

**13.2.3 AMENDMENT NO. 177 TO TOWN PLANNING SCHEME NO. 6 -
FINALISATION - DEVELOPMENT CONTRIBUTION PLANS**

| | |
|----------------------|--|
| Director: | C Terelinck |
| Author's Declaration | Nil |
| Property Number: | Nil |
| Application No: | PF18/00028 |
| Applicant: | City of Gosnells |
| Owner: | Various |
| Location: | Various |
| Zoning: | MRS: Various |
| TPS No. 6: | Residential Development |
| Review Rights: | Nil, however, final determination is with the Minister for Planning. |
| Previous Ref: | OCM 27 November 2018 (Resolution 416) |
| Appendices: | 13.2.3A Schedule of Submissions 13.2.3B Schedule 8 with proposed amendments |

PURPOSE OF REPORT

For Council to consider the finalisation of Scheme Amendment No. 177 to Town Planning Scheme No. 6 (TPS 6), to extend the period of operation of four Development Contribution Arrangements (DCAs) for a further five years, following the completion of public consultation.

BACKGROUND

TPS 6 includes provisions that allow for the use of DCAs in cases where there is a need to share the costs of common infrastructure that are required by a number of landholdings to facilitate future development. Schedule 8 of the Scheme summarises the key operative components of each DCA within the City.

Prior to 2013, TPS 6 contained provisions relating to the term of operation of DCAs as follows:

- "(a) A development contribution arrangement is to specify the period during which it is to operate, but in any event, is not to operate for more than 5 years.*
- (b) The period during which a development contribution arrangement is to operate may be extended and the development contribution arrangement may be amended accordingly.*

At that time, Council had the ability to extend the term of a DCA by a Council resolution.

Item 13.2.3 Continued

With the introduction of the new state level planning regulations in 2015 and their incremental modification over time, extending the period of operation of a DCA required the adoption of a Scheme Amendment.

In 2013, Scheme Amendment No. 122 was prepared to update the provisions relating to DCAs and to restructure the scheme text, in accordance with the requirements and direction of the Western Australian Planning Commission (WAPC).

The amendment introduced provisions into Schedule 8 of TPS 6 for the following DCAs:

- DCA 1 - Canning Vale Structure Plan DCA.
- DCA 2 - Southern River Precinct 2 Structure Plan DCA.
- DCA 3 - West Canning Vale Structure Plan DCA.
- DCA 4 - Central Maddington Structure Plan.

The changes had the effect of altering the period of operation of DCA 1, DCA 2 and DCA 3 to five years from the date of gazettal of Scheme Amendment No. 122 to TPS 6, on 1 November 2013. Therefore, the period of operation of the Canning Vale, Southern River Precinct 2 and West Canning Vale DCAs requires an extension.

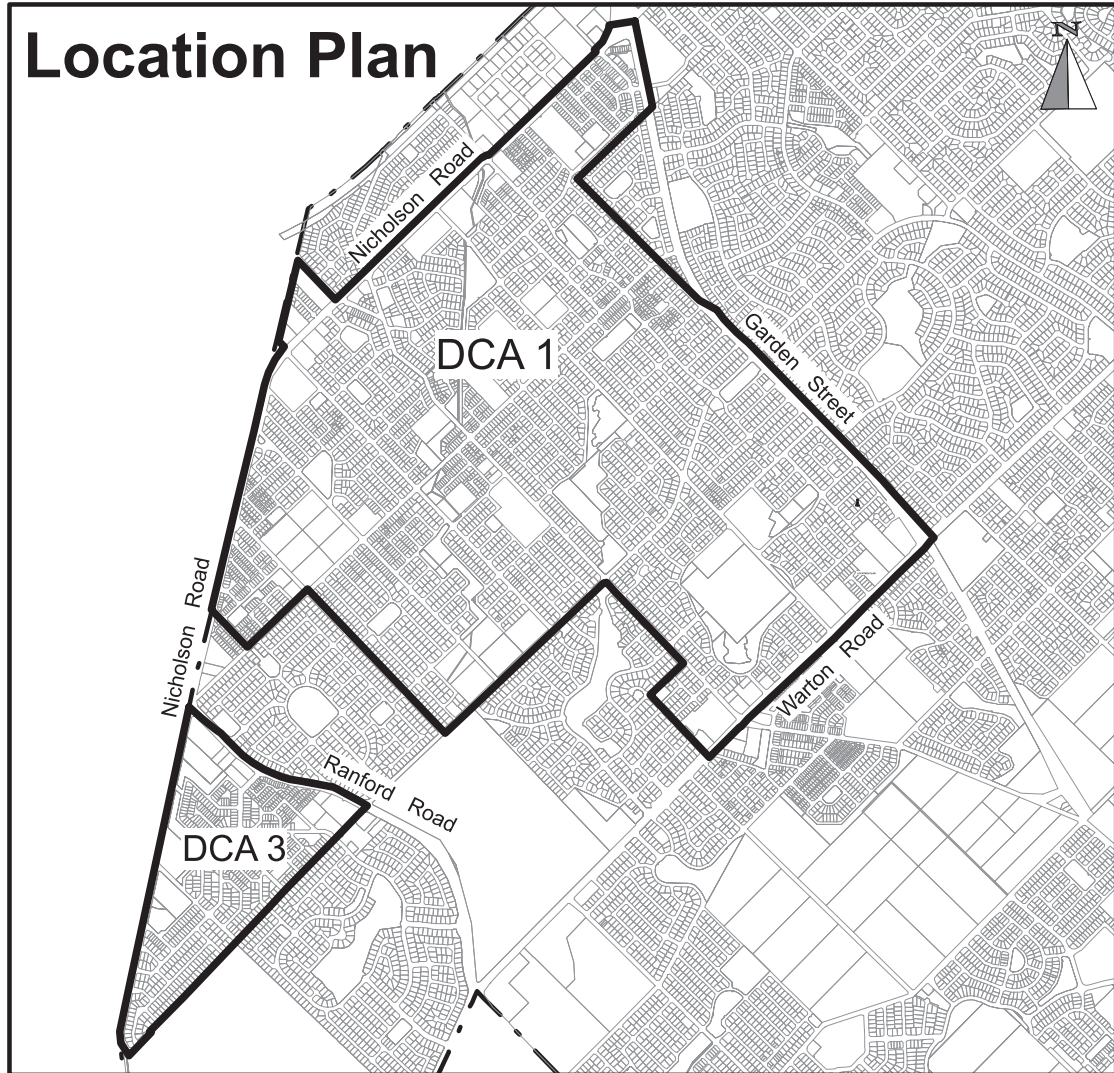
Council adopted a DCA Report for the Central Maddington Structure Plan area (DCA 4) in September 2014. This DCA is currently operational and will expire in September 2019.

