

## **Minutes of Planning and Community Consultation Committee Meeting**

**Held on**

**Monday 20 November 2023 at 5.30pm**

**Held at Council Chamber, 83 Mandurah Terrace Mandurah**

**PRESENT:**

MAYOR	R WILLIAMS	(Electronic Attendance)
COUNCILLOR	B POND	COASTAL WARD
COUNCILLOR	J CUMBERWORTH	COASTAL WARD
COUNCILLOR	A KEARNS	EAST WARD
COUNCILLOR	D WILKINS	EAST WARD
COUNCILLOR	S WRIGHT	EAST WARD
COUNCILLOR	C KNIGHT [Deputy Mayor]	NORTH WARD
COUNCILLOR	A ZILANI	NORTH WARD
COUNCILLOR	P JACKSON	NORTH WARD (Deputising)
COUNCILLOR	D SCHUMACHER	TOWN WARD
COUNCILLOR	R BURNS	TOWN WARD

**ELECTED MEMBERS OBSERVING: Nil**

MS	C MIHOVLOVICH	CHIEF EXECUTIVE OFFICER
MR	B INGLE	ACTING DIRECTOR BUSINESS SERVICES
MS	J THOMAS	DIRECTOR PLACE AND COMMUNITY
MR	C JOHNSON	ACTING DIRECTOR STRATEGY AND ECONOMIC DEVELOPMENT
MR	M HALL	DIRECTOR BUILT AND NATURAL ENVIRONMENT
MRS	T JONES	EXECUTIVE MANAGER GOVERNANCE SERVICES
MRS	A DENBOER	MINUTE OFFICER

## 1. OPENING OF MEETING

The meeting was declared open at 5.32 pm.

## 2. ELECTION OF CHAIRPERSON

The Chief Executive Officer called for nominations for Chairperson of the Planning and Community Consultation Committee. One nomination was received from Councillor Bob Pond who assumed the position unopposed.

Councillor Bob Pond took the Chair.

## 3. APOLOGIES

Leave of Absence

Apologies

Councillor J Smith

## 4. IMPORTANT NOTE

The purpose of this Committee Meeting is to discuss and make recommendations to Council about items appearing on the agenda and other matters for which the Committee is responsible. The Committee has no power to make any decisions which are binding on the Council or the City of Mandurah unless specific delegation of authority has been granted by Council.

No person should rely on or act on the basis of any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. The City of Mandurah expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Committee meeting.

## 5. RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

## 6. AMENDMENT TO STANDING ORDERS

### **PCC.1/11/23 STANDING ORDERS LOCAL LAW 2016**

The Chairperson advised the meeting that the *City of Mandurah Standing Orders Local Law 2016* will be modified to ensure Committee Member Rhys Williams can participate in and follow the meeting as it progresses.

### **MOTION**

**Moved:** Councillor C Knight

**Seconded:** Councillor P Jackson

**That the Committee of Council:**

1. **Suspend the operation of the following provisions of the *City of Mandurah Standing Orders Local Law 2016* for the duration of this electronic meeting to ensure Council Member Rhys Williams can follow and participate in the meeting as it progresses:**

- 1.1. **Standing Order 7.2 Members to occupy own seats whilst present in meeting room. Relevant only for Elected Members attending the Council Chambers.**
- 1.2. **Agree under Standing Orders 8.1(1) and 12.2, that instead of requiring a show of hands, a vote will be conducted by exception with the Presiding Member calling for those Members against each motion. If no response is received the motion will be declared carried and minuted accordingly.**
- 1.3. **Reiterate the requirement as per Standing Order 7.3 for Members to advise the Presiding Member when leaving or entering the meeting at any time.**

CARRIED: 11/0

FOR: Cr C Knight, Cr P Jackson, Mayor R Williams, Cr B Pond, Cr J Cumberworth, Cr A Kearns, Cr D Wilkins, Cr S Wright, Cr A Zilani, Cr D Schumacher, Cr R Burns

AGAINST: Nil

## 7. PUBLIC QUESTION TIME

Nil.

## 8. PRESENTATIONS

Manger Strategic Planning and Urban Design presented on Short Term Rental Accommodation

## 9. DEPUTATIONS

Nil.

## 10. CONFIRMATION OF MINUTES

**PCC.2/11/23 CONFIRMATION OF MINUTES TUESDAY 11 JULY 2023**

### MOTION

**Moved: Councillor C Knight**

**Seconded: Councillor A Zilani**

**That the minutes of the Planning and Community Consultation Committee meeting of Tuesday 11 July 2023 be confirmed.**

CARRIED: 11/0

FOR: Cr C Knight, Cr A Zilani, Cr P Jackson, Mayor R Williams, Cr B Pond, Cr J  
Cumberworth, Cr A Kearns, Cr D Wilkins, Cr S Wright, Cr D Schumacher, Cr  
R Burns  
AGAINST: Nil

## **11. DECLARATIONS OF INTERESTS**

Nil.

## **12. QUESTIONS FROM COMMITTEE MEMBERS**

Questions of Which Due Notice Has Been Given

Nil.

Questions of Which Notice Has Not Been Given

Nil.

## **13. BUSINESS LEFT OVER FROM PREVIOUS MEETING**

Nil.

