



ORDINARY COUNCIL MEETING  
8 NOVEMBER 2011

TABLE OF CONTENTS - MINUTES

Item	Report Title	Page No.
1.	OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS/DISCLAIMER .....	1
2.	RECORD OF ATTENDANCE.....	2
3.	DECLARATIONS OF INTEREST .....	3
4.	ANNOUNCEMENTS BY THE PRESIDING MEMBER.....	4
5.	REPORTS OF DELEGATES.....	4
6.	QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS.....	5
6.1	QUESTION TIME.....	5
6.2	PUBLIC STATEMENTS.....	5
7.	CONFIRMATION OF MINUTES.....	5
8.	THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS .....	6
9.	APPLICATIONS FOR LEAVE OF ABSENCE .....	6
10.	QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN.....	6
11.	ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY .....	6
12.	MINUTES OF COMMITTEE MEETINGS .....	7
12.1	AUDIT COMMITTEE MEETING HELD 1 NOVEMBER 2011 .....	7
12.1.1	AUDIT COMMITTEE - AUDITED ANNUAL FINANCIAL REPORT - 2011 .....	9
12.1.2	AUDIT COMMITTEE - REVIEW OF PROCUREMENT OF GOODS OR SERVICES POLICY 4.1.8 .....	11
12.1.3	AUDIT COMMITTEE - 2012/2013 BUDGET - PROPOSED TIMETABLE.....	13
12.1.4	AUDIT COMMITTEE - TERMS OF REFERENCE.....	15
13.	REPORTS .....	17

Item	Report Title	Page No.
13.1	CHIEF EXECUTIVE OFFICE.....	17
13.2	COMMUNITY ENGAGEMENT .....	17
13.3	CORPORATE SERVICES .....	17
13.3.1	BUDGET VARIATIONS .....	17
13.4	INFRASTRUCTURE .....	21
13.4.1	TENDER 30/2011 - STREET TREE MAINTENANCE .....	21
13.5	PLANNING AND SUSTAINABILITY .....	27
13.5.1	DEVELOPMENT APPLICATION - INSTALLATION OF SECURITY TOPPING ON THE PERIMETER WALL AT EXISTING SUB-STATION - 25 (LOT 112) CAROLE ROAD, MADDINGTON .....	27
13.5.2	DEVELOPMENT APPLICATION -RETROSPECTIVE FILL AND TRANSPORT DEPOT - 176 (LOT 10) MADDINGTON ROAD, MADDINGTON.....	31
13.5.3	DEVELOPMENT APPLICATION - SERVICED ACCOMMODATION AND COMMUNAL FACILITIES - 20 (LOT 7) AND 22 (LOT 503) THE CRESCENT, MADDINGTON.....	39
13.5.4	DEVELOPMENT APPLICATION - FAMILY DAY CARE - 88 (LOT 402) LAUTERBACH DRIVE, GOSNELLS .....	47
13.5.5	INITIATION OF LEGAL PROCEEDINGS - NON-COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL - 280 (LOT 123) SHREEVE ROAD, CANNING VALE.....	53
13.5.6	AMENDMENT NO. 108 TO TOWN PLANNING SCHEME NO. 6 - INITIATION - DEVELOPMENT CONTRIBUTION ARRANGEMENT FOR SOUTHERN RIVER PRECINCT 1.....	57
13.5.7	MADDINGTON ROAD PRECINCT A OUTLINE DEVELOPMENT PLAN - FINALISATION.....	74
13.5.8	DRAFT LOCAL PLANNING POLICY - HOME BASED ACTIVITIES.....	83
13.6	GOVERNANCE.....	86
13.6.1	2012 MEETING SCHEDULE - ORDINARY COUNCIL, PUBLIC ART AND AUDIT COMMITTEES.....	86
13.6.2	2011 DELEGATED AUTHORITY REVIEW .....	89
13.6.3	BUILDING APPLICATION - GARAGE EXTENSION - 43 (LOT 790) GUNDARING TURN, CANNING VALE .....	94

Item	Report Title	Page No.
	13.6.4 ANNUAL REPORT 2010-2011 .....	99
14.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	100
15.	NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING .....	100
16.	URGENT BUSINESS .....	100
17.	CONFIDENTIAL MATTERS .....	100
18.	CLOSURE .....	100

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Minutes of the Ordinary Council Meeting held in the City of Gosnells Civic Centre Council Chambers, 2120 Albany Highway, Gosnells on Tuesday 8 November 2011.

**1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS/DISCLAIMER**

The Mayor declared the meeting open at 7.32pm and welcomed members of the public present in the public gallery, Councillors and staff.

**1.1 DISCLAIMER**

The Mayor read aloud the following statement:

Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until such time as they have seen a copy of the Minutes of the meeting or have been advised in writing by City staff.

**1.2 RECORDING OF COUNCIL MEETINGS**

*Please take notice that all Council Meetings are digitally recorded, with the exception of Confidential Agenda Items (in accordance with Section 5.23(2) of the Local Government Act 1995) during which time recording will cease.*

*Following publication and distribution of the meeting minutes to Elected Members the digital recording will be available in the following formats, for purchase at a fee adopted by Council annually:*

- *Digital recordings CD ROM (complete with FTR Reader) for use on a Personal Computer; or*
- *Audio recordings CD ROM for use on a CD player or DVD player.*

*For further information please contact the Governance Administration Officer on 9397 3012.*

I \_\_\_\_\_ (THE PRESIDING MEMBER)  
CERTIFY THAT THESE MINUTES WERE CONFIRMED BY THE COUNCIL OF THE  
CITY OF GOSNELLS ON \_\_\_\_\_.

**2. RECORD OF ATTENDANCE**

**2.1 ATTENDANCE**

**ELECTED MEMBERS**

MAYOR  
DEPUTY MAYOR

CR D GRIFFITHS  
CR R MITCHELL  
CR W BARRETT  
CR J BROWN  
CR T BROWN  
CR L GRIFFITHS  
CR R HOFFMAN  
CR S IWANYK  
CR K JONES  
CR O SEARLE

**STAFF**

CHIEF EXECUTIVE OFFICER  
DIRECTOR COMMUNITY ENGAGEMENT  
DIRECTOR CORPORATE SERVICES  
DIRECTOR INFRASTRUCTURE  
DIRECTOR PLANNING & SUSTAINABILITY  
DIRECTOR GOVERNANCE  
MINUTE CLERK  
SYSTEMS SUPPORT OFFICER

MR I COWIE  
MS A COCHRAN  
MR R BOUWER  
MR D HARRIS  
MR C TERELINCK  
MR T PERKINS  
MISS S MACGROTTY  
MR S O'DONOVAN

**PUBLIC GALLERY**

Six

**2.2 APOLOGIES**

Nil.

**2.3 LEAVE OF ABSENCE**

Cr G Dewhurst was granted Leave of Absence for 8 November 2011 vide Resolution 457 of the Ordinary Council Meeting held on 25 October 2011.

Cr R Lawrence was granted Leave of Absence from 8 November 2011 to 21 November 2011 vide Resolution 457 of the Ordinary Council Meeting held on 25 October 2011.

**3. DECLARATIONS OF INTEREST**

Cr L Griffiths declared an Impartiality Interest in Item 12.1, "Audit Committee Meeting Held 1 November 2011".

**Reason:** Member of the Audit Committee.

Cr L Griffiths declared an Impartiality Interest in Item 12.1.1, "Audit Committee - Audited Annual Financial Report - 2011".

**Reason:** Member of the Audit Committee.

Cr L Griffiths declared an Impartiality Interest in Item 12.1.2, "Audit Committee - Review of Procurement of Goods or Services Policy 4.1.8".

**Reason:** Member of the Audit Committee.

Cr L Griffiths declared an Impartiality Interest in Item 12.1.3, "Audit Committee - 2012/2013 Budget - Proposed Timetable".

**Reason:** Member of the Audit Committee.

Cr L Griffiths declared an Impartiality Interest in Item 12.1.4, " Audit Committee - Terms of Reference".

**Reason:** Member of the Audit Committee.

Cr J Brown declared an Impartiality Interest in Item 12.1, "Audit Committee Meeting Held 1 November 2011".

**Reason:** Member of the Audit Committee.

Cr J Brown declared an Impartiality Interest in Item 12.1.1, "Audit Committee - Audited Annual Financial Report - 2011".

**Reason:** Member of the Audit Committee.

Cr J Brown declared an Impartiality Interest in Item 12.1.2, "Audit Committee - Review of Procurement of Goods or Services Policy 4.1.8".

**Reason:** Member of the Audit Committee.

Cr J Brown declared an Impartiality Interest in Item 12.1.3, "Audit Committee - 2012/2013 Budget - Proposed Timetable".

**Reason:** Member of the Audit Committee.

Cr J Brown declared an Impartiality Interest in Item 12.1.4, " Audit Committee - Terms of Reference".

**Reason:** Member of the Audit Committee.

Cr S Iwanyk declared an Impartiality Interest in Item 12.1, "Audit Committee Meeting Held 1 November 2011".

**Reason:** Member of the Audit Committee.

Cr S Iwanyk declared an Impartiality Interest in Item 12.1.1, "Audit Committee - Audited Annual Financial Report - 2011".

**Reason:** Member of the Audit Committee.

Cr S Iwanyk declared an Impartiality Interest in Item 12.1.2, "Audit Committee - Review of Procurement of Goods or Services Policy 4.1.8".

**Reason:** Member of the Audit Committee.

Cr S Iwanyk declared an Impartiality Interest in Item 12.1.3, "Audit Committee - 2012/2013 Budget - Proposed Timetable".

**Reason:** Member of the Audit Committee.

Cr S Iwanyk declared an Impartiality Interest in Item 12.1.4, " Audit Committee - Terms of Reference".

**Reason:** Member of the Audit Committee.

#### **4. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

(without discussion)

The Mayor circulated to Councillors a list of functions and events he had attended since 25 October 2011.

#### **5. REPORTS OF DELEGATES**

(without debate)

Cr R Mitchell advised that he attended the 10<sup>th</sup> Anniversary Celebration for the Smith Family WA on behalf of the Mayor. Cr Mitchell stated the Smith Family was a fantastic group that provides superior help and assistance to youths and their families.

Cr R Hoffman invited and encouraged all Councillors to attend the next Rivers Regional Council Meeting on the 15 December 2011 at the City of Gosnells Civic Centre.

Cr J Brown advised that the Armadale Health Service Community Advisory Group nomination for an award has been accepted by the abstract panel and therefore the group will be presenting a power point presentation at the WA Health Conference in November.

Cr W Barrett advised Councillors that he had provided them with a brochure regarding the Perth Airport Redevelopment. The role of the Perth Airport Municipalities Group is to provide information as to what is going to happen regarding the Perth Airport.



**6. QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS**

A period of 15 minutes is allocated for questions with a further period of 15 minutes provided for statements from members of the public. To ensure an equal and fair opportunity is provided to address Council, a period of 3 minutes per speaker is allowed.

The person's speaking right is to be exercised prior to any matter which requires a decision to be made at the meeting.

Questions and statements are to be –

- a) Presented in writing on the relevant form to the Chief Executive Officer prior to commencement of the meeting; and
- b) Clear and concise.

**QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS AWAITING RESPONSE**

Nil.

**RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS**

Nil.

**6.1 QUESTION TIME**

Nil.

**6.2 PUBLIC STATEMENTS**

Nil.

**7. CONFIRMATION OF MINUTES**

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**502 Moved Cr L Griffiths Seconded Cr J Brown**

That the Minutes of the Ordinary Council Meeting held on 25 October 2011, as published and distributed be confirmed as an accurate record.

**CARRIED 10/0**

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

**8. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS**

Petitions and Deputations are made in accordance with the requirements outlined in the City of Gosnells Standing Orders Local Law.

Copies of petitions and any documentation tabled or shown during a Deputation or Presentation must be provided to the Chief Executive Officer immediately following completion of the submission.

Nil.

**9. APPLICATIONS FOR LEAVE OF ABSENCE**

Clause 2.9 of the City of Gosnells Standing Orders Local Law 2003 states:

- “(1) A Member seeking the Council's approval to take leave of absence shall give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in paragraph (1) shall include the period of leave of absence required and the reasons for seeking the leave”.