As a result of these circumstances, Council initiated Amendment No. 177 to TPS 6 to extend the operation of DCAs 1-4 , in November 2018.

DISCUSSION**Site Description and Planning Framework**

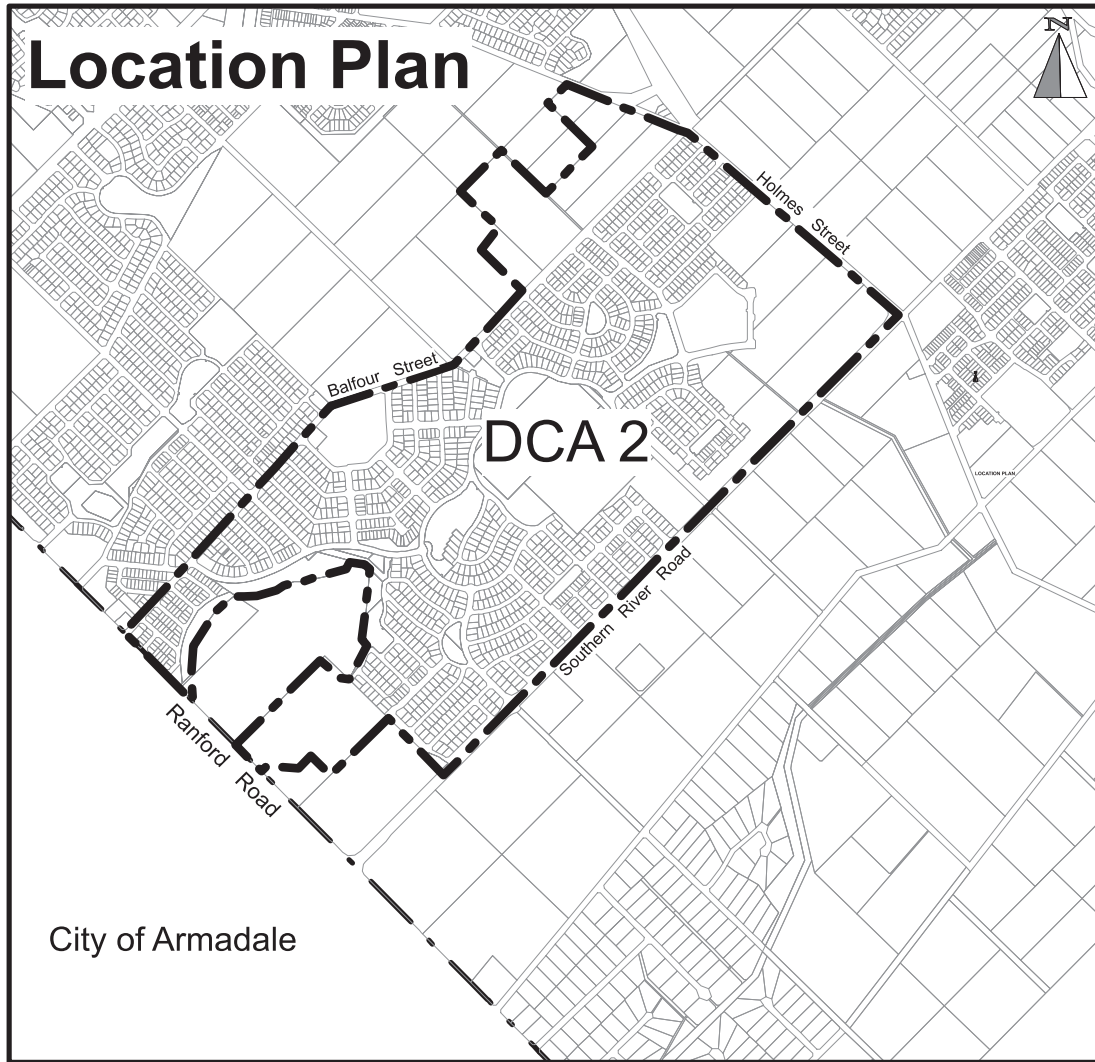
Maps identifying the location of the subject areas follow.