## **14. REPORTS FROM OFFICERS**

### **PCC.3/11/23 PROPOSED AMENDMENT NO. 5 TO LOCAL PLANNING SCHEME 12**

#### Summary

Council is requested to adopt a proposed amendment to the City of Mandurah Local Planning Scheme 12 (Scheme 12). The purpose of the amendment is to correct an administrative error that occurred in 2005, where a condition of subdivision was cleared prior to the execution of a Deed of Agreement which ensured the parking constructed on Lot 1302 Port Quays remained at the benefit of the commercial tenancies on the adjacent Mix Use development on Lot 1301 Port Quays.

The amendment seeks to amend Scheme 12 so that Lot 1302 is included in the Specific Site Requirements Table 1 in Schedule 1 of Scheme 12 with the development conditions requiring the provision of a minimum of 24 parking bays to the benefit of Lot 1301 (20 for the existing commercial tenancies and 4 for the apartments approved on Strata Lot 5 of Lot 1301).

This report will demonstrate and discuss that the subject property was always intended to serve as a parking facility for Lot 1301. It is noted the proposed amendment would still allow for development to occur on Lot 1302.

It is recommended Council adopt the proposed amendment and progress to consultation.

#### Officer Recommendation

That the Planning and Community Consultation Committee recommend to Council:

1. In accordance with Section 75 of the *Planning and Development Act 2005*, resolves to adopt Amendment No. 5 of the City of Mandurah Local Planning Scheme No 12 as follows:

***"PLANNING AND DEVELOPMENT ACT 2005***

***RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME***

***CITY OF MANDURAH LOCAL PLANNING SCHEME NO 12***

***AMENDMENT NO 5***

*Resolved that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amends Local Planning Scheme No 12 by:*

- (a) Modifying the Specific Site Requirements Table in Local Planning Scheme Schedule 1 to add the following:*

No	Description of Land	Requirement
8.	Lot 1302 Port Quays Wannanup	A minimum of 20 parking bays to be provided for the use of the commercial tenancies at Lot 1301 Port Quays and a minimum of 4 parking bays for the use of Strata Lot 5 of Lot 1301 Port Quays. A deed of agreement shall be entered into as a condition of any development.

- (b) Amending the Scheme Maps accordingly.*

*Dated this 28<sup>th</sup> Day of November 2023*  
*Chief Executive Officer "*

2. In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that Amendment No. 2 of the City of Mandurah Local Planning Scheme No. 12 is a standard amendment for the following reasons:
  - (a) the amendment relates to a zone that is consistent with the objectives identified in the scheme for that zone;*
  - (b) the amendment is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
  - (c) an amendment to the scheme so that it is consistent with the region planning scheme that applies to the scheme area;*
  - (d) the amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
  - (e) the amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
  - (f) is not an amendment that is a complex or basic amendment.;*

3. Authorises the Chief Executive Officer (through the Coordinator Planning and Lands) to prepare the necessary Scheme Amendment documentation for Amendment No 5 to the City of Mandurah Local Planning Scheme No 12.

Committee Recommendation

**MOTION**

**Moved:** Councillor C Knight

**Seconded:** Councillor A Zilani

**That the Planning and Community Consultation Committee recommend to Council:**

1. In accordance with Section 75 of the *Planning and Development Act 2005*, resolves to adopt Amendment No. 5 of the City of Mandurah Local Planning Scheme No 12 as follows:

***“PLANNING AND DEVELOPMENT ACT 2005***

***RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME***

***CITY OF MANDURAH LOCAL PLANNING SCHEME NO 12***

***AMENDMENT NO 5***

***Resolved that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amends Local Planning Scheme No 12 by:***

- (a) Modifying the Specific Site Requirements Table in Local Planning Scheme Schedule 1 to add the following:***

<b>No</b>	<b>Description of Land</b>	<b>Requirement</b>
<b>8.</b>	<b>Lot 1302 Port Quays Wannanup</b>	<b>A minimum of 20 parking bays to be provided for the use of the commercial tenancies at Lot 1301 Port Quays and a minimum of 4 parking bays for the use of Strata Lot 5 of Lot 1301 Port Quays. A deed of agreement shall be entered into as a condition of any development.</b>

- (b) Amending the Scheme Maps accordingly.***

***Dated this 28<sup>th</sup> Day of November 2023***

***Chief Executive Officer "***

2. In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that Amendment No. 2 of the City of Mandurah Local Planning Scheme No. 12 is a standard amendment for the following reasons:

- (a) the amendment relates to a zone that is consistent with the objectives identified in the scheme for that zone;***

- (b) the amendment is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- (c) an amendment to the scheme so that it is consistent with the region planning scheme that applies to the scheme area;*
- (d) the amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
- (e) the amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
- (f) is not an amendment that is a complex or basic amendment.;*

3. **Authorises the Chief Executive Officer (through the Coordinator Planning and Lands) to prepare the necessary Scheme Amendment documentation for Amendment No 5 to the City of Mandurah Local Planning Scheme No 12.**

CARRIED: 11/0

FOR: Cr C Knight, Cr A Zilani, Cr P Jackson, Mayor R Williams, Cr B Pond, Cr J Cumberworth, Cr A Kearns, Cr D Wilkins, Cr S Wright, Cr D Schumacher, Cr R Burns

AGAINST: Nil

#### **15. LATE AND URGENT BUSINESS ITEMS**

Nil.

#### **16. CONFIDENTIAL ITEMS**

Nil.

#### **16. CLOSE OF MEETING**

There being no further business, the Chairperson declared the meeting closed at 5.57pm.

