

15. Reports-Standing Committee

15.1 Governance Committee Meeting – 23/02/2023

15.1.1 (2023/MINUTE NO 0058) Review of Local Planning Policy 5.19 - Structure Plans and Telecommunications Infrastructure

Responsible Executive Chief of Built and Natural Environment

Author Senior Strategic Planner

Attachments 1. Draft Revised Local Planning Policy 5.19 - Structure Plan and Mobile Telecommunications Infrastructure



Officer Recommendation/Committee Recommendation/Council Decision

MOVED Cr T Dewan SECONDED Cr C Stone

That Council:

- (1) *ADOPTS the proposed amendments to Local Planning Policy 5.19 – Structure Plans and Mobile Telecommunications Infrastructure for the purpose of advertising, in accordance with Clause 5 (1) of the Deemed Provisions of the Planning and Development (Local Planning) Schemes 2015 (the Regulations).*

CARRIED 8/0

Background

Local Planning Policy 5.19 – *Structure Plans and Telecommunications Infrastructure* (LPP 5.19) was adopted at the 13 December 2018 Ordinary Council Meeting.

LPP 5.19 was drafted in response to concerns that new residential subdivision within the City of Cockburn was not being provided with an acceptable level of mobile phone coverage.

At the Annual General Meeting of Elected Members on 1 February 2022, several motions were passed by the City's ratepayers which highlighted issues with mobile telecommunications coverage in Treeby.

One of these motions (see below) requested that the City withhold approval of structure plans and development applications, until an appropriate level of mobile phone coverage in Treeby is provided:

'That the City of Cockburn Council withholds approval on any current or future Structure Plan or Development Plans for Treeby until residents of Treeby, including Calleya Estate residents, have quality and reliable, widespread phone coverage.'



City Officers prepared a report to the 10 March 2022 Ordinary Council Meeting (OCM).

The report noted the City did not have the ability to withhold approval for a structure plan, as the Western Australian Planning Commission (WAPC) is the determining authority for Structure Plans.

The report also noted that, although the City has attempted to address the requirements of LPP 5.19 prior to advertising a structure plan, this has been frustrated by the lack of action by developers and the telecommunication carriers.

At the OCM, Council endorsed the following recommendation:

'That Council REVIEWS Local Planning Policy (LPP) 5.19 – Structure Plans and Telecommunications Infrastructure, in light of the City's recent experiences in seeking to implement the Policy under the current Planning Regulations.'

Current Requirements

Since the adoption of LPP 5.19, planning consultants and developers have been made aware of the policy requirement for mobile telecommunications to be considered in the preparation of Structure Plans.

The current policy requires that the following matters are considered prior to the lodgement of a structure plan with the City:

1. Demonstrated consultation with all telecommunications infrastructure providers
2. Information for the subject area regarding telecommunications network coverage, capacity and quality, and the types of telecommunications infrastructures likely to be required
3. Details regarding the likely above ground telecommunications requirements for the subject area.

In addition to the pre-lodgement requirement, the City is required to refer a structure plan to telecommunication providers to determine any forward planning for new or upgraded infrastructure.

During the advertising period the City will refer to all telecommunication infrastructure providers seeking information regarding forward planning, which they are obliged to provide pursuant to the C564:2011 Mobile Phone Base Station Deployment made under Part 6 of the Commonwealth *Telecommunications Act 1997*.

Submission

N/A



Report

Limitations of the Current Adopted Policy

The current policy requires applicants to provide information regarding the current and future state of mobile phone networks, information which is difficult to obtain from Telecommunication Carriers.

Determining the 'quality' of mobile phone coverage is difficult to determine, as whilst providers acknowledge that their service covers a specific geographic area, they will not publish the strength of the coverage provided on the basis that this is considered commercially sensitive information.

Additionally, the specific quality of mobile phone coverage cannot be accurately determined at the structure planning stage, as the ultimate coverage experienced by residents and employees may vary depending on factors such as topography, material treatment of a building and the age of a mobile phone handset.