Item 13.2.3 Continued



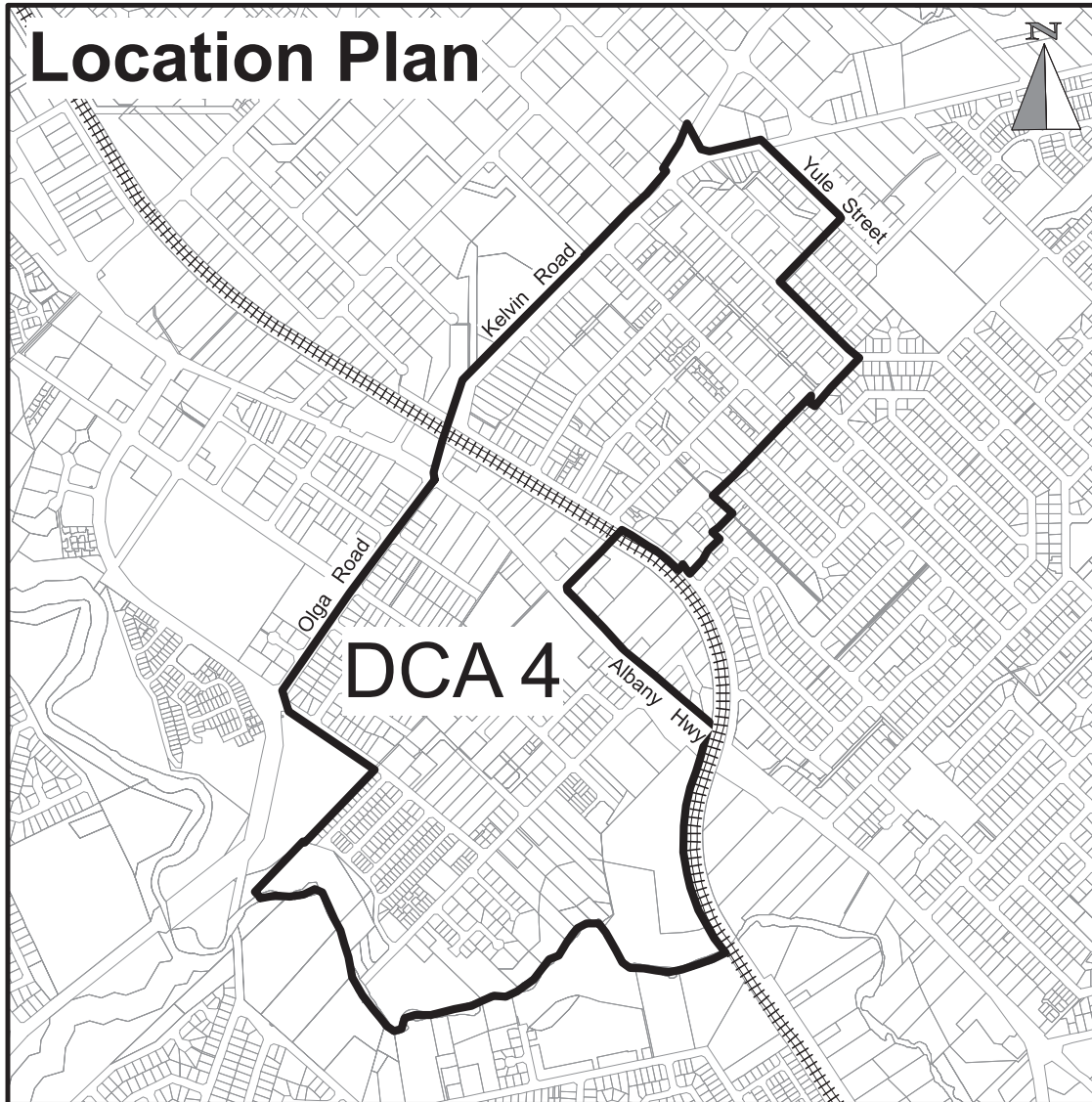
Canning Vale and West Canning Vale

Item 13.2.3 Continued



Southern River Precinct 2

Item 13.2.3 Continued



Central Maddington

Item 13.2.3 Continued

Proposal

It is proposed to amend the Scheme to extend the period of operation of the Canning Vale, West Canning Vale and Southern River Precinct 2 DCAs for a further five years, until 1 November 2023.

