

**13.5.2 AMENDMENT NO. 89 TO TOWN PLANNING SCHEME NO. 6 – CENTRAL MADDINGTON OUTLINE DEVELOPMENT PLAN - MODIFICATION TO FORMER RESOLUTION 26 MADE AT 12 FEBRUARY 2008 ORDINARY COUNCIL MEETING**

Author:	C Donnelly
Application No:	PF07/00052
Applicant:	City of Gosnells
Owner:	Various
Location:	Maddington
Zoning: MRS:	Urban, Urban Deferred, Parks and Recreation, Waterways, Primary Regional Roads and Other Regional Roads.
TPS No. 6:	Residential R17.5, Residential R30, Residential R40, Highway Commercial, Mixed Business, Local Open Space, Public Purposes, Water Courses and General Rural.
Review Rights:	Yes. State Administrative Tribunal against any discretionary decision of Council.
Area:	150ha (approximately)
Previous Ref:	OCM 12 February 2008 (Resolutions 22-27) OCM 27 March 2007 (Resolution 111) OCM 19 December 2006 (Resolution 625) OCM 8 August 2006 (Resolution 382) OCM 23 May 2006 (Resolution 228) OCM 26 October 2004 (Resolution 617) OCM 23 September 2003 (Resolution 644) OCM 8 April 2003 (Resolution 216) OCM 13 August 2002 (Resolution 654)
Appendix:	13.5.2A Proposed Central Maddington Outline Development Plan

**PURPOSE OF REPORT**

For Council to consider amending Resolution 26 of the 12 February 2008 Ordinary Council Meeting with regard to Amendment No. 89 to Town Planning Scheme No. 6.

**BACKGROUND**

At its meeting of 12 February 2008, Council considered various planning proposals for the Central Maddington area, including:

1. Formally discontinuing draft Town Planning Scheme No. 21.
2. Determining whether the proposed Central Maddington Outline Development Plan (ODP) was satisfactory for advertising.
3. Initiating an amendment to Town Planning Scheme No. 6 (TPS 6) to rezone part of the Central Maddington ODP area to Residential Development, establish the Central Maddington area as a development contribution area, and generally setting out common infrastructure works and costs for which development contributions would be collected.

With regard to the proposed Central Maddington ODP, Council resolved (Resolution 24):

*“That Council, pursuant to Clause 7.4.2(b) of Town Planning Scheme No. 6:*

1. *Determine that the proposed Central Maddington Outline Development Plan, contained in Appendix 13.5.1B, is satisfactory for the purposes of advertising for public comment, subject to the Plan first being modified to the satisfaction of the Director Planning and Sustainability to increase the amount of Local Open Space shown on the Plan from approximately 5.4% to 8%, in accordance with Liveable Neighbourhoods, with the Local Open Space being equitably distributed, as far as practicable, between Areas A and B, based on the proportionate size of each area.*
2. *Advertise the Central Maddington Outline Development Plan for public comment, once modified in accordance with 1 above, by way of:*
  - a) *Letter to all landowners within the Central Maddington Outline Development Plan area.*
  - b) *Letters to relevant public authorities.*
  - c) *Advertisements in two local newspapers for three consecutive weeks.*
  - d) *Display on the City’s website, and at the City’s Administration Building and Libraries.”*

In accordance with this Council Resolution, City staff have made the necessary modifications to the ODP to the satisfaction of the Director Planning and Sustainability. A copy of the proposed Central Maddington ODP, as modified in accordance with Council’s Resolution, is contained in Appendix 13.5.2A. The ODP is proposed to be advertised for public comment at the same time as Amendment No. 89.

As a result of Council determining that the amount of Local Open Space shown on the ODP is to be increased, a modification is now also required to proposed Amendment No. 89 to TPS 6.

## **DISCUSSION**

With regard to proposed Amendment No. 89, Council at its meeting of 12 February 2008 resolved (Resolution 26):

*“That Council, pursuant to Section 75 of the Planning and Development Act (2005), adopt Amendment No. 89 to Town Planning Scheme No. 6 for the purpose of:*

1. *Rezoning land within the Central Maddington Outline Development Plan area from Residential R17.5, Residential R30, Residential R40, Highway Commercial, Mixed Business, Local Open Space, Public Purposes, Water Courses, and General Rural to Residential Development, as depicted on the Scheme Amendment maps attached as Appendices 13.5.1C and 13.5.1D.*
2. *Adding to Schedule 12 of the Scheme Text Attachment D, as set out below, and Map 1 (attached as Appendix 13.5.1E) regarding the specific common infrastructure works and costs for the Central Maddington Outline Development Plan area:*