CONFIRMED: .....[CHAIRPERSON]

**Attachments to Committee Minutes: Planning and Community Consultation Committee  
Agenda 20 November 2023  
Presentation - Short Term Rental Accommodation**

# Short Term Rental Accommodation

20 November 2023

Planning and Community Consultation Committee





# Context

June 2015: Council Adopted a 'Responsive Action' approach to Holiday Homes after request to consider a Local Law and Planning Scheme amendments to regulate.

## Responsive Action Outcomes:

- Recording known Holiday Homes;
- Prioritising complaints regarding noise, parking and refuse for known Holiday Homes; and
- Communications and Publications preparations.

In short, no further approvals required beyond those required for the construction of the house were considered necessary or to mitigate operational issues



# Context

December 2018: Council reiterated its 'Responsive Action' approach

- Extensive research on approaches in WA, Interstate undertaken
- 131 homes identified since register established
- 5 complaints registered in three years

## Conclusions:

- Bi-annual updates to known holiday homes
- Further re-education campaign  
(noise, smoke alarms, pools, emergency management, complaint handling procedure, communications)
- Use this information as a submission to Parliamentary Inquiry



# Current Status

- Local Planning Scheme 12 (gazetted April 2022)

‘Bed and Breakfast’ (commonly now called ‘hosted accommodation’) and  
‘Holiday House’ (single house)’

Permitted in Residential zones (exempt from need for approval)

- Holiday Homes Register thoroughly reviewed and updated in November 2022.
- 2023: 3 recorded complaints  
(1 Noise Disturbance, 1 Boat Parking, 1 Light Overspill).



# State Announcements: November 2023

- STRA Register to be established
- Hosted STRA to be exempt from planning approval state-wide
- Metropolitan Region
  - Planning Approval requirements to be introduced for un-hosted STRA
  - Up to 90 nights in a 12-month period – no approval
  - Over 90 nights – planning approval required
- Regional (including Peel)
  - Local government will determine if planning approval is required.
- Incentive scheme for existing operators to covert STRA to long term rentals



# Impact on City

- State Register will replace need for City's register to be maintained;
- Exemptions from planning approval can be retained; (officer recommendation to do so);
- Potential need to update land use definitions in planning scheme (in association with other regulation updates being progressed)
- Collated information available from: [www.wa.gov.au/STRA-initiatives](http://www.wa.gov.au/STRA-initiatives)



## **NOTICE OF MEETING**

### **PLANNING AND COMMUNITY CONSULTATION COMMITTEE**

Members of the Planning and Community Consultation Committee are advised that a meeting of the Committee will be held in the Council Chambers, 83 Mandurah Terrace, Mandurah on:

**Monday 20 November 2023  
at 5.30pm**

#### **CASEY MIHOVLOVICH**

Chief Executive Officer  
16 November 2023

#### **Committee Members**

Councillor R Burns  
Councillor A Kearns  
Councillor B Pond  
Councillor J Smith  
Mayor R Williams  
Councillor A Zilani

Councillor J Cumberworth  
Councillor C Knight  
Councillor D Schumacher  
Councillor D Wilkins  
Councillor S Wright

# AGENDA

**1. OPENING OF MEETING AND ANNOUNCEMENT OF VISITORS**

**2. ELECTION OF CHAIRPERSON**

**3. APOLOGIES**

**4. IMPORTANT NOTE:**

Members of the public are advised that the decisions of this Committee are referred to Council Meetings for consideration and cannot be implemented until approval by Council. Therefore, members of the public should not rely on any decisions of this Committee until Council has formally considered the resolutions agreed at this meeting.

**5. RESPONSES TO QUESTIONS TAKEN ON NOTICE**

Nil

**6. AMENDMENT TO STANDING ORDERS**

Modification to *Standing Orders Local Law 2016* - electronic attendance at meeting.

**7. PUBLIC QUESTION TIME**

Public Question Time provides an opportunity for members of the public to ask a question of Council. For more information regarding Public Question Time please visit the City's website [mandurah.wa.gov.au](http://mandurah.wa.gov.au) or telephone 9550 3787.

**8. PRESENTATIONS**

**9. DEPUTATIONS**

Any person or group wishing to make a Deputation to the Committee meeting regarding a matter listed on this agenda for consideration must complete an application form. For more information regarding making a deputation please visit the City's website [mandurah.wa.gov.au](http://mandurah.wa.gov.au) or telephone 9550 3787.

*NB: Persons making a deputation to this Committee meeting will not be permitted to make a further deputation on the same matter at the successive Council meeting, unless it is demonstrated there is new, relevant material which may impact upon the Council's understanding of the facts of the matter.*

**10. CONFIRMATION OF MINUTES: 11 JULY 2023**

Minutes available on the City's website via [mandurah.wa.gov.au/council/council-meetings/agendas-and-minutes](http://mandurah.wa.gov.au/council/council-meetings/agendas-and-minutes)

**11. DECLARATIONS OF FINANCIAL, PROXIMITY AND IMPARTIALITY INTERESTS****12. QUESTIONS FROM COMMITTEE MEMBERS WITHOUT DISCUSSION**

11.1 Questions of which due notice has been given

11.2 Questions of which notice has not been given

**13. BUSINESS LEFT OVER FROM PREVIOUS MEETING****14. REPORTS:**

<i>No.</i>	<i>Item</i>	<i>Page No</i>	<i>Note</i>
1	Proposed Amendment No. 5 to Local Planning Scheme 12	3-12	