The Central Maddington Structure Plan DCA whilst currently operational, will expire in September 2019. It is proposed to extend the expiry date of this DCA to 1 November 2023, which would provide consistency with the expiry dates of the other three DCAs.

Consultation

In accordance with Council's Resolution of 27 November 2018, Scheme Amendment No.177 was referred to the Environmental Protection Authority (EPA) for comment, and the EPA determined that no environmental assessment was required.

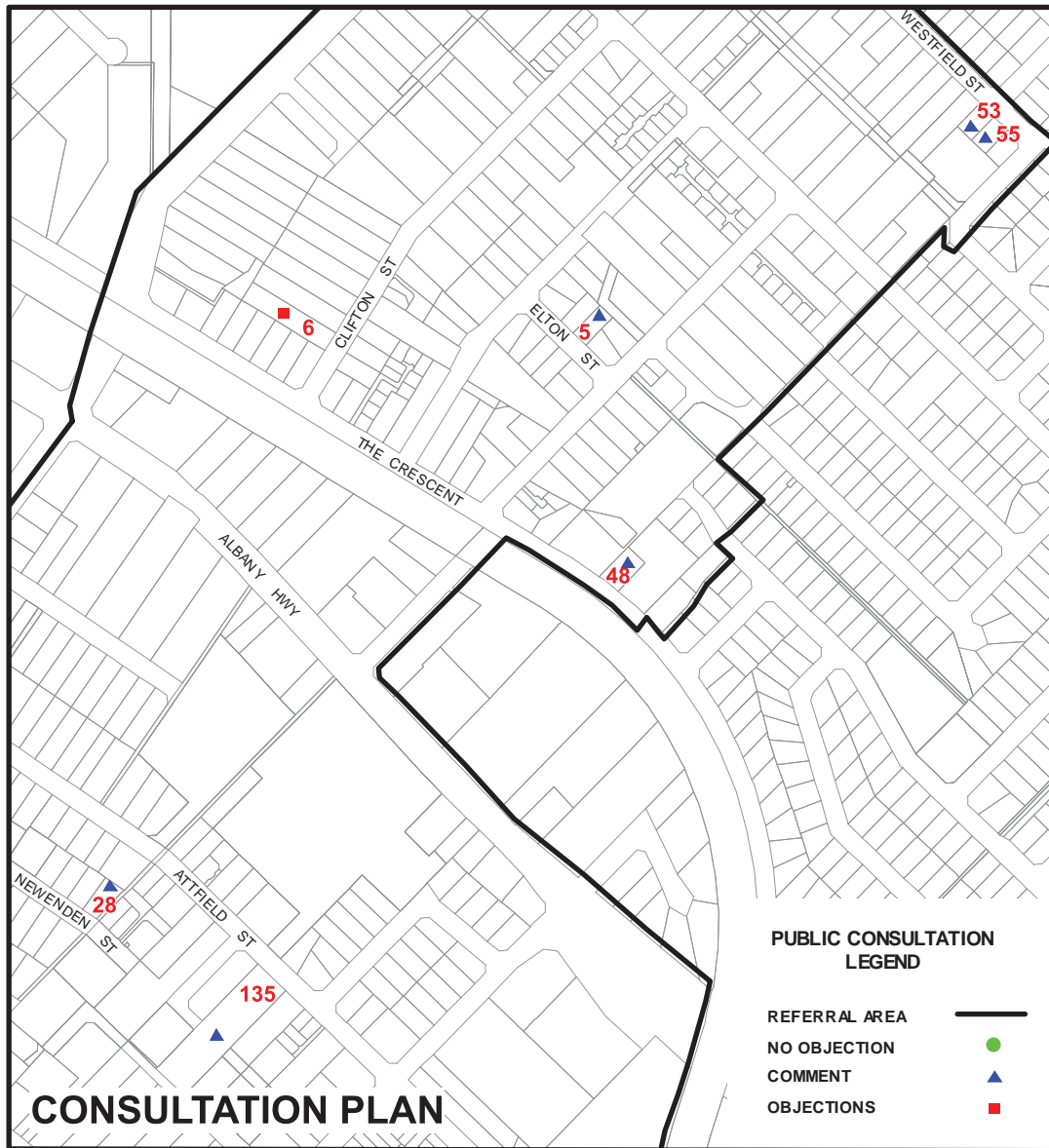
The Amendment was then advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, for a period of 42 days with an additional time allowance provided to accommodate Christmas holidays (from 21 December 2018 to 19 February 2019), by way of:

- Letters being sent to all landowners within the amendment area that have yet to subdivide or develop their land;
- An advertisement placed in The West Australian newspaper;
- A notice on the City's website; and
- Public notices at the City's Civic Centre and libraries.