Nil.

**10. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN  
(without discussion)**

Nil.

**11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE  
PUBLIC GALLERY**

For the convenience of the public gallery, Council may resolve to bring forward any matter that has been raised during Item 6 'Question Time for the Public and the Receiving of Public Statements', Item 8 'The Receiving of Petitions, Deputations and Presentations' or any other minutes item known to be of interest to the public in attendance [Clause 2.15.4(9) of the City of Gosnells Standing Orders Local Law]

Nil.

## 12. MINUTES OF COMMITTEE MEETINGS

*The Mayor advised the meeting that Cr L Griffiths, Cr J Brown and Cr S Iwanyk had disclosed Impartiality Interests in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.*

### 12.1 AUDIT COMMITTEE MEETING HELD 1 NOVEMBER 2011

Author: R Bouwer  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 12.1A Audit Committee Meeting Minutes dated  
1 November 2011

#### PURPOSE OF REPORT

For Council to receive the Audit Committee Minutes dated 1 November 2011.

#### BACKGROUND

The Minutes of the Audit Committee Meeting held Tuesday 1 November 2011 are provided as Appendix 12.1A.

The recommendations of the Committee which require Council's consideration are provided in the following reports.

#### DISCUSSION

Nil.

#### FINANCIAL IMPLICATIONS

Nil.

#### STATUTORY IMPLICATIONS

The Audit Committee is established in accordance with the *Local Government Act 1995*, Part 5, Division 2, Subdivision 2 - Committees and their meetings.

The committee has no decision-making authority and therefore its recommendations are provided to Council in separate reports for resolution.

#### VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**503 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council receive the Minutes of the Audit Committee meeting held Tuesday 1 November 2011, attached as Appendix 12.1A.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

*The Mayor advised the meeting that Cr L Griffiths, Cr J Brown and Cr S Iwanyk had disclosed Impartiality Interests in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.*

### **12.1.1 AUDIT COMMITTEE - AUDITED ANNUAL FINANCIAL REPORT - 2011**

Author: F Sullivan  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 12.1A Audit Committee Meeting Minutes dated  
1 November 2011

#### **PURPOSE OF REPORT**

For Council to consider Recommendation 7 of the Audit Committee meeting held 1 November 2011 that seeks receipt of the audited Annual Financial Report for the year ended 30 June 2011.

#### **BACKGROUND**

The Audit Committee provides Recommendation 7 arising from the Minutes dated 1 November 2011, for Council's determination:

*"That the Audit Committee resolves to recommend that Council receive the audited Annual Financial Report for the year ended 30 June 2011, attached as Appendix 7.1A."*

#### **DISCUSSION**

The auditors have completed their testing for the financial year ended 30 June 2011 and have provided the City with an unqualified audit report.

The Operating Statement shows a net loss of \$64,680,003.

This significant change in net assets is a result of the non cash Land and Building Revaluation. The decrease in valuation was mainly due to the employment of Landgate as the City's valuers. The valuers took a more conservative approach to "high restriction" assets, for example assets that are considered to be critical to the community.

However after disregarding the revaluation amount the net result is \$25,873,627 which is \$17,790,863 greater than budgeted.

Some significant contributing items are:

Sale of Land	\$7,460,098
Interest Earnings	\$2,982,090
Rates received in advance	\$1,147,407
ODP and POS Developer Contribution	\$2,978,740

*Item 12.1.1 Continued*

Refer to Item 7.1, Audited Annual Financial Report - 2011, Recommendation 7 of the Audit Committee Meeting Minutes dated 1 November 2011 provided as Appendix 12.1A.

**FINANCIAL IMPLICATIONS**

The unallocated surplus for 2010/2011 will be the subject of a report to Council in the near future when carry forward calculations are complete.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Local Government (Financial Management) Regulations 1996

**VOTING REQUIREMENTS**

Simple Majority required.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION
---

**504 Moved Cr K Jones Seconded Cr O Searle**

That Council receive the audited Annual Financial Report for the year ended 30 June 2011, attached as Appendix 7.1A\*.

*\* Refer to Audit Committee Minutes Item 7.1 of 1 November 2011 contained in Appendix 12.1A.*

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

*The Mayor advised the meeting that Cr L Griffiths, Cr J Brown and Cr S Iwanyk had disclosed Impartiality Interests in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.*

#### **12.1.2 AUDIT COMMITTEE - REVIEW OF PROCUREMENT OF GOODS OR SERVICES POLICY 4.1.8**

Author: R Boucher

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 12.1A Audit Committee Meeting Minutes dated  
1 November 2011

#### **PURPOSE OF REPORT**

For Council to consider Recommendation 8 of the Audit Committee meeting held 1 November 2011 that seeks adoption by Council of amended Policy 4.1.8, Procurement of Goods or Services.

#### **BACKGROUND**

The Audit Committee provides Recommendation 8 arising from the Minutes dated 1 November 2011 for Council's determination:

*"That the Audit Committee resolves to recommend that Council note the proposed amendments to Policy 4.1.8, Procurement of Goods or Services, attached as Appendix 7.2A and authorise staff to present a further report to the Ordinary Council Meeting scheduled for 13 December 2011 in accordance with the provisions of Clause 3.2 of Policy 5.4.5."*

#### **DISCUSSION**

As a result of a review undertaken by the Chief Executive Officer, a report on the findings of that review was presented to the Audit Committee on 3 May 2011. The Audit Committee was informed that as a result of that review a number of amendments to Council Policy 4.1.8, Procurement of Goods or Services was required.

The review recommended amendments to the purchasing thresholds, amendments to the involvement of officers with an interest in the tendering process and further explanations by the Evaluation Panel members on the weightings and scores given to tenderers.

Adoption of the proposed changes to Policy 4.1.8, which includes the amendments recommended will result in a city-wide standard for tender documentation and evaluation. The proposed changes further enhance the City's commitment to probity, equity and consistent practice in seeking, evaluating and awarding tenders.

Refer to Item 7.2, Review of Procurement of Goods or Services Policy 4.1.8, Recommendation 8 of the Audit Committee Meeting minutes dated 1 November 2011 provided as Appendix 12.1A.

*Item 12.1.2 Continued*

The Audit Committee resolved to present the review of Policy 4.1.8 to the Ordinary Council Meeting scheduled for 13 December 2011 as Policy 5.4.5 requires all major amendments to policies to be circulated to Elected Members for 21 days prior to submission to Council.

### **FINANCIAL IMPLICATIONS**

Nil.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Local Government (Financial Management) Regulations 1996

Local Government (Functions and General) Regulations 2007

### **VOTING REQUIREMENTS**

Simple Majority required.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION
---

#### **505 Moved Cr R Mitchell Seconded Cr S Iwanyk**

That Council note the proposed amendments to Policy 4.1.8, Procurement of Goods or Services, attached as Appendix 7.2A\* and authorise staff to present a further report to the Ordinary Council Meeting scheduled for 13 December 2011 in accordance with the provisions of Clause 3.2 of Policy 5.4.5.

\* *Refer to Audit Committee Minutes Item 7.2 of 1 November 2011 contained in Appendix 12.1A.*

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*



*The Mayor advised the meeting that Cr L Griffiths, Cr J Brown and Cr S Iwanyk had disclosed Impartiality Interests in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.*

### **12.1.3 AUDIT COMMITTEE - 2012/2013 BUDGET - PROPOSED TIMETABLE**

Author: R Bower  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil  
Appendix: 12.1A Audit Committee Meeting Minutes dated  
1 November 2011

#### **PURPOSE OF REPORT**

For Council to consider Recommendations 9 and 10 of the Audit Committee meeting held 1 November 2011 that seeks the timetable for adoption of the 2012/2013 Budget be received and the Special Council meeting to adopt the 2012/2013 Budget be held on 3 July 2012.

#### **BACKGROUND**

The Audit Committee provides Recommendations 9 and 10 arising from the Minutes dated 1 November 2011 for Council's determination:

Recommendation 9:

*"That the Audit Committee resolves to recommend that Council receive the proposed timetable for adoption of the 2012/2013 Budget, attached as Appendix 7.3A".*

Recommendation 10:

*"That the Audit Committee resolves to recommend that Council resolve that the Special Council meeting to adopt the 2012/2013 Budget be held on 3 July 2012."*

#### **DISCUSSION**

The proposed timetable has set a target date for adoption of the 2012/2013 Annual Budget being 3 July 2012, with three Councillor Workshops scheduled for 21 February, 19 March and 15 May 2012.

Refer to Item 7.3, 2012/2013 Budget - Proposed Timetable, Recommendations 9 and 10 of the Audit Committee Meeting minutes dated 1 November 2011 provided as Appendix 12.1A.

#### **FINANCIAL IMPLICATIONS**

Nil.

*Item 12.1.3 Continued*

**STATUTORY IMPLICATIONS**

*Local Government Act 1995, Sections 6.2 (1) and (2).*

**VOTING REQUIREMENTS**

Simple Majority required

COMMITTEE RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION

**506 Moved Cr T Brown Seconded Cr R Hoffman**

That Council receive the proposed timetable for adoption of the 2012/2013 Budget, attached as Appendix 7.3A\*.

\* *Refer to Audit Committee Minutes Item 7.3 of 1 November 2011 contained in Appendix 12.1A.*

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

COMMITTEE RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION

**507 Moved Cr T Brown Seconded Cr R Hoffman**

That Council resolve that the Special Council meeting to adopt the 2012/2013 Budget be held on 3 July 2012.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

*The Mayor advised the meeting that Cr L Griffiths, Cr J Brown and Cr S Iwanyk had disclosed Impartiality Interests in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.*

#### **12.1.4 AUDIT COMMITTEE - TERMS OF REFERENCE**

Author: R Bower  
Author's Declaration Nil.  
of Interest:  
Previous Ref: OCM 24 November 2009 Resolution 594  
OCM 15 December 2009 Resolutions 611 and 612  
Appendix: 12.1A Audit Committee Meeting Minutes dated  
1 November 2011

#### **PURPOSE OF REPORT**

For Council to consider Recommendation 11 of the Audit Committee meeting held 1 November 2011 that seeks the amended Audit Committee Terms of Reference be accepted.

#### **BACKGROUND**

The Audit Committee provides Recommendation 11 arising from the Minutes dated 1 November 2011 for Council's determination:

*"That the Audit Committee resolves to recommend that Council accept the amended Terms of Reference for the Audit Committee attached as Appendix 7.4A."*

#### **DISCUSSION**

The Audit Committee Terms of Reference have been amended to show:

- The voting members of the Committee as the Mayor, Deputy Mayor and the number of Elected Members as considered appropriate by Council as well as a Deputy Delegate (to act in periods of absence of any appointed delegate). Committee members and the Deputy Delegate shall be appointed at the Special Council Meeting immediately following the biennial Local Government Elections.
- Frequency of Audit Committee meetings to be the first Tuesday in the months of March, May, August and November, or as required, commencing 6pm.

Refer to Item 7.4, Audit Committee Membership - Amended Terms of Reference, Recommendation 11 of the Audit Committee Meeting minutes dated 1 November 2011 provided as Appendix 12.1A.

#### **FINANCIAL IMPLICATIONS**

The only financial implication relating to this item is the payment of travelling claims for Councillors attending the Audit Committee meetings. Funds have been allocated in the 2011/2012 Budget to cover the cost of travel claims by Elected Members.

*Item 12.1.4 Continued*

**STATUTORY IMPLICATIONS**

*Local Government Act 1995 Section 7.1A (1) and (2).*

**VOTING REQUIREMENTS**

Simple Majority required.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION
---

**508 Moved Cr T Brown Seconded Cr J Brown**

That Council accept the amended Terms of Reference for the Audit Committee attached as Appendix 7.4A\*.

\* *Refer to Audit Committee Minutes Item 7.4 of 1 November 2011 contained in Appendix 12.1A.*

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

### 13. REPORTS

#### 13.1 CHIEF EXECUTIVE OFFICE

Nil.

#### 13.2 COMMUNITY ENGAGEMENT

Nil.

### 13.3 CORPORATE SERVICES

#### 13.3.1 BUDGET VARIATIONS

Author: R Bouwer  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: Nil.  
 Appendix: Nil.

