



Town of
Cambridge

**DEVELOPMENT
COMMITTEE MEETING**

TUESDAY 15 JUNE 2021

ATTACHMENT TO ITEM DV21.53

CONSULTANT MEMORANDUM TO PART 1



MEMORANDUM

TO: Town of Cambridge Project Control Group

FROM: Rise Urban

DATE: 11 May 2021

SUBJECT: Phase 1 - Purpose and Aims of the Scheme

ATTACHMENT(S): Draft Local Planning Scheme No.2 – Part 1 - Preliminary

1. Introduction

This memorandum provides recommendations for the Purposes of the Scheme and the Aims of the Scheme within Local Planning Scheme No. 2 (LPS2) based upon the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Town's Local Planning Strategy (final draft for WAPC endorsement – February 2021).

This memorandum follows the broad structure provided by the Town of Cambridge, and comprises Phase 1 of the Rise Urban scope of works as set out in the RFQ Response dated 15 February 2021.

This memorandum will review Purposes of the Scheme in the first instance and then Aims of the Scheme.

2. Purposes of Scheme

The following sections set out the review of, and recommendations for the Purposes of the Scheme.

1. *What are the provisions of the current clause?*

The current clause 8 of LPS1, *Purposes of Scheme*, sets out 8 purposes (a-h) which align with those contained within the Model Provisions (Schedule 1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Given the current clause 8 has been prepared in accordance with the Model Provisions and provides the statutory / administrative focus by which local planning schemes are applied, and is widely used and accepted by all spheres of the Planning industry, the Purposes of Scheme should not be amended and should remain as per the current clause 8.

2. *Are there any other matters that will be addressed via separate memorandums?*

No

3. Are there any other recommendations from previous memorandums which are relevant in the consideration of this memo?

No

4. Are there any best practice examples from surrounding Local Governments or elsewhere?

The clause pertaining to Purposes of Scheme within the Schemes of a number of other local governments, all recently gazetted, is identical to the Town's as per LPS1 and that contained within the Model Provisions.

5. Has the Town received any legal advice (or legal cases) that relates to the application of this clause?

Yes. McLeods Barristers and Solicitors ("McLeods") provided the Town with an updated review of the Omnibus Amendment of LPS1 (dated 4 May 2018) which noted that the proposed insertion of eight new Purposes "that directly replicate those set out under the Model Scheme Text...are sufficiently broad that they are applicable generically to every local planning scheme, and are in (McLeod's) view appropriate."

6. Do the proposed provisions depart from the Model provisions?

No

7. Recommended provisions for LPS2

As per the Model Scheme Text (as per current provisions within LPS1).

3. Aims of Scheme

Unlike the Purpose of Scheme, the Model Scheme Text provides less prescriptive guidance for this provision, noting only that a statement should be inserted setting out the general aims of the Scheme.

While the current Aims of Scheme as per LPS1 will be addressed in the section below, it is pertinent to draw all appropriate and relevant strategic intentions put forward by the Town in any precursor document(s) – in particular in this instance, the Local Planning Strategy – to include within this clause of LPS2. The recommended Aims of Scheme, bearing this in mind, will be drawn from the 8 key strategic themes and principles as contained within the Executive Summary of the draft Local Planning Strategy. These will be further addressed in the final section of this memorandum.

1. What are the provisions of the current clause?

The current clause 9 of LPS1 states the following in relation to Aims of Scheme:

- a) *to control and guide development and growth in a responsible manner and which can initiate, accommodate and respond to change;*
- b) *to ensure that the Town of Cambridge will be widely recognised as providing a high level of services and amenities in a friendly and accountable manner;*
- c) *to cater for the diversity of demands, interests by facilitating and encouraging the provision of a wide range of choices in housing, business, employment, education, leisure, transport and access opportunities;*
- d) *to protect and enhance the health, safety and general welfare of the Town's inhabitants and the social, physical and cultural environment;*
- e) *to ensure that the use and development of land is managed in an effective and efficient manner within a flexible framework which: -*
 - i. *recognises the individual character and needs of localities within the Scheme Area; and*
 - ii. *can readily respond to change.*
- f) *to ensure planning at a local level is consistent with the Metropolitan Region Scheme and wider regional planning strategies and objectives;*
- g) *to promote the development of a sense of local community and recognise the right of the community to participate in the evolution of localities;*
- h) *to promote and safeguard the economic well-being and functions of the Town;*
- i) *to co-ordinate and ensure that development is carried out in an efficient and environmentally responsible manner which:*
 - i. *makes optimum use of the Town's growing infrastructure and resources;*
 - ii. *promotes an energy efficient environment; and*
 - iii. *respects the natural environment.*
- j) *to promote and safeguard the cultural heritage of the Town by: -*

- i. identifying, conserving and enhancing those places which are of significance to the Town's cultural heritage; and*
 - ii. encouraging development that is in harmony with the cultural heritage value of an area; and*
- k) to facilitate the achievement of the objectives of an adopted Local Planning Strategy.*

These current provisions are wide-ranging and, in the case of b) above for example, beyond the scope of what a local planning scheme can reasonably influence. While there are a number of useful and appropriate elements contained with clause 9, given that LPS1 is 23 years old (albeit, with an amendment – Amendment 38 – which comprised minor textual changes and did not result in any material changes to clause 9), it is considered that new Aims which better reflect today's Town and community, in line with the Local Planning Strategy, are more appropriate.