The City received seven submissions during the advertising period, including one objection and six comments.

A map identifying the consultation area and the origin of the submissions follows. All of the public submission originated from owners of land within DCA 4 - Central Maddington.

Item 13.2.3 Continued



A summary of the submissions received and comments thereon are included in the Schedule of Submissions contained as Appendix 13.2.3A. The relevant issue raised in the submissions related to the implementation of the DCAs.

This matter is discussed later in the report.

Item 13.2.3 Continued

Referrals

In addition to the above, the City referred the proposal to the following government agencies for comment:

- Alinta Gas
- ATCO Gas Australia
- Department of Transport
- Department of Education
- Department of Water and Environmental Regulation
- Department of Fire and Emergency Services
- Heritage Council of Western Australia
- Main Roads Western Australia (MRWA)
- Department of Biodiversity, Conservation and Attractions
- Telstra
- Water Corporation
- Western Power

In response, the City received eight submissions which raised no objections.

DISCUSSION

Implementation of the DCAs

One submission relating to DCA 4 (Central Maddington Structure Plan) objected to the proposal on the basis that they are required to give up land free of cost for a future road. They are also concerned about the requirement to contribute towards the costs of Common Infrastructure Works (CIWs) and Public Open Space (POS).

The Maddington Central Outline Development Plan proposes the construction of new roads across the area. Adjoining landowners are required to cede land as road reserves upon development of their land. It is a normal planning requirement that when land is required as a road reserve, it is ceded free of cost by the landowner without compensation.

The adopted Central Maddington DCA requires that when landowners develop their land, they are required to make a contribution towards CIWs and POS.

Local Planning Scheme No. 24 (LPS 24)

Council's draft LPS 24 incorporates the same provisions relating to DCAs as exists in TPS 6, but with an expiry date of *"five years from the gazettal of LPS 24"*. LPS 24 is currently being assessed by the WAPC. The City will recommend that LPS 24 be modified to provide for an expiry date of 1 November 2023, to ensure consistency with the proposed Scheme Amendment.

Item 13.2.3 Continued

Statutory Process

In accordance with Regulation 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the local government must, before the end of the consideration period for a complex amendment to a local planning scheme, or a later date approved by the Commission, pass a resolution:

- "(a) *to support the amendment to the local planning scheme without modification; or*
- (b) *to support the amendment to the local planning scheme with proposed modifications to address issues raised in the submissions; or*
- (c) *not to support the amendment to the local planning scheme."*

Following the assessment of the proposal by the local government and the passing of a Council resolution, the proposal is to be forwarded to the WAPC for review and to provide a recommendation to the Minister for Planning for consideration and final determination.

CONCLUSION

The Amendment will ensure that a number of existing DCAs in TPS 6 can continue to operate in Canning Vale, Southern River and Maddington. The DCAs will enable landowners to develop at a time that suits them and for the equitable sharing of development costs by landowners as they develop their land. Funds received from DCA contributions are then invested in these new residential areas to provide for public open space, roads and infrastructure.

As such, it is recommended the Amendment be supported without modification.

FINANCIAL IMPLICATIONS

The costs of the proposed amendment can be met from Councils approved budget.

STATUTORY IMPLICATIONS

- TPS 6.
- Draft LPS 24.
- *Planning and Development Act 2005.*
- *Planning and Development (Local Planning Schemes) Regulations 2015.*

VOTING REQUIREMENTS

Simple Majority required.

Item 13.2.3 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (1 OF 2)

57 Moved Cr O Searle Seconded Cr D Goode

That Council, pursuant to Section 41(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, notes the submissions received in respect of Scheme Amendment No. 177 to Town Planning Scheme No. 6 and endorses the responses to the submissions as contained in Appendix 13.2.3A.

CARRIED 10/0

FOR: Cr P Abetz, Cr C Brett, Cr J Brown, Cr D Goode, Cr D Griffiths, Cr J Jones, Cr T Lynes, Cr R Mitchell, Cr O Searle, and Cr G Dewhurst.

AGAINST: Nil.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (2 OF 2)

58 Moved Cr O Searle Seconded Cr D Goode

That Council, pursuant to Section 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, supports Scheme Amendment No. 177 to Town Planning Scheme No. 6 (without modification) and forwards the amendment to the Western Australian Planning Commission for determination by the Minister for Planning.

CARRIED 10/0

FOR: Cr P Abetz, Cr C Brett, Cr J Brown, Cr D Goode, Cr D Griffiths, Cr J Jones, Cr T Lynes, Cr R Mitchell, Cr O Searle, and Cr G Dewhurst.