Revisions to Local Planning Policy 5.19

In recognition of the difficulties in implementing the current LPP 5.19, a draft revision has been prepared. A summary of the revisions proposed and the reasoning behind them appear in the following table:

Revision	Reason
Renaming of the policy	The renaming of the policy from 'Local Planning Policy 5.19 – Structure Plans and Telecommunications' to 'Local Planning Policy 5.19 – Structure Plans & Mobile Telecommunications' is reflective of the fact that the policy specifically refers to mobile telecommunications, which include 3G, 4G, 5G and satellite internet services provided by the Telecommunication Carriers (Telstra, TPG and Optus). Underground fibre communications, predominantly provided by NBNCo, are a requirement for new subdivision and developments under Commonwealth legislation.
Site identification	The identification of a site or sites for telecommunications infrastructure ensures that short-term development does not prejudice telecommunication infrastructure in the longer-term. Designating sites under a Structure Plan that may be suitable for telecommunications infrastructure provides greater certainty for residents on sites that are capable of development for this purpose.
Expansion of the policy to include District	District Structure Plans (DSPs) are typically prepared over larger defined geographical areas to address matters such as major infrastructure, public open space and other critical land uses necessary to facilitate and service the subsequent development of

Revision	Reason
Structure Plans	local structure plans over smaller or individual landholdings. Given its scale of coverage, mobile telecommunications infrastructure is ideally identified at the district level. Consideration at the DSP stage will help ensure critical sites are identified early over fragmented landholdings, and where necessary, inform the creation of appropriate zoning or reservation under the Metropolitan Region Scheme and/or City's own local planning scheme.
Removal of 'Quality' of Coverage	Telecommunication Carriers will typically acknowledge that a mobile service is provided to a geographical area (i.e. 4G or 5G), but will not provide a local government or individual information on the strength of the coverage. Whilst an area may technically be covered by a specific Telecommunication Carrier, it is unclear whether the coverage is adequate to use the service. By way of example, Treeby is largely covered by a 4G service provided by Telstra, Optus and TPG, however, the experience of residents is that the quality of the coverage provided is insufficient in some areas to reasonably rely upon the service.
Reference to 5G technology	5G technology represents an opportunity for telecommunications infrastructure to be located away from centralised monopole structures, including external to buildings and within existing utility infrastructure.
Exemptions	The current policy applies to all Structure Plan proposals, irrespective of whether a new or amended Structure Plan. It is recognised that a number of Structure Plans were approved prior to the adoption of LPP 5.19 and are in the process of being implemented through subsequent subdivision approvals. Amendments that are not expected to generate additional demand for mobile communication infrastructure are to be considered exempt from the requirements of this policy.
Reference to Infrastructure Providers	The three Telecommunication Providers (Telstra, Optus and TPG) have commenced divestment of their existing mobile telecommunications infrastructure to separate companies ('Infrastructure Providers'), currently Waveconn, Amplitel and Indara Digital Infrastructure, who are responsible for the planning, construction and ongoing management of infrastructure.
Guidance on co-location within public open space	As mobile telecommunications infrastructure has traditionally been planned for late in the development process (after a demonstrated need has been generated), public reserves such as public open space (POS) are often retrospectively targeted to accommodate the



Revision	Reason
	location of key infrastructure. When arranged poorly, this can conflict and/or require compromising the primary purpose of the reserve, such as for conservation, drainage and/or recreation purposes. The revised policy recognises that there may be situations where telecommunications infrastructure is appropriately located within POS but should be limited to situations where there is a demonstrated oversupply, and the visual impact of infrastructure is appropriately addressed.

Strategic Plans/Policy Implications

Local Economy

A sustainable and diverse local economy that attracts increased investment and provides local employment.

- Increased Investment, economic growth and local employment.
- Thriving local commercial centres, local businesses and tourism industry.

Community, Lifestyle & Security

A vibrant healthy, safe, inclusive, and connected community.

- A safe and healthy community that is socially connected.

City Growth & Moving Around

A growing City that is easy to move around and provides great places to live.

- An attractive, socially connected and diverse built environment.

Budget/Financial Implications

The City will be responsible for the costs associated with advertising the amended local planning policy, as required by the Regulations.

Legal Implications

N/A

Community Consultation

Under Clause 5 (2), Schedule 3, Part 2 of the Regulations, a local government may elect to not advertise an amendment to a local planning policy, if in the opinion of the local government, the amendment is minor.

In this instance it is considered that the proposed changes are significant enough to warrant the need for consultation, hence should the Governance Committee adopt the recommendation, the amendment to LPP 5.19 will be advertised for a period of 21 days, as per the Regulations.



Risk Management Implications

The amendments to LPP 5.19 are necessary to recognise the needs, current operations and practices of a continually evolving telecommunications industry.

Should Council not adopt the recommended amendments, there is a risk that future structure planning in the City of Cockburn will fail to adequately plan for the mobile telecommunications infrastructure needs of its growing population.