#### PURPOSE OF REPORT

To seek approval from Council to adjust the 2011/2012 Municipal Budget.

#### BACKGROUND

Nil.

#### DISCUSSION

In accordance with Section 6.8 of the *Local Government Act 1995* a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- Is incurred in a financial year before the adoption of the annual budget by the local government
- Is authorised in advance by Council resolution
- Is authorised in advance by the Mayor or President in an emergency.

Approval is therefore sought for the following budget adjustments for the reasons specified.

#### FINANCIAL IMPLICATIONS

Account Number	Type	Account Description	Debit \$	Credit \$
JL12-10179-3800-257	Increase Expenditure	Sutherlands Park - Floodlighting Upgrade - Capital Purchase	61,822	
JL12-10179-1479-220	Increase Income	Sutherlands Park - Floodlighting Upgrade - CSRFF		20,300

City of Gosnells  
Minutes

Ordinary Council Meeting

8 November 2011

*Item 13.3.1 Continued*

JL12-10179-2413-000	Increase Income	Sutherlands Park - Floodlighting Upgrade - Sutherlands Park Reserve - Transfer from Reserve Capital		41,522
<b>REASON:</b>	To fund the installation of floodlighting at Sutherlands Park Reserve F with funding from the Community Sport and Recreation Facility Fund as per Council Resolution 95 at Ordinary Council Meeting 22 March 2011 and the Sutherlands park Floodlighting Reserve.			
JL31-95201-3278-000	Increase Expenditure	Environment Management - Program Activities	16,360	
JL15-60340-3800-755	Increase Expenditure	Ellis Brook Valley Fence - Capital Purchase	13,290	
JL31-95201-3278-000	Increase Income	Environment Management - Government Grants		16,360
JL15-60340-1355-756	Increase Income	Ellis Brook Valley - Non Operating Grant		13,290
<b>REASON:</b>	To enable expenditure of funding received from Swan River Trust Riverbank funding program and Department of Environment & Conservation Ellis Brook Valley grant.			
JL41-40080-3291-499	Increase Expenditure	Street Lighting - Maintenance	20,000	
JL41-40080-1669-498	Increase Income	Subdivision Street lighting - Contribution		20,000
<b>REASON:</b>	Income from subdivision street lighting fees to be used for street lighting maintenance.			
JL14-80128-3800-499	Increase Expenditure	Bridge 925 - Nicholson Rd - Langford - Capital Purchase	18,000	
JL14-80128-1365-498	Increase Income	Bridge 925 - Nicholson Rd - Langford - Commonwealth Grants		18,000
<b>REASON:</b>	Extra funding for Nicholson Road bridge maintenance work under Commonwealth Special projects funds 2011/12 - Bridges.			
JL15-60339-3800-755	Increase Expenditure	Partridge Way Reserve Upgrade - Capital Purchase	408,927	
JL86-96204-2046-000	Decrease Expenditure	Land Sales - Local Open Space Strategy Reserve Transfer to Reserve Capital - 11 (Lot 163) Luke Court	166,332	
JL86-96204-2046-000	Decrease Expenditure	Land Sales - Local Open Space Strategy Reserve Transfer to Reserve Capital - 12 (Lot 4793) Partridge Way	242,595	
JL15-60339-2427-000	Increase Income	Partridge Way Reserve Upgrade - Local Open Space Strategy Reserve Transfer from Reserve Capital		408,927
JL86-96204-3603-000	Increase Income	Land Sales - Proceeds - 11 (Lot 163) Luke Court		166,332
JL86-96204-3603-000	Increase Income	Land Sales - Proceeds - 12 (Lot 4793) Partridge Way		242,595
<b>REASON:</b>	To Transfer the profit from the sale of 11 (Lot 163) Luke Court and 12 (Lot 4793) Partridge Way to the Local Open Space Strategy Reserve and to transfer funds from the Local Open Space Strategy Reserve to fund the Partridge Way Reserve Upgrade.			
JL91-92320-3001-000	Increase Expenditure	Kidsport - Casual Wages and Salaries	14,000	
JL91-92320-3100-000	Decrease Expenditure	Kidsport - Materials/Consumables		14,000

Item 13.3.1 Continued

<b>REASON:</b>	Council resolved on 27 September 2011 to endorse a budget variation for the City of Gosnells to receive a Department of Sport and Recreation grant of \$115,000 to facilitate a new sport and recreation initiative called "Kidsport Program". Up to \$100,000 of this grant is to be allocated by the City to local disadvantaged young people to encourage greater participation in sport and recreation; and up to \$15,000 is to be allocated to assist with program administration costs, including staffing. It is anticipated that the City will require \$14,000 of the administration funds to be allocated for wages and salaries for an officer to facilitate this program.		
JL91-92305-3760-000	Increase Expenditure	Sports representation Community Sponsorship Program	5,000
JL91-92314-3760-000	Decrease Expenditure	Innovative Program - Community Sponsorship Program	5,000
<b>REASON:</b>	Council Policy 3.2.2 - Community Sponsorship Program requires that Council determines the allocations for each sponsorship category. This budget variation is requested due to an increase in applications by eligible candidates in the community who have been selected to represent Western Australia or Australia in recognised sporting competitions this financial year. Transferring the proposed funds from the Innovative sponsorship category will enable the City to effectively meet the community's increased demand for Sports Representation sponsorships, whilst not negatively impacting on the community's anticipated demand for Innovative Programs for the remainder of the 2011/12 financial year.		

**STATUTORY IMPLICATIONS**

Section 6.8 of the *Local Government Act 1995*.

**VOTING REQUIREMENTS**

Absolute Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**509 Moved Cr T Brown Seconded Cr L Griffiths**

That Council approve the following adjustments to the 2011/2012 Municipal Budget:

Account Number	Account Description	Debit \$	Credit \$
JL12-10179-3800-257	Sutherlands Park - Floodlighting Upgrade - Capital Purchase	61,822	
JL12-10179-1479-220	Sutherlands Park - Floodlighting Upgrade - CSRFF		20,300
JL12-10179-2413-000	Sutherlands Park - Floodlighting Upgrade - Sutherlands Park Reserve - Transfer from Reserve Capital		41,522

Item 13.3.1 Continued

JL31-95201-3278-000	Environment Management - Program Activities	16,360	
JL15-60340-3800-755	Ellis Brook Valley Fence - Capital Purchase	13,290	
JL31-95201-3278-000	Environment Management - Government Grants		16,360
JL15-60340-1355-756	Ellis Brook Valley - Non Operating Grant		13,290
JL41-40080-3291-499	Street Lighting - Maintenance	20,000	
JL41-40080-1669-498	Subdivision Street lighting - Contribution		20,000
JL14-80128-3800-499	Bridge 925 - Nicholson Rd - Langford - Capital Purchase	18,000	
JL14-80128-1365-498	Bridge 925 - Nicholson Rd - Langford - Commonwealth Grants		18,000
JL15-60339-3800-755	Partridge Way Reserve Upgrade - Capital Purchase	408,927	
JL86-96204-2046-000	Land Sales - Local Open Space Strategy Reserve Transfer to Reserve Capital - 11 (Lot 163) Luke Court	166,332	
JL86-96204-2046-000	Land Sales - Local Open Space Strategy Reserve Transfer to Reserve Capital - 12 (Lot 4793) Partridge Way	242,595	
JL15-60339-2427-000	Partridge Way Reserve Upgrade - Local Open Space Strategy Reserve Transfer from Reserve Capital		408,927
JL86-96204-3603-000	Land Sales - Proceeds - 11 (Lot 163) Luke Court		166,332
JL86-96204-3603-000	Land Sales - Proceeds - 12 (Lot 4793) Partridge Way		242,595
JL91-92320-3001-000	Kidsport - Casual Wages and Salaries	14,000	
JL91-92320-3100-000	Kidsport - Materials/Consumables		14,000
JL91-92305-3760-000	Sports representation Community Sponsorship Program	5,000	
JL91-92314-3760-000	Innovative Program - Community Sponsorship Program		5,000

**CARRIED BY ABSOLUTE MAJORITY 10/0**

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.



## 13.4 INFRASTRUCTURE

### 13.4.1 TENDER 30/2011 - STREET TREE MAINTENANCE

Author: M Short  
 Author's Declaration of Interest: Yes, Receipt of Notifiable Gift  
 Previous Ref: Nil.  
 Appendix: 13.4.1A Pricing Schedules

#### PURPOSE OF REPORT

To advise Council of the submissions received in relation to Tender 30/2011 - Street Tree Maintenance and recommend the most advantageous tender for the purposes of awarding a contract for the undertaking of works as outlined in the tender document for a period of three years.

#### BACKGROUND

Tender 30/2011 was advertised in The West Australian newspaper on Saturday 17 September 2011 and closed on Thursday 6 October 2011.

Submissions were received from the following companies.

Beavers Tree Services Australia Pty Ltd	Brant Road, Kelmscott, WA 6111
Byford Tree Services	PO Box 289 Byford, WA 6122
COSMAG Pty Ltd Trading as Kennedys Tree Services	186 Mills Road, Welshpool, WA 6106
Total Tree Services	U2/9 Thurso Road Myaree, WA 6154
Tree Care Pty Ltd	15 Peters Way, Oakford, WA 6121

#### DISCUSSION

The five submissions received were initially assessed for compliance and eligibility of their submissions under the following four key criteria.

- The contractor must be a qualified Arborist, or employ a qualified Arborist to minimum Australian Qualification Framework (AQF) Certificate Three in Arboriculture
- Operators are accredited to work in the vicinity of high voltage electrical conductors with at least one operator holding Recipient in Charge (RIC) Training
- Staff undertaking cutting on the power line clearance program must be trained to work in the vicinity of low voltage electrical conductors, in accordance with Western Power's Code of Practice, or be working towards this certification
- A minimum of three elevated work platforms will be required to fulfil this contract within the specified time frames. The contractor is required to demonstrate proof of ownership of at least three "Afron" or "Squirrel" type elevated work platforms for the undertaking of the power line clearance program inclusive of current electrical test certificates and proof of mechanical soundness, for example. Lifthii and Tex on site. This also includes any lease equipment.

*Item 13.4.1 Continued*

Three submissions were deemed ineligible for the following reasons:

Beavers Tree Services Australia Pty Ltd

- Did not provide documentation confirming they employ a qualified Arborist to an AQF certificate three level
- Did not provide documentation confirming that the Squirrel type elevated work platforms nominated are in sound mechanical order and have been tested for working within the vicinity of low voltage powerlines.

Byford Tree Service

- Did not provide documentation confirming they employ a qualified Arborist to an AQF certificate three level
- Did not provide documentation confirming that they employ at least one operator holding Recipient in Charge Training
- Did not provide documentation confirming that they have staff trained to work in the vicinity of low voltage electrical conductors
- Did not provide documentation confirming proof of ownership of at least three Afron or Squirrel type elevated work platforms for the undertaking of the power line clearance program inclusive of current electrical test certificates and proof of mechanical soundness, e.g. Lifthii and Tex on site.

Total Tree Services

- Did not provide documentation confirming that they employ at least one operator holding Recipient in Charge Training
- Did not provide documentation confirming that they have staff trained to work in the vicinity of low voltage electrical conductors
- Did not provide documentation confirming proof of ownership of at least three Afron or Squirrel type elevated work platforms for the undertaking of the power line clearance program inclusive of current electrical test certificates and proof of mechanical soundness, for example Lifthii and Tex on site.

Two submissions were deemed eligible for the following reasons:

Kennedys Tree Services

- Provided all necessary documentation to satisfy the compliance criteria.

Tree Care Pty Ltd

- Provided documentation to satisfy the compliance criteria, however they chose not to submit prices for Schedule 1 - Powerline Clearance Program, and are only eligible for assessment on Schedule 2 - Tree Removals, and Schedule 3 - Emergency After Hours Work.

The compliant submissions were evaluated by an assessment panel against the evaluation criteria of relevant experience, key personnel, skills and resources, demonstrated understanding and price.

Item 13.4.1 Continued

The following tables detail the assessment of each compliant tender against the evaluation criteria as determined by the panel and show the average cost to the City over the term of the contract.