AGAINST: Nil.

**AMENDMENT NO. 177 TO TOWN PLANNING SCHEME NO. 6 - FINALISATION -
DEVELOPMENT CONTRIBUTION ARRANGEMENTS**

Schedule of Submissions

| | | |
|---|--|---|
| 1 | Affected Property: 6 (Lot 10) Clifton Street Maddington | Postal Address: 14A Gresham Street VICTORIA PARK WA 6100 |
| Summary of Submission | | Comment |
| <p>Objection to proposal</p> <p>1.1 Council wants us to give up part of our property for free.</p> <p>1.2 We are also being asked to contribute towards the cost of the road and to pay in excess of \$200,000.</p> <p>1.3 If we develop the property for 15 units, we will be required to pay for 15 sets of rates.</p> <p>Due to these factors we will be unable to afford to develop the land.</p> | | <p>The Central Maddington Outline Development Plan proposes the construction of a new road at the rear of Lot 10. A small portion of land will need to be ceded at the rear of Lot 10 and included in the existing crown land (future road). All landowners who subdivide or develop their land in this area are required to cede land free of cost to create a road reserve. The construction of this new road then directly benefits these landowners.</p> <p>The Central Maddington Development Contribution Plan Report (DCPR) requires all landowners who develop their land to make contributions towards Common Infrastructure Works (CIW) and Public Open Space (POS). The DCPR outlines the methodology on how these contributions are calculated.</p> <p>Noted.</p> |

| | | |
|---|---|---|
| 2 | Affected Property: 135 (Lot 83) Attfield Street Maddington | Postal Address: 135 Attfield Street MADDINGTON WA 6109 |
| Summary of Submission | | Comment |
| <p>Comment on proposal</p> <p>What is the current valuation of land that will be acquired for public open space and once it is endorsed, what time period will be taken to commence the infrastructure works.</p> | | <p>The latest valuation report (May 2017) values land at \$3,150,000/ha (\$315m²).</p> <p>Council is unable to provide the exact timing on when land will be purchased for POS or roads constructed.</p> <p>Landowners can discuss the options of selling their land with Council at any time. Subject to the availability of funds in the Development Contribution Plan, Council can make an offer to purchase land at current market values as per the Council adopted DCPR.</p> |

| | | |
|--|---|--|
| 3 | Affected Property: 48 (Lot 38) The Crescent Maddington | Postal Address: 5 Allport Close HUNTINGDALE WA 6110 |
| Summary of Submission | | Comment |
| <p>Comment on proposal</p> <p>Please inform me of the outcome of the 5 year extension.</p> | | <p>All submitters will be notified of the Council decision on Amendment No. 177.</p> |

| | | |
|--|---|--|
| 4 | Affected Property: 28 (Lot 107) Newenden Street Maddington | Postal Address: 8 Rawlinson Way SOUTHERN RIVER WA 6110 |
| Summary of Submission | | Comment |
| <p>Comment on proposal</p> <p>The property paid public open space contributions in the 1970s for the first subdivision. It should not be needed and pay for the open space contribution if developed again.</p> <p>As per Council resolution (January 2014) in response to our previous submission, the above properties were deemed exempt from further subdivision costs in the event that they will be further subdivided.</p> | | <p>This property is exempt from making further POS contributions, as contributions were made when the land was originally subdivided.</p> |
| 5 | Affected Property: 53 Westfield Street 55 Westfield Street Maddington | Postal Address: 121 Leslie Street DUDLEY PARK WA 6210 |
| Summary of Submission | | Comment |
| <p>Comment on proposal</p> <p>Our properties are identified on Council maps that they are not exempt from future POS and CIW contributions, despite the fact that Council resolution from December 2013 acknowledged this. Please correct the map area and confirm that the two existing homes at 53 and 55 Westfield Street are exempt from future subdivision costs.</p> <p>The above properties were deemed exempt from further subdivision costs in the event that they were further resubdivided.</p> | | <p>53 and 55 Westfield Street contains two houses that existed prior to the DCP being established. The two houses were subdivided off from the original property and are exempt from the requirement to contribute towards CIW's in the DCP. The two properties were also exempt from the payment of POS.</p> <p>No further contributions are required from this landowner for these two properties.</p> |
| 6 | Affected Property: 5 (Lot 31) Elton Street Maddington | Postal Address: 27 Hawford Way WILLETTON WA 6155 |
| Summary of Submission | | Comment |
| <p>Comment on proposal</p> <p>6.1 The Contribution Plan makes subdivision/development not financially viable.</p> <p>6.2 The proposed upgrades with contribution funds is not beneficial to Elton Street and proposed road upgrades are not needed.</p> | | <p>The contribution arrangement facilitates upgrades to local infrastructure that are needed to support the proposed density increases in Maddington.</p> <p>The upgrading of Elton Street is not required. However, the DCP proposes the construction of a number of new roads that will enable landowners to develop their land.</p> |
| 7 | Affected Property: Anonymous | Postal Address: Anonymous |
| Summary of Submission | | Comment |
| <p>Not interested. You have sealed our fate with our property. Cannot afford it. Not interested in subdividing.</p> | | <p>Noted</p> |