**15. LATE AND URGENT BUSINESS ITEMS****16. CONFIDENTIAL ITEMS****17. CLOSE OF MEETING**



<b>1</b>	<b>SUBJECT:</b>	Proposed Amendment No. 5 to Local Planning Scheme 12
	<b>DIRECTOR:</b>	Business Services
	<b>MEETING:</b>	Planning and Community Consultation
	<b>MEETING DATE:</b>	20 November 2023

## Summary

Council is requested to adopt a proposed amendment to the City of Mandurah Local Planning Scheme 12 (Scheme 12). The purpose of the amendment is to correct an administrative error that occurred in 2005, where a condition of subdivision was cleared prior to the execution of a Deed of Agreement which ensured the parking constructed on Lot 1302 Port Quays remained at the benefit of the commercial tenancies on the adjacent Mix Use development on Lot 1301 Port Quays.

The amendment seeks to amend Scheme 12 so that Lot 1302 is included in the Specific Site Requirements Table 1 in Schedule 1 of Scheme 12 with the development conditions requiring the provision of a minimum of 24 parking bays to the benefit of Lot 1301 (20 for the existing commercial tenancies and 4 for the apartments approved on Strata Lot 5 of Lot 1301).

This report will demonstrate and discuss that the subject property was always intended to serve as a parking facility for Lot 1301. It is noted the proposed amendment would still allow for development to occur on Lot 1302.

It is recommended Council adopt the proposed amendment and progress to consultation.

## Disclosure of Interest

Nil

## Location



## Property Details

Owner:	NEOM Australia PTY LTD Mahmoud Abdel Razak Elhribawy Hussein Hassan Hadi Al-Shammri
Scheme No 12 Zoning:	Local Centre
Peel Region Scheme Zoning:	Urban Development
Lot Size:	1445m <sup>2</sup>
Topography:	Flat
Land Use:	Currently developed as a car park.

## Previous Relevant Documentation

- G.22/6/20      23 June 2020      Council resolved to proceed Scheme 12 to final approval by the Western Australian Planning Commission and the Minister for Planning.
- G.18/4/19      30 April 2019      Council adopted a modified Scheme 12 and Local Planning Strategy which incorporated changes suggested by the Environmental Protection Authority.
- G.6/01/17      24 January 2017      Council adopted draft Local Planning Scheme and Strategy for forwarding to the Western Australian Planning Commission and the Environmental Protection Authority for consent to advertise the draft Scheme.
- G.22/8/16      9 August 2016      Council granted conditional approval for a Tavern at Strata Lot 5, (No 4) Port Quays. This approval was granted subsequent to the securing of Lot 1302 Port Quays for parking.
- G.30/8/01      21 August 2001      Council adopted the Northport Outline Development Plan and Design Guidelines subject to conditions.

## Background

The subject property is within the 'Northport Outline Development Plan' (ODP) (**refer Attachment 1**) which was approved in 2001 and Northport Village ODP (**refer Attachment 2**). The subject property is identified as 'Retail Precinct' and indicatively showed the development, including the built form and parking area. A small portion of the area developed as parking is shown on the ODP as 'Possible Future Retail' including a note that suggests ground floor shops fronting Port Quays with residential use above the ground floor.

In December 2002, the City granted development approval for a mixed-use development, comprising of commercial tenancies and apartments on Lot 1288 Port Quays (**refer Attachment 3**). The parking relating to the residential component of the development was contained on the southern portions within the area accommodating the built form (now Lot 1301), with the parking for the commercial tenancies developed in the northern portion of the Lot (now Lot 1302) which included 45 parking bays.

In 2003, the Western Australian Planning Commission (WAPC) granted a subdivision approval separating Lot 1288 into Lots 1301 (mixed-use development and residential parking) and Lot 1302 (commercial parking). The approved subdivision included the following condition (3) requiring a legal agreement to be entered with the City of Mandurah:

*"The applicant entering into an agreement with the City of Mandurah to ensure reciprocal rights are established for proposed Lot 1301 to utilise proposed Lot 1302 for car parking to the satisfaction of the Western Australian Planning Commission."*

Further to condition 3 above, there was the following advice note:

*"In respect to condition 3, the Reciprocal Rights agreement should also allow redevelopment over Lot 1302, provided the same number of parking bays remain available to Lot 1301."*

This legal agreement was drafted; however, the clearance of the condition was issued to the applicant in 2005 prior to the agreement having been executed.

In 2016, a proposed Tavern was approved by Council for Strata Lot 5 in Lot 1301 Port Quays. While this approved development did not ultimately progress, it is important to note the proposal was not considered until the consent of the owner of Lot 1302 (at the time) for the provision of parking to the benefit of Lot 1301 was obtained. This was received and a condition requiring the formalisation of the parking agreement between Lot 1301 and Lot 1302 was added. This further demonstrates the intent for parking to be provided on Lot 1302.

The owner of Lot 1302 also owns Strata Lot 5 of Lot 1301, the City granted a change of use approval for the development of two apartments. This approval included a condition requiring the residential parking and storeroom to be provided on Lot 1302. The conditions of approval require this parking provision to be secured through a legal deed. This ground floor tenancy has had numerous applications over the past two decades, including cafes / restaurant and tavern, however, there has not been an occupancy of this tenancy. The calculation of 24 bays is based on the current commercial use parking requirements and approved residential use of Strata Lot 5 of Lot 1301.