**Schedule 1 - Powerline Clearance Program**

Tenderer		Relevant Experience	Key Personnel Skills and Resources	Demonstrated Understanding	Price	Total Score
		<b>20%</b>	<b>20%</b>	<b>10%</b>	<b>50%</b>	<b>100%</b>
Kennedys Tree Services	Weighted Score	20	12	6	50	88

**Schedule 1 - Powerline Clearance Program Prices**

Tenderer	Amount tendered (average cost over three-year period)			
	Full prune \$/Tree	Uplifting \$/Tree	Service cable clearance \$/Tree	Street light clearance \$/Tree
Kennedy's Tree Service	45	19	25	22

Kennedys Tree Services currently hold this portion of the contract, with an annual average budget cost of \$450,000. Kennedys Tree Service's submission was professional and satisfied the compliance criteria for this portion of the contract. It will therefore be recommended that Kennedys Tree Service is awarded Schedule 1 - Powerline Clearance Program of Tender 30/2011.

**Schedule 2 - Tree Removal**

Tenderer		Relevant Experience	Key Personnel Skills and Resources	Demonstrated Understanding	Price	Total Score
		<b>20%</b>	<b>20%</b>	<b>10%</b>	<b>50%</b>	<b>100%</b>
Kennedys Tree Services	Weighted Score	20	12	6	50	88
Tree Care Pty Ltd	Weighted Score	16	12	4	40.30	72.30

**Schedule 2 Prices**

Tenderer	Amount Tendered (Average cost over three-year period)					
	Price per tree 0 to 5m	Price per tree 5 to 10m	Price per tree 10 to 15m	Price per tree 15 to 20m	Price per tree 20 to 25m	Price per tree 25 to 30m
Kennedys Tree services	\$155	\$370	\$620	\$1050	\$1290	\$2270
Tree Care Pty Ltd	\$170	\$420	\$780	\$1430	\$ 1900	\$2440

*Item 13.4.1 Continued*

This portion of the current contract is held by Kennedys Tree Service, with an approximate annual expenditure of \$161,000.

It would be advantageous for Council to appoint a panel of contractors to ensure the efficiency of tree maintenance works undertaken within the City. The two compliant submissions were professional, satisfied the City's occupational safety and health management requirements, addressed the qualitative criteria and demonstrated an ability to undertake the works as required within this specification. The two companies with eligible submissions have previously worked for the City and provided a safe and high quality service. Therefore it will be recommended that Kennedys Tree Services and Tree Care Pty Ltd are awarded Schedule 2 - Tree Removals of Tender 30/2011.

**Schedule 3 - Emergency After Hours Work**

Tenderer		Relevant Experience	Key Personnel Skills and Resources	Demonstrated Understanding	Price	Total Score
		20%	20%	10%	50%	100%
Kennedys Tree Services	Weighted Score	20	12	6	44.79	82.79
Tree Care Pty Ltd	Weighted Score	16	12	4	50	82

Note: The price score is derived by a direct comparison of the total of the prices submitted for the Schedule 3 service types.

**Schedule 3 Prices**

Tenderer	Amount Tendered (Average cost over three-year period)			
	Truck and chipper with 2 Person Crew	Truck and chipper with 3 Person Crew	Cherry picker and cutter with truck and Chipper with 2 Person Crew	Cherry picker and cutter with truck and chipper with 3 Person Crew
	\$/Tree	\$/Tree	\$/Tree	\$/Tree
Kennedys Tree Services	264	294	369	400
Tree Care Pty Ltd	205	300	325	360

This portion of the tender contract is a new introduction to ensure that the City has the adequate resources to efficiently deal with a storm situation out of normal operating hours. This portion of the contract would only be enacted where there may be a large workload in clearing roads; therefore the cost to this portion is highly variable and unknown.

The two compliant submissions were professional, satisfied the qualitative criteria and demonstrated an ability to undertake the works as required within this tender. Therefore it will be recommended that Kennedys Tree Services and Tree Care Pty Ltd are awarded Schedule 3 - Emergency After Hours Works of Tender 30/2011.

*Item 13.4.1 Continued*

## FINANCIAL IMPLICATIONS

The works associated with this contract are included in the Parks and Environmental Operational budget for the term of the contract

## STATUTORY IMPLICATIONS

Section 3.57 (1) of the *Local Government Act 1995* requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION
--

### 510 Moved Cr R Hoffman Seconded Cr L Griffiths

That Council award Schedule 1 - Powerline Clearance Works of Tender 30/2011 to Kennedys Tree Services, 186 Mills Road, Welshpool, WA 6106 for a three-year period from 1 January 2012 to 31 December 2014 in accordance with the unit rates specified in Schedule 1 of the Pricing Schedules attached as Appendix 13.4.1A.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION
--

### 511 Moved Cr R Hoffman Seconded Cr L Griffiths

That Council award Schedule 2 - Tree Removals of Tender 30/2011 jointly to Kennedys Tree Services, 186 Mills Road, Welshpool, WA 6106 and Tree Care Pty Ltd, 15 Peters Way, Oakford, WA 6121, for a three-year period from 1 January 2012 to 31 December 2014 in accordance with the unit rates specified in Schedule 2 of the Pricing Schedules attached as Appendix 13.4.1A.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

*Item 13.4.1 Continued*

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION
--

**512 Moved Cr R Hoffman Seconded Cr L Griffiths**

That Council award Schedule 3 - Emergency After Hours Works of Tender 30/2011, jointly to Kennedys Tree Services, 186 Mills Road, Welshpool, WA 6106 and Tree Care Pty Ltd, 15 Peters Way, Oakford, WA 6121, for a three-year period from 1 January 2012 to 31 December 2014 in accordance with the unit rates specified in Schedule 3 of the Pricing Schedules attached as Appendix 13.4.1A.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

## 13.5 PLANNING AND SUSTAINABILITY

### 13.5.1 DEVELOPMENT APPLICATION - INSTALLATION OF SECURITY TOPPING ON THE PERIMETER WALL AT EXISTING SUB-STATION - 25 (LOT 112) CAROLE ROAD, MADDINGTON

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 227317  
Application No: DA11/00303  
Applicant: Western Power  
Owner: Electricity Networks Corporation  
Location: 25 (Lot 112) Carole Road, Maddington  
Zoning: MRS: Industrial  
TPS No. 6: General Industry  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 7,626m<sup>2</sup>  
Previous Ref: OCM 22 September 2009 (Resolution 465)  
Appendices: 13.5.1A Approved Site Plan  
13.5.1B Approved Elevation Plan  
13.5.1C Elevation Plan

#### PURPOSE OF REPORT

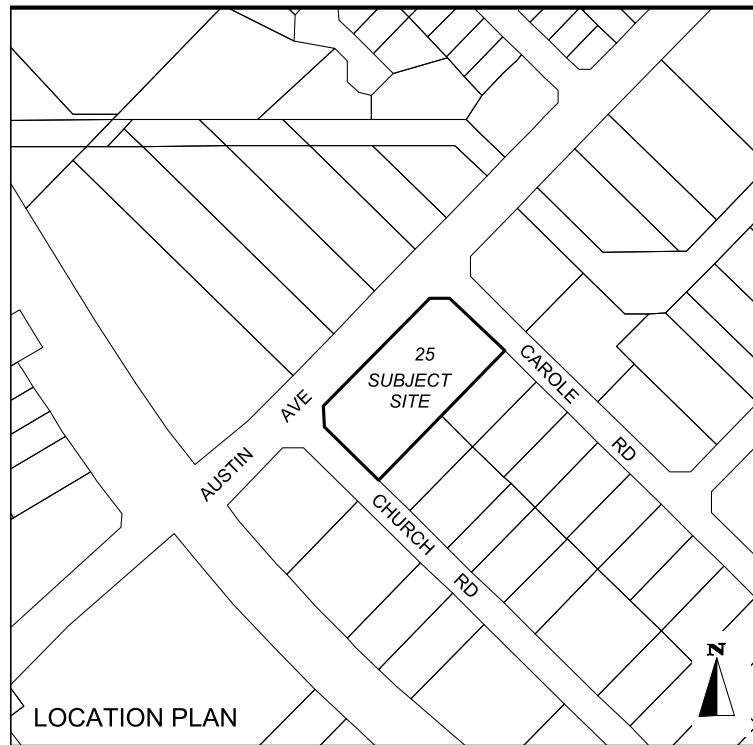
For Council to provide a recommendation to the Western Australian Planning Commission (WAPC) on the determination of an application for planning approval for the installation of security topping (barbed and razor wire) on the existing perimeter wall at the existing sub-station at 25 (Lot 112) Carole Road, Maddington. The WAPC is the determining authority as the proposal constitutes development by a public authority on land zoned under the Metropolitan Region Scheme (MRS).

#### BACKGROUND

##### Site Description and Planning Framework

The subject site is 7,625m<sup>2</sup> in area and contains an existing electrical sub-station. The property has frontage to Church Road, Austin Avenue and Carole Road. It is zoned General Industry under Town Planning Scheme No. 6 (TPS 6) and Industrial under the MRS. The surrounding area comprises of industrial land uses, with the exception of residential land being located approximately 100m north of the subject site.

A map identifying the location of the property follows.

*Item 13.5.1 Continued***Site History**

On 22 September 2009, Council resolved (Resolution 465) to recommend to the WAPC that it approve an application for a 132,000 volt sub-station on the subject site. The WAPC subsequently approved the application, and the sub-station has been constructed.

It should be noted that the previous application originally proposed a 2.5m high weldmesh boundary fence with 0.5m barbed tape strands, however, in response to concerns raised by several submitters during the consultation period, the applicant amended the proposal to provide for a 3m high solid concrete fence along the entire perimeter of the site.

A copy of the approved site plan and elevation plan is contained as Appendices 13.5.1A and 13.5.1B respectively.

**Proposal**

The application seeks approval to install security topping on the existing 3m high wall which is constructed along the entire perimeter of the site. The topping will be 0.5m in height and consist of three strands of barbed-wire with short sections of razor wire at the rear corners of the subject site where it abuts neighbouring properties. The purpose of the security topping is to prevent trespassing on to the site.

The elevation plan of the proposal is contained as Appendix 13.5.1C.



*Item 13.5.1 Continued*

## **Consultation**

The original application for the sub-station was advertised for public comment in accordance with Council Policy requirements, during which time a number of submissions were received which raised concerns with the aesthetics of the originally proposed weldmesh and barbed wire fence.

## **DISCUSSION**

### **Determination of the Application**

The proposed development constitutes a 'public work' and is therefore exempt from the need to obtain planning approval under TPS 6 by virtue of Section 6 of the *Planning and Development Act 2005*. The proposal does however require the approval of the WAPC under the MRS, and is required to take into consideration the purpose and intent of TPS 6, orderly and proper planning, and the preservation of the amenity of the area. Council may therefore make a recommendation on the proposal to the WAPC.

### **Visual Amenity**

The subject site is a large site which spans over a street block between Church and Carole Roads and it contains utilities which are of a significant height. It is prominently located at the interface of residential and industrial zoned land, and is exposed to high vehicular and pedestrian traffic due to Austin Avenue being a main thoroughfare through the area. Given its location and the scale of the development it accommodates, the subject site is considered to be visually dominant and as such, plays an important role in establishing the level of amenity of the local area.

Considerable effort has been put into ensuring that the site presents positively to the streetscape, which has been achieved through the installation of landscaping and murals as part of the original development. Western Power worked with the City on several options for the treatment of the wall, so that the finished product set a good standard of appearance. The approved 3m high wall was considered acceptable on the basis that:

- It was more appropriate than a smaller fence with barbed wire
- It was expected to positively contribute to the amenity of the area by screening a portion of the sub-station utilities
- It would restrict access to the site (for example trespassing) due to its height.

The proposed barbed and razor wire will be clearly visible from the public realm and therefore will have a negative impact on the amenity of the area. Whilst it is understood that there is a need to prevent trespassing on the site, it is considered that other measures should be explored that better maintain the amenity of the streetscape and which do not reinforce the stigma of crime within the area.