Government Agencies

| | | | |
|---|---|----------------|--|
| 8 | Atco Gas Australia Locked Bag 2 BIBRA LAKE WA 6164 | | |
| Summary of Submission | | Comment | |
| No objection to the proposal. ATCO operate varying pressure gas mains within the four Development Control Areas identified. High pressure gas main are located within the area or in close proximity of the DCA 2,3 and 4 and require additional risk management requirements when development and works are proposed within 15 metres of the High pressure network. | | Noted. | |
| 9 | Department of Education 151 Royal Street EAST PERTH WA 6004 | | |
| Summary of Submission | | Comment | |
| No comment on the proposal. | | Noted. | |
| 10 | Department of Transport 140 William Street PERTH WA 6000 | | |
| Summary of Submission | | Comment | |
| No objection to the proposal. | | Noted. | |
| 11 | Main Roads Western Australia PO Box 6202 EAST PERTH WA 6004 | | |
| Summary of Submission | | Comment | |
| No objection to the proposal. | | Noted. | |
| 12 | Department of Water Environmental Regulation Swan Avon Region 7 Ellam Street VICTORIA PARK WA 6100 | | |
| Summary of Submission | | Comment | |
| No comment on the proposal. | | Noted. | |
| 13 | Water Corporation PO Box 100 LEEDERVILLE WA 6902 | | |
| Summary of Submission | | Comment | |
| No objections or concerns with the proposal. | | Noted. | |
| 14 | Department of Fire and Emergency Services GPO Box P1174 PERTH WA 6844 | | |
| Summary of Submission | | Comment | |
| The proposal is not considered an intensification of land use, DFES is satisfied with the decision maker determining if the application of <i>Statement of Planning Policy 3.7 Planning in Bushfire Prone Areas</i> is necessary. | | Noted. | |
| 15 | Department of Biodiversity, Conservation and Attractions Locked Bag 104 Bentley Delivery Centre WA 6983 | | |
| Summary of Submission | | Comment | |
| No objections or concerns with the proposal. | | Noted. | |

Schedule 8 - Development Contribution Plans

[cl. 5.4]

ATTACHMENT A*(Inserted Amend. 122 - 1.11.2013)*

| Reference No. | DCP1 |
|--|---|
| Area Name | DCA 1 (Canning Vale Structure Plan DCA) |
| Relationship to other planning instruments | This Development Contribution Plan operates in association with the Canning Vale Structure Plan |
| Infrastructure and administration items to be funded | <ol style="list-style-type: none"> 1. Drainage Construction 2. Shared Paths 3. Road Construction 4. Road Resumption 5. Traffic Management 6. Service Relocation 7. Power Line Upgrading 8. Conservation Category Wetland Development 9. General Administration and Studies 10. Public Open Space |
| Method for calculating contributions | <p><i>All landowners within the DCA 1 shall make a contribution to the cost of common infrastructure and administrative items, based on net lot areas, as detailed in the Development Contribution Plan Report.</i></p> <p><i>The general formula for the requisite contribution is as follows:</i></p> <p><i>Area of total DCA (A) is as per Clause 5.4.8 of TPS 6</i> <i>Total DCA cost (B) = cost of infrastructure items + cost of administrative items</i></p> <p><i>Contribution Rate (C) = Total DCA cost (B) / Area of total DCA (A)</i></p> <p><i>Area of subject site (D) is as per Clause 5.4.8 of TPS 6</i></p> <p><i>Owner's cost contribution = Contribution Rate (C) x Area of subject site (D)</i></p> |
| Period of operation | Five years from the date of gazettal of Amendment No. 122 to Town Planning Scheme No. 6. 1 November 2018 to 1 November 2023. |
| Priority and timing | As set out in the Development Contribution Plan Report or in accordance with any relevant Council resolution. |
| Review process | Council will review the Development Contribution Plan Report annually and will adjust the cost estimate of infrastructure items and land valuations as required. |