### **Comment**

Scheme 12 zones the subject property as Local Centre and as such, the City could receive applications to develop Lot 1302. Without the legal agreement in place, the City's ability to ensure parking provided to benefit Lot 1301 is not secured. It is considered the proposed amendment to Scheme 12 will provide greater security to the commercial tenants on Lot 1301 that access to parking will remain available.

It is considered the proposed amendment is consistent with what was intended on the site from when it was originally developed. This position is evidenced by the following:

- The approved ODP shows the subject site being developed as parking, with the possibility to develop a portion of the site;
- The original development approval shows the provision of the parking on the subject site; and
- The conditions of subdivision required a legal agreement to ensure the reciprocal access to parking to the benefit of Lot 1301 and further advised that any development should provide the same number of lots for that purpose.

The issue of the clearance of conditions was done in good faith based on the agreement having been drafted, but in retrospect should have not been issued until the agreement had been formally executed giving it full effect, and allowing a caveat to be lodged.

### **Parking Requirement**

Local Planning Scheme 12 provides the required parking ratios for commercial land uses, with the most parking required for uses like 'shop' in a local centre being a ratio of 4.5 bays for every 100m<sup>2</sup> nett lettable area (NLA). The tenancies within the precinct that are currently used for a commercial purpose have an aggregate NLA of 437m<sup>2</sup>, which results in a parking requirement of 20 bays. As mentioned, the apartment component on Strata Lot 5 of Lot 1301 requires an additional 4 bays to be provided in Lot 1302.

It is noted if Strata Lot 5 of Lot 1301 (currently approved as two apartments) were to be developed as a café or other Permitted (P) use, the Planning and Development (Local Planning Schemes) Regulations 2015 would not require a change of use or development approval limiting the City's ability to seek additional parking.

Based on the absence of any commercial development taking up the space over the previous 20 years, it could be argued that requiring the additional bays on Lot 1302 (to provide 35 bays) is not reasonable and expected parking should be based on the current approved use.

While the current approved use for Strata Lot 5 of Lot 1301 is apartments and the current owner of this strata lot and Lot 1302 being the same entity, the securing of parking for that particular tenancy, triggered by way of its development, is somewhat simplified. That is, the requirement for the deed of agreement to be drafted is a condition of the lot being developed in accordance with the development approval and while

the ownership remains the same, the drafting of the deed of agreement is logical and simple. If it came to pass that the owner of the strata lot was different to the owner of Lot 1302, the provision of the four bays could be complicated in the absence of legally binding agreements being in place.

As this agreement requires the realisation of the development approval to become a requirement, there is a risk that either of the lots are sold prior to development of the strata lot and as such, it is considered appropriate to add the additional four bays to service the strata lot to the 20 bays required for the commercial tenancies. This will mean that if there is a redevelopment of the strata lot at any point, there will be a minimum of four bays that can be utilised by the strata lot regardless of the owner or the use.

### Development Potential

As mentioned above, the ODP which guided the original development indicates that a portion of the area occupied by Lot 1302 could be developed, which is also reflected in the advice note provided by the WAPC at the time Lot 1302 was created. The WAPC advice suggested the redevelopment could occur subject to the same number of bays being provided (45). Acknowledging the proposed amendment seeks to only require enough parking to suit the current commercial tenants (20 bays) and apartments (4 bays), based on the currently developed parking area and leaving 24 bays as constructed, it is estimated a development footprint of approximately 500m<sup>2</sup> remains. This amount of footprint could allow for the development of two or three storeys of mixed-use commercial / residential development.

### **MEAG Comment**

This item does not have any impact on the natural environment and therefore has not been referred to Mandurah Environmental Advisory Group for comment.

### **Consultation**

If adopted, the amendment will need to be referred to the Environmental Protection Authority (EPA) for consideration for whether an environmental assessment is required to be assessed. If the EPA confirm that an environmental assessment is not required, public advertising as outlined in the Regulations will be required.

Advertising will be undertaken via the following methods:

- directly letter / email notification to surrounding landowners;
- sign on-site;
- notification on the City's website; and
- notification in the local newspaper.

The period for making submissions on the proposed modification is 60 days after the day proposal is first advertised.

### **Statutory Environment**

The proposed amendment is undertaken in accordance with the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*

The proposed amendment is considered to be a standard amendment based on;

- (a) the amendment relates to a zone that is consistent with the objectives identified in the scheme for that zone;*
- (b) the amendment is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- (c) an amendment to the scheme so that it is consistent with the region planning scheme that applies to the scheme area;*

- (d) *the amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
- (e) *the amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
- (f) *is not an amendment that is a complex or basic amendment.*

In accordance with section 81 of the *Planning and Development Act 2005*, when a local government resolves to prepare or adopt a local planning scheme, or an amendment to a local planning scheme the local government is to forthwith refer the proposed local planning scheme or amendment to the Environmental Protection Authority (EPA) by giving to the EPA —

- (a) *written notice of that resolution; and*
- (b) *such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the Environmental Protection Act in relation to the local planning scheme or amendment.*

Regulation 20 of the Planning and Development (Local Planning Schemes) Regulations 2015 provides:

#### Notification of resolution

(1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —

- a) publish a notice in a form approved by the Commission in accordance with regulation 76A; (b)
- b) provide a copy of the published notice to the following persons or bodies for recommendations
  - (i) the local government of each district that adjoins the local government district.
  - (ii) each licensee under the Water Services Act 2012 likely to be affected by the scheme;
  - (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the Conservation and Land Management Act 1984; (iv) each other public authority likely to be affected by the scheme.