Advice to Proponent(s)/Submitters

N/A

Implications of Section 3.18(3) *Local Government Act 1995*

Nil



Title	Structure Plans & Mobile Telecommunications Infrastructure
Policy Number (Governance Purpose)	LPP5.19



Policy Type

Local Planning Policy

Policy Purpose

The purpose of this policy is to:

1. Ensure that mobile telecommunications infrastructure requirements are identified at the earliest stage of planning, having regard to the anticipated form of development and expected resident population.
- ~~2. Ensure that telecommunications infrastructure requirements are considered at the earliest stages of planning.~~
- ~~3. Set out the information required to be provided with structure plans to address the forward planning for telecommunications infrastructure.~~

Commonwealth and State legislation applies to the provision of services such as underground telecommunications (through NBN Co), reticulated water and sewer (through the Water Corporation) and power (through Western Power), which in most instances in the City are provided to lots at the subdivision stage. However, there is no legislative requirement to mandate the provision of mobile telecommunications infrastructure within new development areas, or areas proposed for development.

It is recognised that the provision of mobile telecommunications infrastructure is market-driven, generally in response to the demand on existing infrastructure, or in response to changes in technology.

The Australian Media and Communications Authority estimates that over 90 per cent of Australian households had access to a fixed line internet connection in 2021, however, less than 25 per cent of the Australian population use a fixed-line phone at home. Despite the provision of wired infrastructure to most homes and businesses that enables a fixed-line phone service to be provided, mobile phones remain the preferred method of audio communication.

The Australian Parliament's *Inquiry into the deployment, adoption and application of 5G in Australia* (2020) noted that the emergence of 5G technology will change the nature of how mobile infrastructure is designed, located and integrated with existing infrastructure, and will require collaboration between all tiers of government and the telecommunications industry. It may be necessary for 5G infrastructure to be deployed in locations not typically used for telecommunications infrastructure to provide sufficient coverage, including utility infrastructure.

State Planning Policy 5.2 - Telecommunications Infrastructure (SPP 5.2) applies throughout Western Australia in respect to above and below ground telecommunications infrastructure, other than those facilities exempted under the Commonwealth *Telecommunications Act 1997*.

[1]

Title	Structure Plans & Mobile Telecommunications Infrastructure
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Clause 6.2 (a) of SPP 5.2 states that:

In the preparation and assessment of structure plans at the local level, consideration should be given to the need for telecommunications services in supporting documentation. Early consideration of wireless and mobile phone telecommunication system requirements allows for them to be incorporated into the design process and mitigate any potential visual impacts to the community.

SPP 5.2 aims to balance the need for effective telecommunications services and effective roll-out of networks, with the community interest in protecting the visual character of local areas.

This policy sets out requirements to facilitate the delivery of mobile telecommunications infrastructure, and to ensure this is considered through the structure planning process to facilitate orderly and proper planning.

Policy Statement

- (1) ~~All structure plans are to be submitted with information regarding telecommunications infrastructure, including the following:~~
- ~~1. Demonstrated consultation with all telecommunications infrastructure providers.~~
 - ~~2. Information for the subject area regarding telecommunications network coverage, capacity and quality, and the types of telecommunications infrastructure likely to be required.~~
 - ~~3. Details regarding the likely above ground telecommunications requirements for the subject area.~~

Definitions

Structure Plan – means a 'standard structure plan' and 'precinct structure plan', as defined in Schedule 2, Part 4, Clause 14 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

District Structure Plan – means a high-level plan generally prepared over a defined geographical area, which identifies matters such as major infrastructure, public open space, land uses, necessary to coordinate the preparation of individual precinct structure plans.

Servicing Report – means a technical appendix prepared in support of a Structure Plan proposal which details how future subdivision and development will be serviced by infrastructure, including roads, public open space and utilities.

Telecommunications Carrier – means Telstra, Optus, TPG Telecom (Vodafone) and NBNCo, or another provider licensed to provide a mobile telecommunications service under Section 56 of the Commonwealth *Telecommunications Act 1997*.

[2]



Title	Structure Plans & Mobile Telecommunications Infrastructure
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Infrastructure Provider – means a company responsible for the development and ongoing management of wireless telecommunications infrastructure, but that is licensed to provide a mobile telecommunications service.

Small Cell – means a small-scale radio transmitter used for mobile phone services, typically attached to utility infrastructure (such as street lighting or sub-stations) or a building, which provides coverage to a radius of up to 200 metres.