### **Fencing Local Laws**

The proposal complies with all the relevant provisions of the Fencing Local Laws with the exception of Part 5 which stipulates standards for razor wire fences. Clause 14 (3) of the Local Laws stipulates:

*Item 13.5.1 Continued*

*"A licence to have a fence constructed wholly or partly of razor wire shall not be issued:*

- (a) if the fence is within 3m of the boundary of the lot;*
- (b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level."*

The proposed fence is on the boundary of the lot and involves the use of razor wire at the rear corners of the property where it abuts neighbouring properties.

**CONCLUSION**

The proposal is not supported for the following reasons:

- The proposed barbed and razor wire will be clearly visible from the public realm and will have a negative impact on the amenity of the area
- The proposal does not comply with the City's Fencing Local Laws.

It is therefore recommended that Council recommend to the WAPC that the proposal be refused.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- Planning and Development Act 2005
- Town Planning Scheme No. 6
- Fencing Local Laws.

**VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**513 Moved Cr O Searle Seconded Cr R Mitchell**

That Council recommend to the Western Australian Planning Commission that the application for the installation of security topping on an existing perimeter wall (7 September 2011) be refused for the following reasons:

1. The proposed barbed and razor wire will be clearly visible from the public realm and will have a negative impact on the amenity of the area.
2. The proposal does not comply with the City's Fencing Local Laws.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

**13.5.2 DEVELOPMENT APPLICATION - RETROSPECTIVE FILL AND TRANSPORT DEPOT - 176 (LOT 10) MADDINGTON ROAD, MADDINGTON**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 207668  
Application No: DA09/00142  
Applicant: Desert Ore Contracting  
Owner: Peter and Karen Breese  
Location: 176 (Lot 10) Maddington Road, Maddington  
Zoning: MRS: Urban Deferred  
TPS No. 6: Composite Residential/Light Industry, Local Open Space  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 1.0831ha  
Previous Ref: Nil.  
Appendices: 13.5.2A Site Plan  
13.5.2B Consultation Plan  
13.5.2C Schedule of Submissions  
13.5.2D Recommended buffer to Bickley Brook

**PURPOSE OF REPORT**

For Council to consider an application for retrospective planning approval for landfill and a Transport Depot at 176 (Lot 10) Maddington Road, Maddington as the proposal is outside the authority delegated to staff due to objections received during the advertising period.

**BACKGROUND****Site History**

Since 2007, the City, in conjunction with the Department of Environment and Conservation (DEC) and other state government agencies, through the Maddington Kenwick Sustainable Communities Partnership, has been investigating properties abutting Bickley Brook for unapproved land uses and developments, as well as any actual or potential environmental impacts on the Brook.

An inspection of the subject site was conducted in January 2009 and a number of potential issues were noted, as follows:

- The storage of trucks, trailers and truck tyres to the rear of the property at the top of the Bickley Brook bank. Although contained within the property boundaries, some of this was taking place within the Local Open Space reserve.
- Limestone fill/road base had been placed at the rear of the property, with some of the material having been pushed over the bank and into the Bickley Brook, which resulted in the damage of fringing vegetation.

*Item 13.5.2 Continued*

An application for retrospective storage and fill was submitted but it did not incorporate sufficient information to enable it to be assessed. The applicant was requested to provide the required information but did not do so which resulted in the application being deemed refused. The City then proceeded to initiate compliance action which led to the applicant resubmitting the subject application accompanied by the required information, enabling it to be assessed.

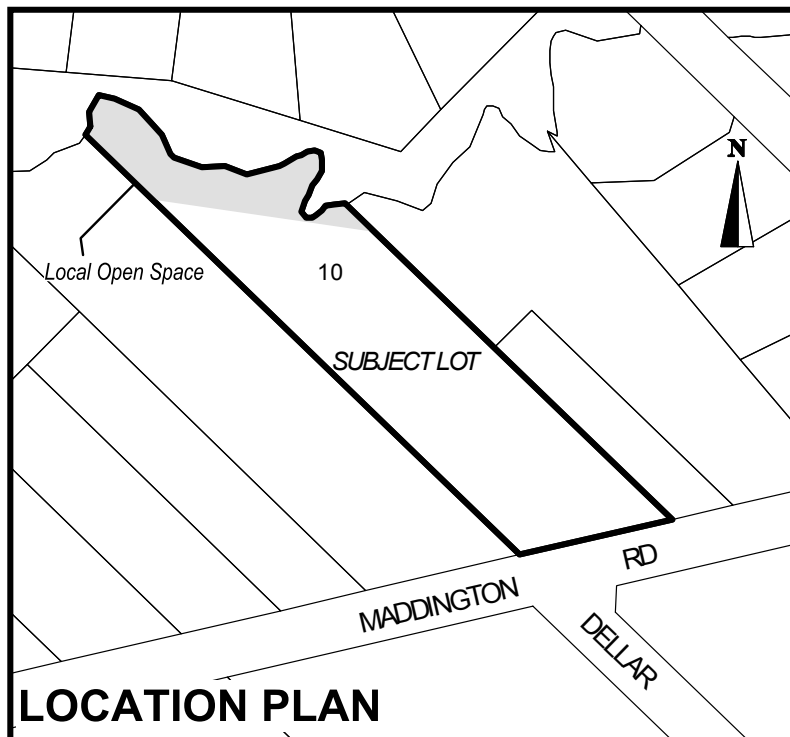
**Site Description and Planning Framework**

The subject property is 1.0831 ha in area, and contains an existing dwelling and workshop. The property is partly zoned Composite Residential/Light Industry under Town Planning Scheme No. 6 (TPS 6) and Urban Deferred under the Metropolitan Region Scheme (MRS).

The rear portion of the property, approximately 1,870m<sup>2</sup>, is reserved as Local Open Space under TPS 6 although it does remain in private ownership. The land abuts Bickley Brook which is mapped in the DEC's Geomorphic Wetlands (Swan Coastal Plain) Dataset as a Resource Enhancement Wetland (REW). Bickley Brook is under the control of the Water Corporation and Department of Water.

Land to the south-east of the site (on the opposite side of Maddington Road) is zoned Residential Development, and land to the north-west of the site (on the opposite side of Bickley Brook) is zoned General Industry. The Local Open Space on the opposite side of Bickley Brook was acquired through TPS 15 and created as Crown Reserve 43050, with a management order in favour of the City of Gosnells.

A map identifying the location of the property follows.



*Item 13.5.2 Continued*

### **Proposal**

The application involves the following:

- The placement of an unknown quantity of limestone fill and hardstand across the property
- The operation of a business which is involved in plant hire, mine site haulage, road maintenance, earthworks, dust suppression and site waste management. Details of the business are as follows:
  - The property itself is used for the storing, maintenance and parking of trucks and machinery
  - Minor mechanical repairs are conducted in the workshop on the site
  - The core hours of operation will be between 5am and 7pm Monday to Friday, with the business occasionally operating on Saturdays
  - There are up to 12 truck movements per day
  - The dwelling on the property is used as an office as well as accommodation for an employee of the business
  - There are up to eight employees based at the site.

An overall site plan is contained as Appendix 13.5.2A.

### **Consultation**

The proposal was advertised for public comment for 14 days in accordance with TPS 6 requirements, during which time 22 submissions were received, two objecting to the proposal (with one objector representing two properties), 16 raising no-objection and four which provided comment. A map identifying the origin of each submission is contained as Appendix 13.5.2B.

A summary of the submissions and comments thereon is provided in the Schedule of Submissions contained as Appendix 13.5.2C.

The main concerns raised by the submitters regarding this application include:

- The potential for the site to generate vehicle movements which will not be suitable for the local road network
- The potential noise impact that the development could have on surrounding properties
- The impact that the development has on the visual amenity of the area
- Issues relating to dust created on the site.

These are considered below, together with the relevant technical issues arising from the assessment of the proposal.

Item 13.5.2 Continued

## Referrals

The application was referred to the DEC and the Department of Water (DoW) for comment. The content of the responses is addressed in the Discussion section that follows.

## DISCUSSION

### Town Planning Scheme No. 6

#### Use Class Assessment

In accordance with Table 1 of TPS 6, a Transport Depot is an "A" use in a Composite Residential/Light Industrial zone, meaning that it is not permitted unless the local government has exercised its discretion by granting planning approval after consulting with nearby landowners.

#### Development Standards

The proposal has been assessed against and complies with all relevant provisions of TPS 6, with the exception of those discussed below.

	TPS 6 Requirements	Assessment/Comment
1.	<p><b>Clause 5.10.1 - General Requirements</b></p> <p>On any lot situated within the Composite Residential/Light Industrial Zone, no person shall:</p> <p>(b) develop, establish, continue or allow to be developed or established an industry or business use within the first 35m and extending the full width of the lot from the residential frontage, such part of the land as this is required to be set aside exclusively for residential purposes and access unless the lot is a corner lot or is irregular in shape in which case Council shall determine the area to be used for industry or business.</p> <p>(d) use or permit to be used an area in excess of 2,500m<sup>2</sup> for industrial or business use, including open storage buildings, yards, vehicle movements areas, unless otherwise approved by Council;</p>	<p>The existing dwelling is used as an office and also accommodates employees of the business, meaning that it is not being set aside exclusively for residential purposes. Whilst the use of the dwelling for non-residential purposes does not comply with the Scheme, its use is considered acceptable as it is low impact and does not detrimentally impact the amenity of the area or the desired interface with the residential zoned land on the east side of Maddington Road.</p> <p>The subject site is 1.0831ha in area and as the nature of the land use involves open space areas and workshop buildings, it exceeds the stated requirement. Given the low impact nature of the business (largely storage and parking) and the size of the subject site, a variation to the 2,500m<sup>2</sup> limitation is considered acceptable.</p>

In addition to the above, the car parking standards for a Transport Depot within TPS 6 are based on the amount of floor area, or the number of employees, whichever is the greater. In this instance, TPS 6 requires eight car parking bays (based on employee numbers) and the application involves the provision of 11 bays.

*Item 13.5.2 Continued*

Whilst the application is not entirely compliant with the Scheme requirements, it is considered that the instances of non-compliance will not have a detrimental impact on the local area or undermine the intent of the Composite Residential/Light Industry zoning that applies to the site. The variations to the Scheme are therefore supported.

**Traffic**

A number of submissions raised concerns relating to the potential for the site to impact on traffic in the locality. These concerns relate mainly to the standard of Maddington Road in accommodating heavy vehicle traffic and the safety implications associated with the road standard.

The portion of Maddington Road that fronts the subject site is classified as a B District Distributor road under the City's Road Hierarchy and has a pavement width of 9.5m. It is expected that the road will be capable of accommodating the type of trucks that are accessing the site, however if the application is approved it is recommended that a condition be imposed requiring that the applicant provide truck turning templates demonstrating that the largest truck using the site can safely access the site. If the templates demonstrate that this cannot safely occur without modifications being made to the road or crossover, such modifications be required to be undertaken at the cost of the owner.

**Noise**

Two submissions have raised concerns about the potential impact of noise on surrounding properties, in particular on the opposite side of Maddington Road which is approved for future residential development.

The development will be required to comply with the Environmental Protection (Noise) Regulations 1997, however, it is expected that any noise generated from the site will be typical of this type of land use and the Composite Residential/Light Industry zone.

**Visual Amenity**

A submission has raised a concern relating to the amenity standard of properties along Maddington Road. Under TPS 6, the Composite Residential/Light Industry zone is required to be developed in such a way that the dwelling is to be situated at the front of the property and no industry or business use shall be within the front 35m, so as to provide a residential aspect to the public street. As previously detailed, the application does not comply with this requirement, since the office is contained inside the dwelling, although the building still provides for a residential aspect to the public street.

In terms of visual impacts of the land use in general, it is not expected to pose any visual impacts beyond those that could be reasonably expected in the Composite Residential/Light Industry zone.

**Dust**

A submission raised a concern with regard to the potential of the development to generate dust. If the application is approved, it is recommended that a condition be imposed requiring that the parking and storage areas are to be satisfactorily sealed.

*Item 13.5.2 Continued*

The sealing of those areas will require the preparation and implementation of a drainage design, which is a matter that can be dealt with through an appropriate condition.