#### Policy Implications

Nil

#### Financial Implications

While the proposed amendment will not have any direct financial implications for the City, the landowner may investigate compensation avenues if he feels aggrieved.

#### Risk Analysis

While the proposed amendment is considered to have a positive impact on the existing commercial business in the area through the provision of some certainty for the provision of parking, the current landowner may object to the proposed amendment.

#### Strategic Implications

The following strategies from the City of Mandurah Strategic Community Plan 2020 – 2040 are relevant to this report:

##### Economic:

- Actively partner and engage with business and industry to support Mandurah's entrepreneurial capacity and capability.
- Establish and leverage opportunities with key stakeholders to achieve sustainable economic outcomes with due consideration to environmental impacts.

Organisational Excellence:

- Demonstrate regional leadership and advocate for the needs of our community.
- Provide professional customer service and engage our community in the decision-making process.

**Conclusion**

The proposed amendment to Scheme 12 is considered appropriate given it reflects the original intended use for the subject property. Based on calculations of parking requirements within Scheme 12, the minimum provision of 24 bays on Lot 1301 will still allow for meaningful development to occur on Lot 1302 while providing certainty that the commercial businesses have access to sufficient parking in the area. It is recommended Council adopt the proposed amendment and progress to consultation.

**NOTE:**

- Refer **Attachment 1.1 Northport Outline Development Plan**  
**Attachment 2.2 Northport Village Outline Development Plan**  
**Attachment 3.3 Copy of original Development Approval**

**RECOMMENDATION**

That the Planning and Community Consultation Committee recommend to Council:

1. In accordance with Section 75 of the *Planning and Development Act 2005*, resolves to adopt Amendment No. 5 of the City of Mandurah Local Planning Scheme No 12 as follows:

***“PLANNING AND DEVELOPMENT ACT 2005***

***RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME***

***CITY OF MANDURAH LOCAL PLANNING SCHEME NO 12***

***AMENDMENT NO 5***

***Resolved that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amends Local Planning Scheme No 12 by:***

***(a) Modifying the Specific Site Requirements Table in Local Planning Scheme Schedule 1 to add the following:***

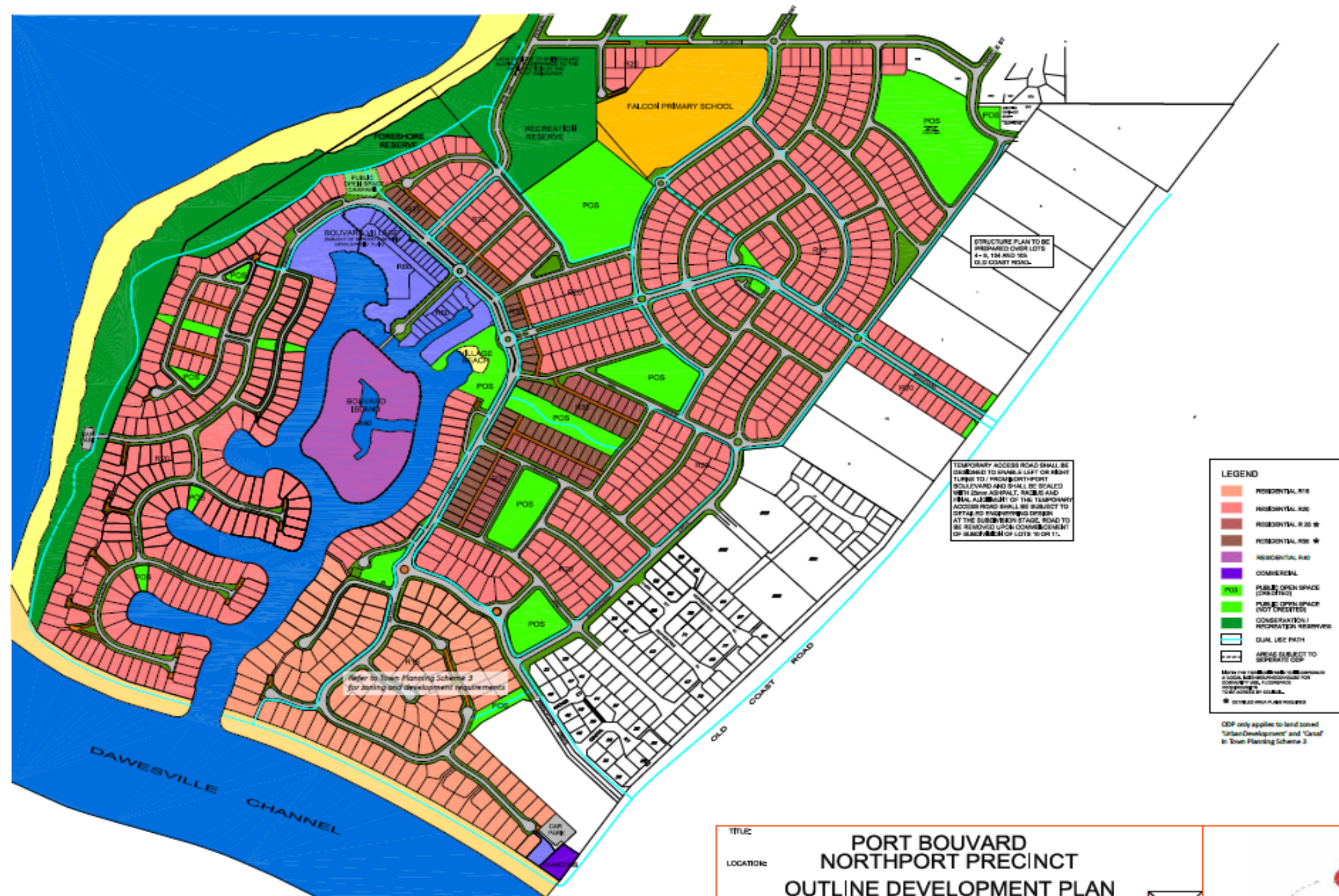
No	Description of Land	Requirement
8.	Lot 1302 Port Quays Wannanup	A minimum of 20 parking bays to be provided for the use of the commercial tenancies at Lot 1301 Port Quays and a minimum of 4 parking bays for the use of Strata Lot 5 of Lot 1301 Port Quays. A deed of agreement shall be entered into as a condition of any development.