- (2) ~~During the advertising period the City will refer structure plans to all telecommunications infrastructure providers seeking information regarding forward planning, which they are obliged to provide pursuant to the C564:2011 Mobile Phone Base Station Deployment made under Part 6 of the Commonwealth Telecommunications Act.~~

Structure Plan Requirements

All District Structure Plans and Structure Plans submitted to the City, except for those exempt under Policy Statement (3), must provide written evidence of consultation with Telecommunications Carriers responsible for operating mobile telecommunications infrastructure. The written evidence should be within Part Two (Explanatory Section) which references utility and servicing infrastructure, and if applicable as a technical appendix, a separate Servicing Report.

As a minimum, the written evidence must include:

- a) details of the existing mobile telecommunications infrastructure within a one (1) kilometre radius of the Structure Plan area boundary, including existing coverage mapping, the Telecommunications Carriers using the infrastructure, and the technology provided (i.e. 4G, 5G or wireless NBN); and
- b) consideration of the demand for new or upgraded mobile telecommunications infrastructure within the Structure Plan area, or within the immediate area, as a result of the forecast resident population and/or number of employees within the Structure Plan area.

Where information to satisfy the above is not provided to the City upon receipt of the Structure Plan, the City may advise in writing that the proposal is not able to be assessed and advertised in accordance with Schedule 2, Part 4, Clause 16 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Where a Structure Plan proposes a residential density range, the expected number of dwellings and resident population should be based on the highest density coding

- (3) Exemptions

Compliance with this policy is not required for amendments to an approved Structure Plan where:

- a) changes to the residential density will not result in an increase to the expected resident population and/or number of employees; or

[3]

Title	Structure Plans & Mobile Telecommunications Infrastructure
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b) the amendment seeks only to extend the validity period of the Structure Plan.

(4) Site Identification

Where one or more Telecommunication Carrier or Infrastructure Provider identifies that new mobile telecommunications infrastructure is required and can be suitably located within the Structure Plan area, at least one site appropriate for telecommunication infrastructure must be identified within Part Two of the Structure Plan and if applicable, the Servicing Report.

The City encourages Telecommunication Carriers, where possible to maintain an appropriate level of coverage, to co-locate infrastructure on one site.

The City will generally not support mobile telecommunications infrastructure on sites designated as public open space (POS) under a Structure Plan, except where it can be demonstrated that:

- a) the Telecommunications Carrier or Infrastructure Provider identifies that there is not an alternative location for such infrastructure that can provide an appropriate level of coverage within the Structure Plan area; and
- b) the quantum of POS for residential zoned area of the Structure Plan exceeds 10 per cent of the gross subdivisional area, excluding the area required for mobile telecommunications infrastructure; and
- c) the infrastructure will not inhibit the POS being available for its intended purposes, including active recreation, passive recreation and drainage; and
- d) the visual impact of the infrastructure is capable of being mitigated by hard and soft landscaping, or by adjacent built form.

Where a potential site is identified that relies upon Small Cell mobile telecommunications infrastructure being attached to utility infrastructure (such as street lighting, sub-station or pump station) managed by a State utility provider, the applicant should demonstrate evidence of support from the utility provider, and if required, Main Roads WA.

(5) Development Requirements

The identification of a site should not be construed as the City's support for such a development upon approval of the Structure Plan by the Western Australian Planning Commission. All mobile telecommunications infrastructure will require development approval, which may include public consultation, except where such development is otherwise exempt from requiring approval under Town Planning Scheme No.3 or is considered 'low impact' under the Commonwealth *Telecommunications Act 1997*.

(6) Consultation

[4]



Title	Structure Plans & Mobile Telecommunications Infrastructure
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Where a Structure Plan requires public advertisement under the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City will refer the Structure Plan to all Telecommunication Carriers and Infrastructure Providers that operate mobile telecommunications infrastructure.

Under *Industry Code C564:2020 Mobile Phone Base Station Deployment*, a Telecommunications Carrier must respond to a reasonable request by a local government for information relating to the deployment of mobile telecommunications infrastructure.

Where a Telecommunications Carrier or Infrastructure Provider does not respond to the City during the public consultation period, it will be deemed that the Telecommunications Carrier or Infrastructure Provider has not undertaken forward planning regarding the deployment of mobile telecommunication infrastructure within the Structure Plan area.

Strategic Link:	City of Cockburn Town Planning Scheme No. 3
Category	Planning – Town Planning and Development
Lead Business Unit:	Planning
Public Consultation: (Yes or No)	Yes
Adoption Date: (Governance Purpose Only)	
Next Review Due: (Governance Purpose Only)	
ECM Doc Set ID: (Governance Purpose Only)	

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