ATTACHMENT B*(Inserted Amend. 122 - 1.11.2013)*

| Reference No. | DCP2 |
|--|---|
| Area Name | DCA 2 (Southern River Precinct 2 Structure Plan DCA) |
| Relationship to other planning instruments | This Development Contribution Plan operates in association with the Southern River Precinct 2 Structure Plan |
| Infrastructure and administration items to be funded | <ol style="list-style-type: none"> 1. Drainage Construction 2. Arterial Road Construction 3. Land Acquisition for Arterial Roads 4. Traffic Management 5. Land Acquisition for Conservation Category Wetlands 6. Conservation Category Wetland Development 7. General Administration and Studies 8. Public Open Space |
| Method for calculating contributions | <p><i>All landowners within the DCA 2 shall make a contribution to the cost of common infrastructure and administrative items, based on net lot areas, as detailed in the Development Contribution Plan Report.</i></p> <p><i>The general formula for the requisite contribution is as follows:</i></p> <p><i>Area of total DCA (A) is as per Clause 5.4.8 of TPS 6</i> <i>Total DCA cost (B) = cost of infrastructure items + cost of administrative items</i></p> <p><i>Contribution Rate (C) = Total DCA cost (B) / Area of total DCA (A)</i></p> <p><i>Area of subject site (D) is as per Clause 5.4.8 of TPS 6</i></p> <p><i>Owner's cost contribution = Contribution Rate (C) x Area of subject site (D)</i></p> |
| Period of operation | Five years from the date of gazettal of Amendment No. 122 to Town Planning Scheme No. 6 1 November 2018 to 1 November 2023. |
| Priority and timing | As set out in the Development Contribution Plan Report or in accordance with any relevant Council resolution. |
| Review process | Council will review the Development Contribution Plan Report annually and will adjust the cost estimate of infrastructure items and land valuations as required. |

ATTACHMENT C*(Inserted Amend. 122 - 1.11.2013)*

| Reference No. | DCP3 |
|--|---|
| Area Name | DCA 3 (West Canning Vale Structure Plan DCA) |
| Relationship to other planning instruments | This Development Contribution Plan operates in association with the West Canning Vale Structure Plan |
| Infrastructure and administration items to be funded | <ol style="list-style-type: none"> 1. Drainage Construction 2. Land to be acquired for drainage 3. Shared Paths 4. Road Construction 5. Resumption for Road Widening 6. Resumption for Conservation Category Wetlands 7. Traffic Management 8. Service Relocation 9. Conservation Category Wetland Development 10. General Administration and Studies 11. Public Open Space |
| Method for calculating contributions | <p><i>All landowners within the DCA 3 shall make a contribution to the cost of common infrastructure and administrative items, based on net lot areas, as detailed in the Development Contribution Plan Report.</i></p> <p><i>The general formula for the requisite contribution is as follows:</i></p> <p><i>Area of total DCA (A) is as per Clause 5.4.8 of TPS 6</i> <i>Total DCA cost (B) = cost of infrastructure items + cost of administrative items</i></p> <p><i>Contribution Rate (C) = Total DCA cost (B) / Area of total DCA (A)</i></p> <p><i>Area of subject site (D) is as per Clause 5.4.8 of TPS 6</i></p> <p><i>Owner's cost contribution = Contribution Rate (C) x Area of subject site (D)</i></p> |
| Period of operation | Five years from the date of gazettal of Amendment No. 122 to Town Planning Scheme No. 6. 1 November 2018 to 1 November 2023. |
| Priority and timing | As set out in the Development Contribution Plan Report or in accordance with any relevant Council resolution. |
| Review process | Council will review the Development Contribution Plan Report annually and will adjust the cost estimate of infrastructure items and land valuations as required. |

ATTACHMENT D*(Inserted Amend. 122 - 1.11.2013)*

| Reference No. | DCP4 |
|--|---|
| Area Name | DCA 4 (Central Maddington Structure Plan DCA) |
| Relationship to other planning instruments | This Development Contribution Plan operates in association with the Central Maddington Structure Plan |
| Infrastructure and administration items to be funded | <ol style="list-style-type: none"> 1. Drainage Construction 2. Shared Paths 3. Road Construction 4. Land acquisition for roads 5. Traffic Management 6. Street Lighting 7. Underground Power 8. Street Trees 9. Development of Public Open Space 10. General Administration and Studies 11. Preparation of the Structure Plan 12. Public Open Space |
| Method for calculating contributions | <p><i>All landowners within the DCA 4 shall make a contribution to the cost of common infrastructure and administrative items, based on net lot areas, as detailed in the Development Contribution Plan Report.</i></p> <p><i>The general formula for the requisite contribution is as follows:</i></p> <p><i>Area of total DCA (A) is as per Clause 5.4.8 of TPS 6</i> <i>Total DCA cost (B) = cost of infrastructure items + cost of administrative items</i></p> <p><i>Contribution Rate (C) = Total DCA cost (B) / Area of total DCA (A)</i></p> <p><i>Area of subject site (D) is as per Clause 5.4.8 of TPS 6</i></p> <p><i>Owner's cost contribution = Contribution Rate (C) x Area of subject site (D)</i></p> |
| Period of operation | Five years from the date of Council's adoption of a Development Contribution Plan Report for the Central Maddington Structure Plan Development Contribution Area 1 November 2018 to 1 November 2023. |
| Priority and timing | As set out in the Development Contribution Plan Report or in accordance with any relevant Council resolution. |
| Review process | Council will review the Development Contribution Plan Report annually and will adjust the cost estimate of infrastructure items and land valuations as required. |