***(b) Amending the Scheme Maps accordingly.***

***Dated this 28<sup>th</sup> Day of November 2023***  
***Chief Executive Officer "***

2. In accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that Amendment No. 2 of the City of Mandurah Local Planning Scheme No. 12 is a standard amendment for the following reasons:
  - (a) *the amendment relates to a zone that is consistent with the objectives identified in the scheme for that zone;*
  - (b) *the amendment is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
  - (c) *an amendment to the scheme so that it is consistent with the region planning scheme that applies to the scheme area;*
  - (d) *the amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*
  - (e) *the amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and*
  - (f) *is not an amendment that is a complex or basic amendment.;*
3. Authorises the Chief Executive Officer (through the Coordinator Planning and Lands) to prepare the necessary Scheme Amendment documentation for Amendment No 5 to the City of Mandurah Local Planning Scheme No 12.





**LEGEND**

Residential R18	Residential R20
Residential R25	Residential R30
Residential R40	Commercial
PDS	Public Open Space (PDS)
PDS	Public Open Space (Not Credited)
Recreation Reserves	Dual Use Path
Areas Subject to Separate ODP	

Notes: The map shows the location of the precinct within the Dawesville Channel and Old Coast Road. The map also shows the location of the precinct within the Dawesville Channel and Old Coast Road.

ODP only applies to land zoned 'Urban Development' and 'General' in Town Planning Scheme 3.

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ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY

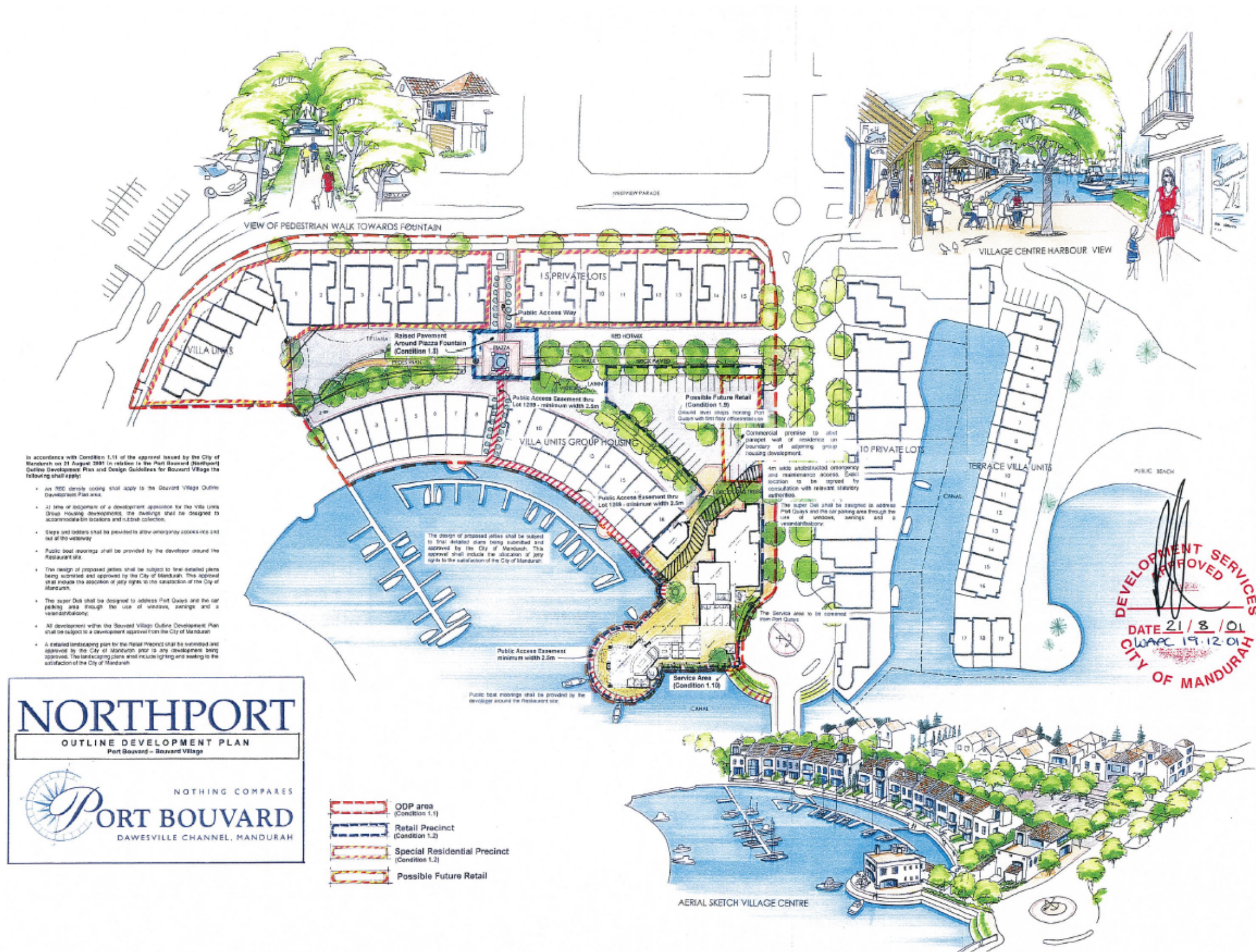
<b>TITLE</b>		<b>PORT BOUVARD NORTHPORT PRECINCT OUTLINE DEVELOPMENT PLAN</b>	
<b>LOCATION</b>			
DESIGNER	J. STRAHM	DATE	21/02
DRAWN	L. SPENCER	SCALE	1:500 @ A2
CHECKED	J. STRAHM	CAD LAY	MECHANICAL/120
REV.	DATE	DESCRIPTION	DRAWN/CHECK
<b>REVISIONS</b>			
		DRAWING	31124-02001-00P