2. Are there any other matters that will be addressed via separate memorandums?

No

3. Are there any other recommendations from previous memorandums which are relevant in the consideration of this memo?

No

4. Are there any best practice examples from surrounding Local Governments or elsewhere?

There are a number of recent examples of clauses pertaining to Aims of Scheme provisions from adjoining or nearby local governments that have been reviewed in this context, including those of Subiaco, Nedlands and Mosman Park – all of which have been gazetted since 2018.

While these local governments have worthy and appropriate Aims, they highlight that the Aims section of the relevant local planning scheme should contain provisions that speak to the heart of the particular local government, otherwise they may be considered to simply be a series of motherhood statements. For example, Subiaco's Aims include 'redevelopment of major sites' and promotion of Subiaco as a 'major public transport node'. Mosman Park's Aims include the facilitation of 'development of the Stirling Highway Activity Corridor' and the 'establishment of an ecological corridor on Wellington Street linking the Indian Ocean to the Swan River...'.

The Aims should strike a balance between locally-applicable meaning and substance, and high level statements of intention. It is also imperative that the Aims be succinctly articulated such that the true intent is not lost by an overly verbose statement.

5. Has the Town received any legal advice (or legal cases) that relates to the application of this clause?

Yes. McLeods provided the Town with an updated review of the Omnibus Amendment of LPS1 (dated 4 May 2018) which noted that the proposal to “adopt the ‘Objectives and Intentions’ set out in the former clause 5 of TPS 1, and re-name them as ‘Aims of Scheme’...maintains the substance of Cambridge-specific objectives and intentions, whilst also having the benefit of the more general guidance provided by the new preceding clause entitled ‘Purposes of Scheme’. In this regard, (the proposal) reflects the intended structure of the Model Scheme Text.”

The previous Objectives and Intentions of LPS1 (prior to the Amendment) only included some additional minor text to several provisions, with no material change to the Aims themselves. For example, the wording “The Council has prepared this Scheme...” was removed from the beginning of one of the provisions.

The advice therefore is not directly relevant to the current proposed Aims of Scheme in this context, but the initial advice comparing the Purposes to the Aims, as per the first paragraph above, can be applied to the proposed new clause. The wording of the proposed new clause aligns with this advice.

6. Have there been any issues through the development assessment process that should inform the review of the scheme?

Officers of the Town have expressed the importance of designated infill sites / areas being developed to, or close to their maximum potential yield in order to meet the State’s infill targets. The under-development of key sites – particularly in close proximity to activity centres and transit nodes – will result in additional pressure to redevelop being placed on less-suitable locations, which has the potential to impact on the quality and character of residential areas.

It is appropriate to include an Aim in the Scheme to this effect, while more specific development controls can be included in later sections of the Scheme and / or through suitably formulated policy.

7. Do the proposed provisions depart from the Model provisions?

No

8. Recommended provisions for LPS2

The nine proposed provisions recommended for inclusion within clause 9 Aims of Scheme entail the following:

The aims of this Scheme are to:

- a) *Facilitate the delivery of a range of high-quality housing choices to meet the changing lifestyle needs of the community;*

- b) Encourage maximisation of development potential in designated infill areas in order to protect the integrity and character of surrounding residential areas;*
- c) Ensure planning provisions support employment and economic growth by providing appropriately located services and zoning land in appropriate locations to facilitate business diversity;*
- d) Recognise and protect the established heritage and character of suburban and urban areas;*
- e) Facilitate alternative modes of transport to enable social and environmental benefits;*
- f) Facilitate improved amenity and community wellbeing by providing usable and accessible open space and areas within the public realm;*
- g) Respond to the changing needs of the community by ensuring the provision of high-quality community infrastructure and facilities in suitable locations;*
- h) Facilitate the delivery and advancement of essential service infrastructure, while encouraging environmentally sustainable development to reduce demand on existing infrastructure; and*
- i) Ensure that future land use and development preserves and protects the environmental integrity of the Town's natural assets.*

4. Conclusion

The Purpose and Aims outlined above provide a robust framework which will continue to guide the preparation and development of the remainder of the Scheme, as well as future policy preparation and development assessment. The Aims in particular align with the Town's recently endorsed Local Planning Strategy, and capture the key strategic objectives that have already been endorsed by both the Town and the Western Australian Planning Commission.

Once agreed, the Purpose and Aims will be incorporated into the *Part 1 – Preliminary* Section of LPS2. A draft copy of Part 1 – Preliminary is attached to this memorandum.

Rise Urban
25 May 2021