure Plan amendment be refused due to the proposed reduced wetland buffer being insufficient.”

Cr A Hort provided the following written reason for the proposed amendment:

“It will affect the amenity of the area.”

At the conclusion of debate the Mayor put the staff recommendation.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (1 OF 3)

254 Moved Cr G Dewhurst Seconded Cr S Patterson

That Council, pursuant to Clause 20(2)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 - Deemed Provisions*, notes the submissions received in respect of the proposed Southern River Precinct 3C (South) Structure Plan amendment and endorses the responses to those submissions, as outlined in this report.

CARRIED 8/4

FOR: Cr A Adams, Cr C Baayens, Cr G Dewhurst, Cr D Goode, Cr D Griffiths, Cr S Williamson, Cr E Zhang and Cr T Lynes.

AGAINST: Cr P Abetz, Cr K McDonald, Cr S Patterson and Cr A Hort.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (2 OF 3)

255 Moved Cr G Dewhurst Seconded Cr S Patterson

That Council, pursuant to Clause 20(2)(d) of the *Planning and Development (Local Planning Schemes) Regulations 2015* - Schedule 2 - Deemed Provisions, endorses the assessment of the proposed Southern River Precinct 3C (South) Structure Plan amendment, as outlined in this report.

CARRIED 8/4

FOR: Cr A Adams, Cr C Baayens, Cr G Dewhurst, Cr D Goode, Cr D Griffiths, Cr S Williamson, Cr E Zhang and Cr T Lynes.

AGAINST: Cr P Abetz, Cr K McDonald, Cr S Patterson and Cr A Hort.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (3 OF 3)

256 Moved Cr G Dewhurst Seconded Cr S Patterson

That Council, pursuant to Clause 20(2)(e) of the *Planning and Development (Local Planning Schemes) Regulations 2015* - Schedule 2 - Deemed Provisions, recommends to the Western Australian Planning Commission that the proposed Southern River Precinct 3C (South) Structure Plan amendment be approved, subject to:

No.	Recommended Modification and/or Information Requirement	Reason(s)
1.	The width of the buffer to the CCW to be amended to be 30m in width where it adjoins the property boundary with Lot 1796 Matison Street and 50m in width where it adjoins the property boundary with Bush Forever Site 464, and where required, the structure plan map be updated.	To address the City's assessment of the proposed amendment.
2.	Updating the Local Structure Plan text to reference a 30m wetland buffer to the property boundary with Lot 1796 Matison Street, and a 50m wetland buffer to the property boundary with Bush Forever Site 464.	To ensure the Local Structure Plan map and text are consistent.
3.	Endorsement of the Wetland and Wetland Buffer Management Strategy by the City.	To accord with the requirements of Council Policy 6.2.2 - Rehabilitation and Revegetation of Natural Areas.
4.	The submission of an updated Local Water Management Strategy to support the amendment to be endorsed by the City and the Department of Water and Environmental Regulation.	To provide a broad drainage strategy for the site so as to inform any future detailed drainage strategies forming part of the subdivision proposals.

CARRIED 8/4

FOR: Cr A Adams, Cr C Baayens, Cr G Dewhurst, Cr D Goode, Cr D Griffiths, Cr S Williamson, Cr E Zhang and Cr T Lynes.

AGAINST: Cr P Abetz, Cr K McDonald, Cr S Patterson and Cr A Hort.

Notation

As Council adopted the staff recommendation the foreshadowed motion from Cr A Hort did not proceed.