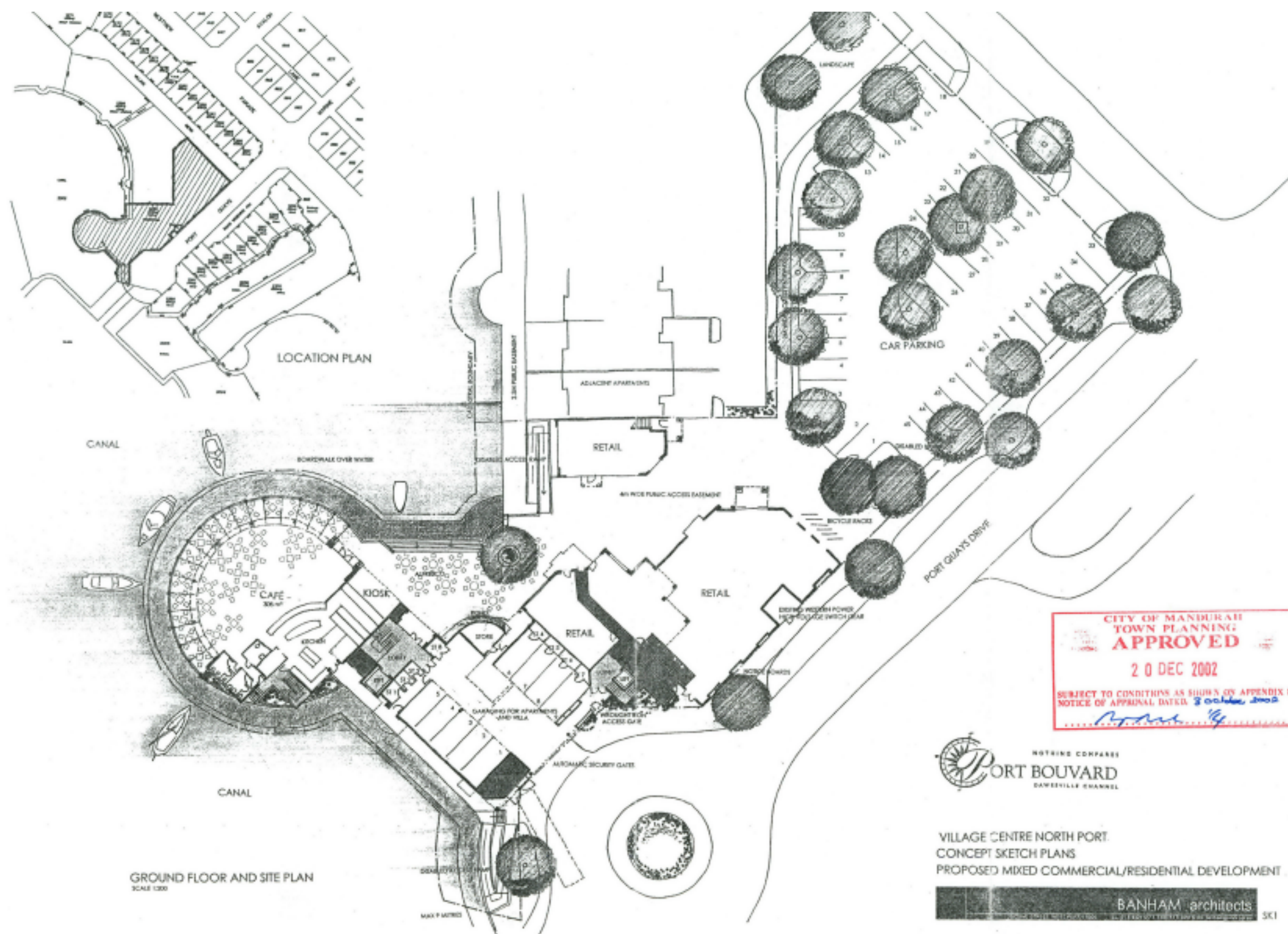
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Original Development Approval