**Environment**

The key impact of the proposal is the use of the Local Open Space portion of the site for storage purposes, and impacts on Bickley Brook arising from surface water contamination and lack of separation buffer between the land use and the Brook. It should be noted that significant impacts have already occurred through the unauthorised filling of Bickley Brook and clearing of fringing vegetation. The loss of the opportunity to revegetate the Local Open Space portion of the site, and the erosion and transport to the Brook of soil and, potentially, other contaminants from rainfall runoff, will continue to contribute to the poor quality of water in Bickley Brook.

The ultimate purpose of the Local Open Space reserve is the protection of Bickley Brook and to provide a vegetated buffer between the Brook and the adjoining land use. The Local Open Space area is intended, in the long term, to be the focus of revegetation in a similar fashion to that currently under way on the opposite bank through the federally-funded Urban Waterways Renewal program.

The DoW, in its comment on the application, directed that a Biophysical Assessment be prepared to determine an appropriate buffer between the current land use and Bickley Brook. The buffer would ensure the protection of the Brook's bank stability and the retention of native vegetation. The applicant has prepared a Biophysical Assessment which has been endorsed by the DoW and suggests a reduced buffer to Bickley Brook. A plan illustrating the recommended buffer is contained as Appendix 13.5.2D.

Based on the above, if the current application is approved, it will be recommended that various conditions be imposed to ensure development does not have a detrimental impact on Bickley Brook.

**CONCLUSION**

The proposal is supported for the following reasons:

- The subject site is zoned Composite Residential/Light Industry and the Transport Depot is a suitable use in that zone
- The subject site is not expected to generate traffic in excess of what can be accommodated by Maddington Road
- The use is not expected to adversely impact the amenity of the area
- The approval can be made subject to appropriate conditions, in accordance with Biophysical Assessment buffer recommendations, to ensure the development does not have a detrimental impact on Bickley Brook.

It is therefore recommended that the proposal be approved subject to appropriate conditions as listed in the staff recommendation.

**FINANCIAL IMPLICATIONS**

Nil.



*Item 13.5.2 Continued*

## **STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6.

## **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION</b>
---

### **514 Moved Cr R Mitchell Seconded Cr J Brown**

That Council approve the retrospective application for fill and a Transport Depot at 176 (Lot 10) Maddington Road, Maddington, dated 30 March 2009 (including additional information submitted 22 March 2011) subject to the following conditions:

1. The submission of an amended site plan, generally in accordance with the submitted plans but modified to remove reference to any storage within the portion of the site recommended as a buffer by the submitted Biophysical Assessment dated 17 March 2011 and the plan contained as Appendix 13.5.2D.
2. The applicant shall submit details prescribing a functional drainage system, including detailed engineering drawings, and where required geotechnical site assessment (soil profile, groundwater conditions and permeability), as well as hydrologic and hydraulic calculations to demonstrate functionality of the design to the satisfaction of the City.
3. The hardstand areas are to be paved, sealed and drained to the City's satisfaction.
4. Fencing shall be constructed along the boundary of the buffer as recommended by the submitted Biophysical Assessment dated 17 March 2011 and the plan contained as Appendix 13.5.2D. The fencing is to have a maximum height of 1.8 metres and shall be visually permeable, to the satisfaction of the City.
5. A Foreshore Management Plan, detailing the restoration of Bickley Brook adjacent to the subject site, is to be prepared and implemented, to the satisfaction of the City and the Department of Water.
6. Satisfactory arrangements being made with the City for the disposal of industrial wastewater.
7. A minimum of eight carparking bays are to be provided, prior to the occupation of the building, and maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.

*Item 13.5.2 Continued*

8. Turning templates are to be provided demonstrating that the largest vehicle utilising the site can safely access the site from Maddington Road. If the manoeuvring of vehicles cannot be adequately accommodated within the existing geometry of the crossover and Maddington Road, modifications to the crossover and/or Maddington Road are to be made to the satisfaction of the City and at the cost of the developer. If the templates demonstrate the existing crossover is wider than required to accommodate vehicles, the crossover should be modified to reduce its width to the satisfaction of the City.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION
--

**515 Moved Cr R Mitchell Seconded Cr J Brown**

That Council direct the landowner(s) to undertake the following work to the City's satisfaction and within 60 days of the date of Council's resolution:

- Remove all material, vehicles, plant, equipment and/or machinery from the portion of the site recommended as a buffer by the submitted Biophysical Assessment dated 17 March 2011 and the plan contained as Appendix 13.5.2D
- Restore the levels of the portion of the site recommended as a buffer by the submitted Biophysical Assessment dated 17 March 2011 and the plan contained as Appendix 13.5.2D to those levels that existed immediately prior the unauthorised development
- Revegetate the portion of the site recommended as a buffer by the submitted Biophysical Assessment dated 17 March 2011 and the plan contained as Appendix 13.5.2D.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION
--

**516 Moved Cr R Mitchell Seconded Cr J Brown**

That should the conditions of planning approval and/or the directions notice issued by Council not be complied with, Council authorise the Director Planning and Sustainability to initiate legal proceedings against the landowner in accordance with Part 13 of the *Planning and Development Act 2005*.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

**13.5.3 DEVELOPMENT APPLICATION - SERVICED ACCOMMODATION AND COMMUNAL FACILITIES - 20 (LOT 7) AND 22 (LOT 503) THE CRESCENT, MADDINGTON**

Author: B Fantela  
Author's Declaration Nil.  
of Interest:  
Reference: 229728 and 222580  
Application No: DA10/00344  
Applicant: Greg Rowe and Associate  
Owner: Roshana C N Jalagge and Priyanka C A Gamage Don  
Location: 20 (Lot 7) and 22 (Lot 503) The Crescent, Maddington  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 806m<sup>2</sup> (Lot 7) and 3,021m<sup>2</sup> (Lot 503)  
Previous Ref: OCM 24 May 2011 (Resolution 187)  
Appendix: 13.5.3A Schedule of Submissions

**PURPOSE OF REPORT**

For Council to reconsider an application for planning approval for Use not Listed (Serviced Accommodation and Communal Facilities) at 20 (Lot 7) and 22 (Lot 503) The Crescent, Maddington.

**BACKGROUND****History**

In May 2007, the City, under delegated authority, approved an application for 11 grouped dwellings on lot 503.

In August 2009, an incomplete application was received which sought approval to use the grouped dwellings on lot 503, and the adjoining single residence on lot 7 as "board and lodging accommodation" and as a commercial kitchen. On 24 February 2010, the application was deemed refused as the proponent had not provided sufficient information to allow it to be determined.

On 24 May 2011, Council considered an application for a Use Not Listed (Serviced Accommodation and Communal Facilities) on the subject sites. Council resolved (Resolution 187) to defer the application to allow further examination of the exact nature of the use of the development, and to assess its compatibility with the surrounding residential land uses.

In response, the proponent has submitted additional information regarding the use of the development.

**Site Description and Planning Framework**

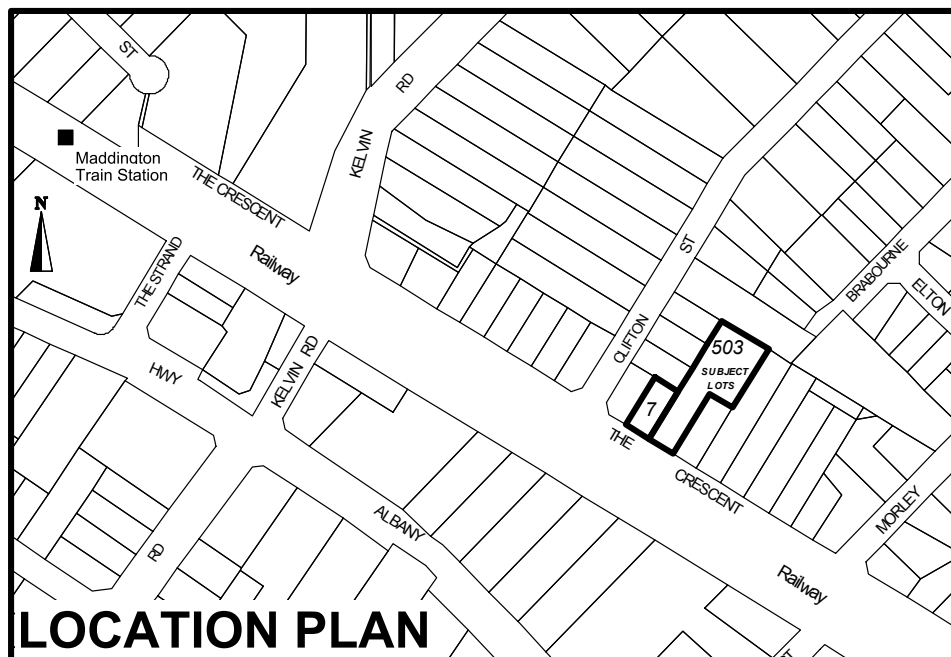
Lot 7 is 806m<sup>2</sup> in area and accommodates a single-storey, brick and tile residence. Lot 503 is 3,021m<sup>2</sup> in area and accommodates 11 one and two storey grouped dwellings.

*Item 13.5.3 Continued*

The surrounding land use is residential and has been developed predominantly with single houses on large lots. The subject sites are located approximately 500m from the Maddington train station.

The subject site is located within an area known as the Central Maddington ODP area, which Council has previously identified as requiring an ODP to guide future subdivision and development. The draft ODP, which was approved by Council on 28 July 2009, is currently with the Western Australian Planning Commission (WAPC) awaiting approval. The draft ODP designates the subject site as Residential R40.

A location plan follows.



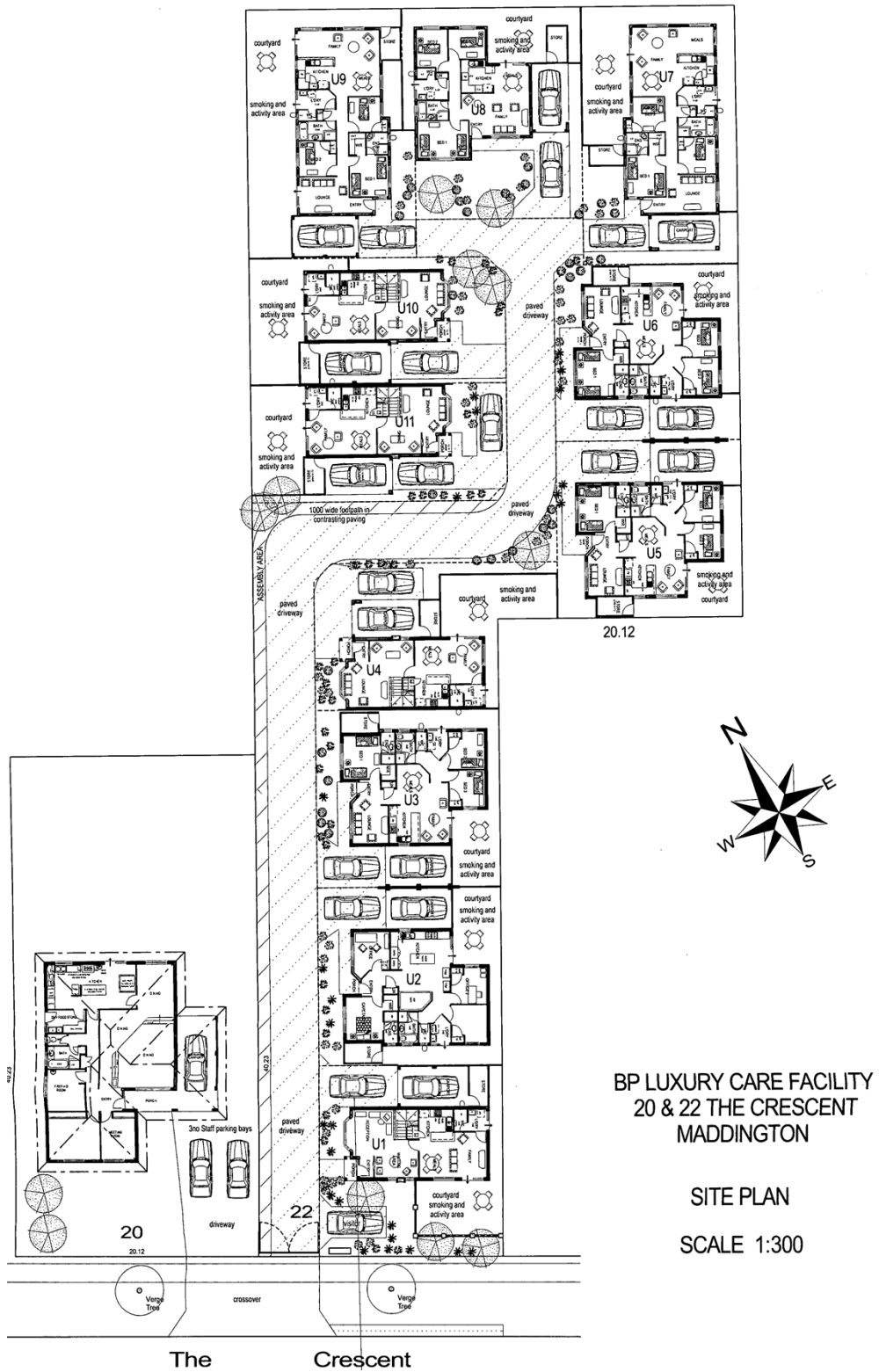
## Proposal

The application involves the following:

- The use of the 11 existing grouped dwellings on lot 503 by up to four occupants per dwelling. The proponent has stated that the units would be available to the general public. Notwithstanding, other reliable information gained independently confirms that the premises are intended for use by adults who are not fully independent and do require occasional care.
- The use of the existing dwelling on lot 7 as an administration facility, meeting room, kitchen and dining area for the tenants and their visitors
- The provision of tenancies of 12 months or more. Short term accommodation is not provided
- The provision of a maximum of three staff at any one time, who provide assistance with cleaning and cooking
- The provision of two car parking spaces per dwelling plus two visitor bays on lot 503 and three staff car parking spaces on lot 7.

Item 13.5.3 Continued

A site plan is the same as originally submitted and follows.



*Item 13.5.3 Continued*

In addition to the above, the proponent has recently provided the following information regarding the residents/users of the premises:

*"We have been instructed by the landowner to reiterate that the residential accommodation is not targeted to one specific group, and is open to any person (subject to capacity).*

*Currently approximately 90% of the occupants are over 50 years of age, with the remainder between 25-50. Of the current occupants the female/male split is approximately 20% / 80%.*

*It is important to note however, that the landowner, as part of ensuring that the site could cater for a wide proportion of the community, has also obtained a licence from the Health Department to allow for the accommodation to also operate as a 'Private Psychiatric Hostel'. The Hospitals and Health Service Act 1927 defines Private Psychiatric Hostels as: "a private premises in which 3 or more persons who -*

- are socially dependent because of mental illness*
- are not members of the family of the proprietor of the premises, reside and are treated or cared for. The Act defines "mental illness" as having the same meaning as in the Mental Health Act 1996"*

*There are no implications to operation of the accommodation and kitchen facilities as a result of housing people in accordance with this licence, and the operation of the accommodation and kitchen facilities is not altered. The licence has been obtained to allow for the site to be accessible for a wider group of potential residents. The landowner will continue to ensure that potential clients can be accommodated."*

The key planning issues are:

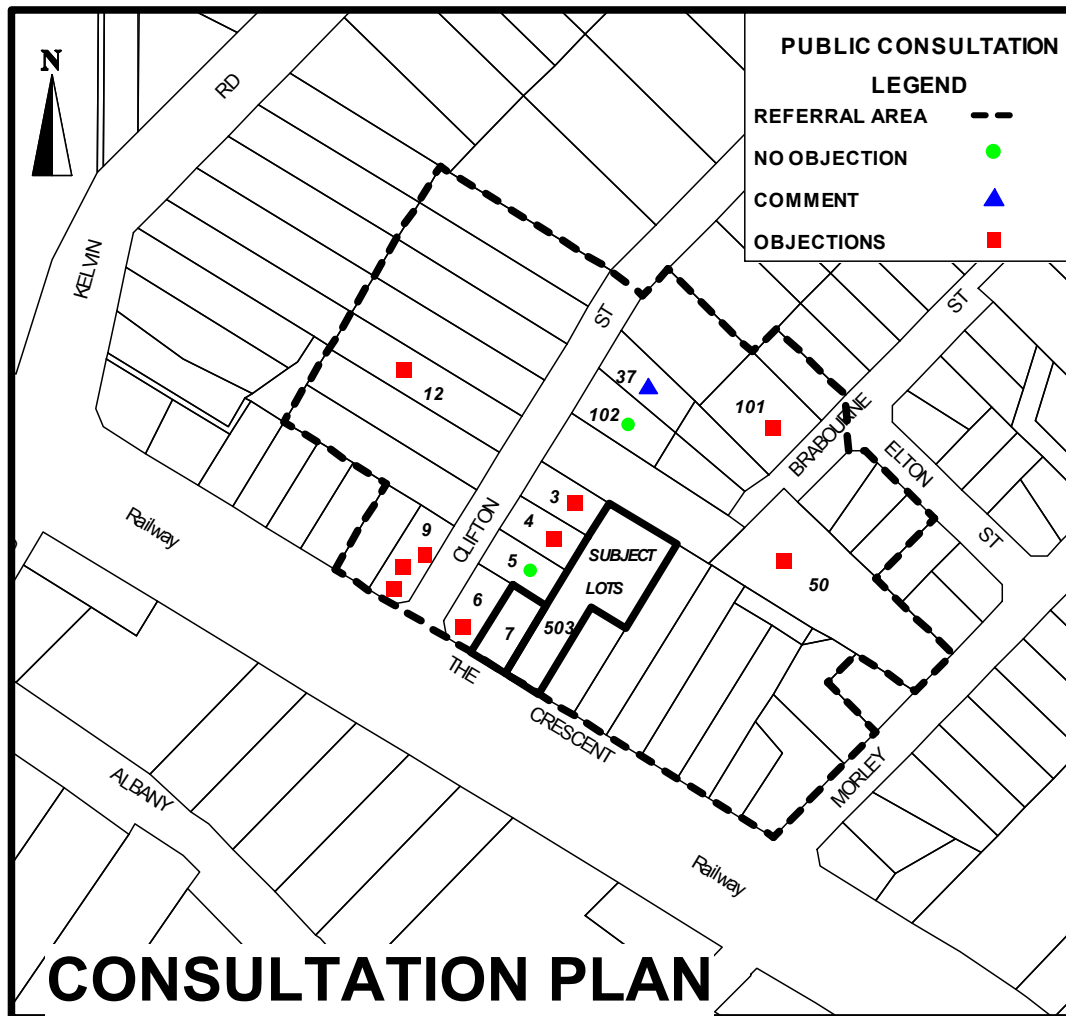
1. Firstly, to define the land use; and
2. Secondly, to assess the suitability of the land use under the provisions of Town Planning Scheme No. 6 (TPS 6).

**Consultation**

The proposal was previously advertised for public comment for 14 days in accordance with Council Policy/TPS 6 requirements, during which time 12 submissions were received, nine objecting to the proposal, two raising no-objection and one which provided comment. A summary of these submissions and comments thereon is contained in Appendix 13.5.3A. The proposal has not been readvertised.

A map identifying location of each submission follows.

Item 13.5.3 Continued



The main issues raised in the submissions relate to perceived unacceptable behaviour from tenants, including littering, begging for money and resting on the street verge. These suggested issues are not relevant to the town planning considerations of the proposal.

**DISCUSSION**

An assessment of the original proposal was included in the report to the 24 May 2011 Council Meeting. The details from the previous report have been included below for reference.

The recently submitted information has not affected the previous assessment.

Use Class Assessment

The proposal has elements of a number of different land uses, including Grouped Dwelling, Residential Building and Hospital, and is discussed below.

*Item 13.5.3 Continued*

The use class Dwelling is defined in the Residential Design Codes (R-Codes). The definition is as follows:

*"A building or portion of a building being used, adapted, or designed to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family."*

In this case each of the dwellings accommodate up to four individuals, however the application includes an element of assisted care, by staff on site, which is not in keeping with the definition of a dwelling.

The use class Hospital is defined in TPS 6, as follows:

*"Hospital means premises in which persons are admitted and lodged for medical treatment or care and includes a maternity hospital."*

In this case the level of support described in the proposal is not tantamount to medical care or treatment, and therefore the definition does not apply.

The use class Residential Building is defined in the R-Codes. An extract of the definition is as follows:

*"... such building being used ... permanently by seven or more persons who do not comprise a single family, but does not include a hospital or sanatorium ..."*

The proposal most closely fits this definition within TPS 6.

Residential Building is an "A" use within the Residential Development zone and the proposal has been advertised for public comment as is required for a proposal including an "A" use.

TPS 6 states that the objective of the Residential Development zone is:

*"To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development generally in accordance with an Outline Development Plan adopted pursuant to Clause 7.4."*

Under the draft Central Maddington ODP, the subject site is identified as Residential. TPS 6 states that the objective of the Residential zone is:

*"To provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Development Codes (2002)."*

### Car Parking

TPS 6 requires that one car space be provided for every four persons that the building is designed to accommodate, plus one space being provided for every staff member.

In this case a maximum of up to 44 residents could live on site, plus a maximum of three staff. The resulting parking demand is for a total of 14 carbays.



*Item 13.5.3 Continued*

Given that the development was first approved and built with a total of 24 bays on the grouped dwelling site, plus three bays on lot 7, the proposal complies with the carparking requirements of TPS 6.

**Local Planning Policy 3.2 - Outline Development Plan Requirements**

The City's Outline Development Plan Requirements Policy establishes Council's position on the appropriateness of development proposals for land zoned Residential Development in the absence of an ODP. Clause 4.3.2 of the Policy states:

*"Until such time that an ODP is adopted for an area that is zoned Residential Development under TPS 6 or forms part of one of the areas identified in Clause 4.1 above, Council will not approve any application for development of land unless, in Council's opinion, approval and implementation of the proposal will not prejudice the future planning and development of the surrounding area."*

The proposal involves the use of existing structures and therefore will not prejudice the future planning and development of the surrounding area.

**CONCLUSION**

The proposal is supported for the following reasons:

- The dwellings are already constructed and the City has no general or specific planning control over who occupies them
- It is consistent with Local Planning Policy 3.2 - Outline Development Plan Requirements
- The main objection to the proposal, being the behaviour of the occupants of the development, is not a matter that the City can control under TPS 6.

It is therefore recommended that the proposal be approved.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6.
- Local Planning Policy 3.2 - Outline Development Plan Requirements.
- Central Maddington Outline Development Plan (Draft).

**VOTING REQUIREMENTS**

Simple Majority required.

*Item 13.5.3 Continued*

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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**517 Moved Cr R Mitchell Seconded Cr S Iwanyk**

That Council approve the proposal for a Residential Building (Serviced Accommodation and Communal Facilities) at 20 (Lot 7) and 22 (Lot 503) The Crescent, Maddington, dated 13 August 2010, including the additional information dated 7 February 2011 and 20 September 2011.

CARRIED 6/4

**FOR:** Cr J Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk and Cr R Mitchell.

**AGAINST:** Cr W Barrett, Cr T Brown, Cr K Jones and Cr O Searle.

**13.5.4 DEVELOPMENT APPLICATION - FAMILY DAY CARE - 88 (LOT 402)  
LAUTERBACH DRIVE, GOSNELLS**

Author: K Ivory  
Author's Declaration Nil.  
of Interest:  
Reference: 232058  
Application No: DA11/00298  
Applicant: Nadifa Nur  
Owner: Nadifa Nur and Megan Abi  
Location: 88 (Lot 402) Lauterbach Drive Gosnells  
Zoning: MRS: Urban  
TPS No. 6: Residential R17.5  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 550m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: Nil.