*“ATTACHMENT D*

*SPECIFIC PROVISIONS RELATING TO THE CENTRAL MADDINGTON OUTLINE DEVELOPMENT PLAN AREA*

1. *“Central Maddington Outline Development Plan area” means the area shown on Map 1, titled Central Maddington Outline Development Plan area.*
2. *Common infrastructure works additional to those detailed in the Twelfth Schedule of the Scheme as follows:*
  - (a) *The construction of new, and upgrading of existing drainage infrastructure, and associated urban water management measures.*
  - (b) *The construction of dual-use paths as required by the adopted Outline Development Plan.*
  - (c) *The construction of Outline Development Plan funded roads as required by the adopted Outline Development Plan.*
  - (d) *The construction of traffic management devices as required by the adopted Outline Development Plan.*
  - (e) *The upgrading of street lighting.*
  - (f) *The provision of underground power.*
  - (g) *The planting of street trees.*
  - (h) *The development of Local Open Space.*
3. *Cost contributions additional to those detailed in the Twelfth Schedule of the Scheme as follows:*
  - (a) *The cost of construction of new, and upgrading of existing drainage infrastructure, and associated urban water management measures.*

- (b) *The cost of construction of dual-use paths as required by the adopted Outline Development Plan.*
  - (c) *The cost of construction of Outline Development Plan funded roads as required by the adopted Outline Development Plan.*
  - (d) *The cost of acquisition of land required for Outline Development Plan funded roads as required by the adopted Outline Development Plan.*
  - (e) *The cost of construction of traffic management devices as required by the adopted Outline Development Plan.*
  - (f) *The cost of upgrading of street lighting.*
  - (g) *The cost of provision of underground power.*
  - (h) *The cost of planting of street trees.*
  - (i) *The cost of general administration of the Outline Development Plan.*
  - (j) *The cost of preparation of the Outline Development Plan.*
  - (k) *The cost of acquisition of land required for Local Open Space as required by the adopted Outline Development Plan.*
  - (l) *The cost of development of Local Open Space.*
4. *In respect to the provision of Local Open Space as required by the adopted Outline Development Plan, the following is applicable:*
- (a) *The contribution rate for the provision of Local Open Space shall be 10% of the net developable area.*
  - (b) *A Local Open Space contribution may be provided as a land component and/or cash-in-lieu for Local Open Space acquisition and/or development as required by the adopted Outline Development Plan.*
  - (c) *Landowners who provide land in excess of the contribution rate stated in Clause 4(a) for Local Open Space are to be reimbursed by the Scheme to the unimproved value of the land as determined by a licensed valuer or otherwise agreed.”*

Clause 4(a) of proposed Attachment D to the Twelfth Schedule of the Scheme identifies a specific contribution rate of 10% for the provision of Local Open Space. As a result of Council's decision to have the Central Maddington ODP show an increased amount of Local Open Space, the ODP now proposes in excess of 10% Local Open Space (approximately 10.9%).

As such, the 10% contribution rate identified in the proposed Scheme Amendment would not generate adequate funds for the acquisition of all proposed Local Open Space areas. In this context, and given that the amount of Local Open Space may change prior to the finalisation of the ODP, City staff consider that the Scheme Amendment should not identify a specific contribution rate for Local Open Space.

Instead, the contribution rate for Local Open Space should be identified in a development contribution plan (DCP), which will be prepared once the ODP is further progressed. A DCP would detail the operation of the development contribution arrangement and set out administrative requirements and procedures.

As a DCP will set out how contributions to Local Open Space will be determined, it is considered that Clauses 4(b) and 4(c) of proposed Attachment D to the Twelfth Schedule of the Scheme are not required. These provisions address procedural and operational matters which can be addressed in a DCP.

It is proposed to replace Clause 4 of proposed Attachment D to the Twelfth Schedule of the Scheme with the following wording:

- “4. A development contribution plan shall be prepared to detail the intended operation of the development contribution arrangement pursuant to the Twelfth Schedule of the Scheme.”

In accordance with Clause 3.10.2(1)(a) of the City of Gosnells Standing Orders Local Law, any motion to change a former decision must be supported by at least one third of the number of offices of Members of the Council, inclusive of the mover, with Clause 3.10.2(2)(b) requiring an absolute majority to change a former resolution.

## **CONCLUSION**

City staff will recommend that Council resolve to amend Resolution 26 of the 12 February 2008 Ordinary Council Meeting as detailed in this report.

## **FINANCIAL IMPLICATIONS**

Nil.

## STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**103 Moved Cr B Wiffen Seconded Cr J Brown, S Iwanyk and W Barrett**

That Council amend Part 2 of Resolution 26 of the Ordinary Council Meeting held on 12 February 2008 by deleting the following wording:

- “4. In respect to the provision of Local Open Space as required by the adopted Outline Development Plan, the following is applicable:*
- (a) The contribution rate for the provision of Local Open Space shall be 10% of the net developable area.*
  - (b) A Local Open Space contribution may be provided as a land component and/or cash-in-lieu for Local Open Space acquisition and/or development as required by the adopted Outline Development Plan.*
  - (c) Landowners who provide land in excess of the contribution rate stated in Clause 4(a) for Local Open Space are to be reimbursed by the Scheme to the unimproved value of the land as determined by a licensed valuer or otherwise agreed.”*

and replacing it with the following wording:

- “4. A development contribution plan shall be prepared to detail the intended operation of the development contribution arrangement pursuant to the Twelfth Schedule of the Scheme.”*

**CARRIED BY ABSOLUTE MAJORITY 9/0**

**FOR:** Cr D Griffiths, Cr B Wiffen, Cr S Iwanyk, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.