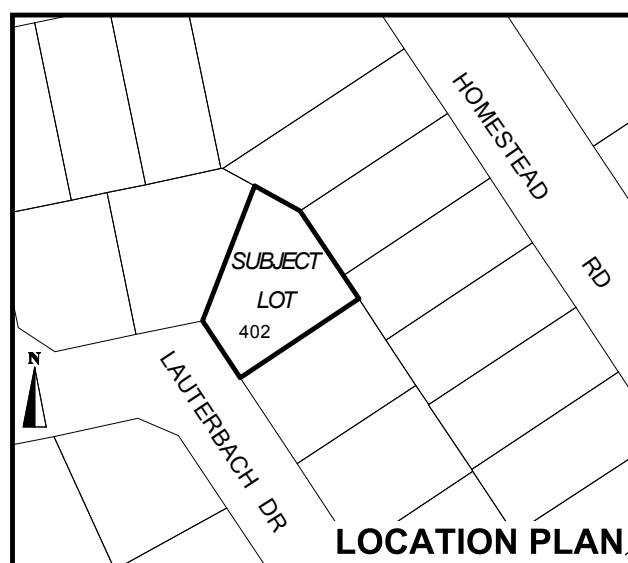
**PURPOSE OF REPORT**

For Council to consider an application for planning approval for Family Day Care at 88 (Lot 402) Lauterbach Drive, Gosnells, as the proposal is outside the authority delegated to staff due to an objection received during the advertising period.

**BACKGROUND****Site Description and Planning Framework**

The subject property is 550m<sup>2</sup> in area and contains a single dwelling. The property is zoned Residential R17.5 under Town Planning Scheme No. 6 (TPS 6) and Urban under the Metropolitan Region Scheme (MRS). Surrounding land uses comprise of predominantly low-density residential lots.

A map identifying the location of the property follows.



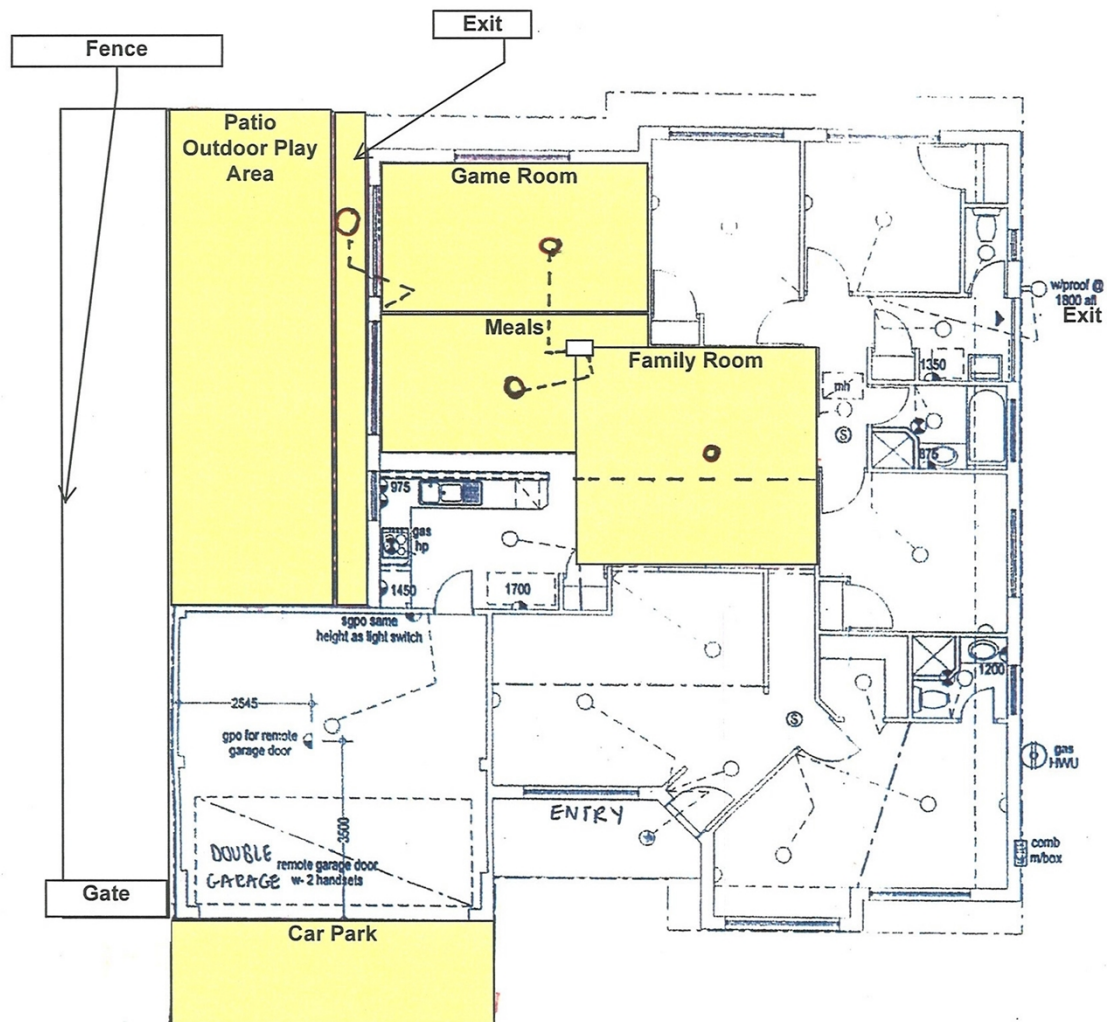
Item 13.5.4 Continued

**Proposal**

The application is seeking approval for a proposed Family Day Care. Details of the application are as follows:

- The Family Day Care will operate Monday to Friday, between 7am and 5pm
- The Family Day Care will accommodate up to seven children at any one time (including the applicant's own children)
- The provision of two car parking bays within the front set back area
- The children will occupy the main living areas of the house as depicted on the floor plan that follows. Children will be allowed in the outdoor play/patio area, which is located 1.0m from lot boundaries.

A floor plan follows.



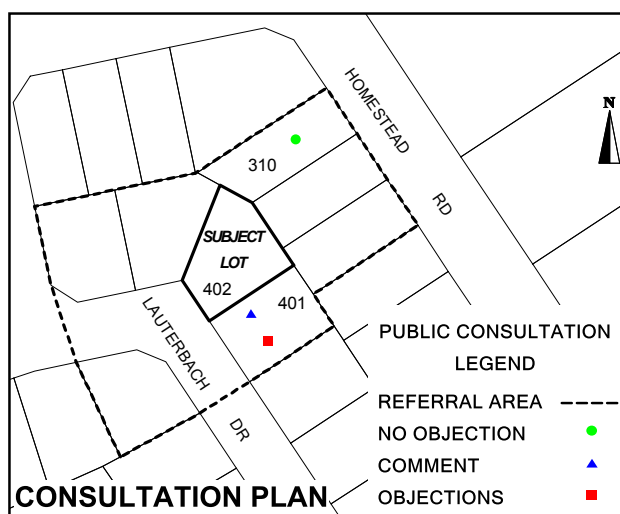
Item 13.5.4 Continued

**Consultation**

The proposal was advertised to adjoining neighbours for 14 days in accordance with TPS 6 requirements, during which time three submissions were received one raising an objection, one providing comment and one lodging no objection. A summary of these submissions and comments thereon follow.

•	•	<b>Affected Property:</b>	•	<b>Postal Address:</b>
1	•	90 (Lot 401) Lauterbach Drive	•	81 Ladywell Street
	•	Gosnells	•	Beckenham WA 6107
•		<b>Summary of Submission</b>	•	
•		Objection to the Proposal.	•	
•		Concerns raised relate to devaluation of the neighbouring property.	•	
			This is not a valid planning consideration.	
•	•	<b>Affected Property:</b>	•	<b>Postal Address:</b>
2	•	90 (Lot 401) Lauterbach Drive	•	90 Lauterbach Drive
	•	Gosnells	•	Gosnells WA 6110
•		<b>Summary of Submission</b>	•	
•		Comment on the proposal.	•	
•		No problem with family day care but does not want cars parking on grass verge.	•	
			See discussion under heading Draft Home Based Activities Policy.	
•	•	<b>Affected Property:</b>	•	<b>Postal Address:</b>
3	•	119 (Lot 310) Homestead Road	•	119 Homestead Road
	•	Gosnells	•	Gosnells WA 6110
•		<b>Summary of Submission</b>	•	
•		No objection to the proposal	•	
			Noted.	

A map identifying the Consultation area and the location of each submission follows:



*Item 13.5.4 Continued*

The main issue raised in the submissions is car parking. This is discussed below, together with other applicable technical matters.

**DISCUSSION****Town Planning Scheme No. 6**Use Class Assessment

The proposed development involves the use class of Family Day Care in TPS 6. A Family Day Care is defined under TPS 6 as follows:

*"Family day care means premises used to provide family day care within the meaning of the Community Services (Child Care) Regulations 1988."*

The Community Services (Child Care) Regulations 1988 defines Family Day Care as a "child care service provided to a child in a private dwelling in a family or domestic environment."

In accordance with Table 1 of TPS 6, Family Day Care is a "P" use in a Residential zone which means that the use is permitted providing the use complies with the relevant development standards and the requirements of the Scheme.

There is an obligation to consider the suitability of the proposal to this particular location and to the layout of the area, as well as its ability to fit with the prevailing residential environment.

**Draft Home Based Activity Policy**

On 9 August 2011, Council resolved to adopt (for the purposes of advertising for public comment) a draft Home Based Activities Policy (Policy). This draft policy provides guidance on determining applications for Home Businesses, Home Occupations and Family Day Care facilities, in order to provide consistency in the decision making process. An assessment of the proposal against the draft Policy is contained in the table below:

Draft Policy Requirements		Assessment/Comment
4.1 (a)	The subject site shall have a minimum lot size of 450m <sup>2</sup>	The subject lot is 550m <sup>2</sup> in area.
4.1 (b)	The Family Day Care shall involve a maximum of seven children (including the applicant's children)	The proposal involves the care of seven children (including the applicant's own children).
4.1 (c)	A minimum of two car parking bays are to be provided on site, in addition to the bays required in association with the dwelling on site	The proposal involves the provision of two visitors car bays in addition to two bays for residential use, with all parking proposed to be contained on site.
4.1 (d)	A Family Day Care shall operate between 6am and 7pm, Monday to Friday and between 7am and 6pm on Saturdays	The applicant intends to operate the Family Day Care from 7am to 5pm, Monday to Friday.
4.1 (e)	Any outdoor play is to be a minimum of 1.0m from lot boundaries. Play areas may be required to be separated from the boundary by a physical barrier	The proposed outdoor play area shown on the proposed plan is set back 1.0m from lot boundary.

*Item 13.5.4 Continued*

Draft Policy Requirements		Assessment/Comment
4.1 (f)	A Family Day care may incorporate one advertising sign, no greater than 0.2m <sup>2</sup> in area	No signage has been proposed.

As demonstrated above, the application complies with the requirements of the draft Policy.

**CONCLUSION**

The proposal is supported for the following reasons:

- Family Day Care is typical in residential zones and it is recognised that such facilities provide an essential service to the local community
- The proposed business is not expected to generate additional traffic that would detrimentally impact on the traffic and safety of the local area
- The development is not expected to detrimentally impact the amenity of the area.

It is therefore recommended that the proposal be approved subject to appropriate conditions as listed in the staff recommendation.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6.
- Draft Local Planning Policy - Home Based Activities.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.4 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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**518 Moved Cr S Iwanyk Seconded Cr R Mitchell**

That Council approve the application for Family Day Care at 88 (Lot 402) Lauterbach Drive, Gosnells, dated 31 August 2011 subject to the following conditions:

1. A minimum of two on-site car bays as indicated on the approved plans are to be provided for client use, with no parking by clients permitted on the road verge.
2. The operation of the family day care, including the drop off and pick up of children shall only be permitted between 7am and 5pm, Monday to Friday.
3. Employment of persons other than the immediate family of the occupier is not permitted.
4. No more than seven children under 12 years of age, including the applicant's own children are permitted to be cared for at any one time, in accordance with the Community Services (Child Care) Regulations 1988.
5. Any outdoor play area is to be setback a minimum of 1.0m from lot boundaries.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.



**13.5.5 INITIATION OF LEGAL PROCEEDINGS - NON-COMPLIANCE WITH CONDITIONS OF DEVELOPMENT APPROVAL - 280 (LOT 123) SHREEVE ROAD, CANNING VALE**

Author: J McDermott  
Author's Declaration Nil.  
of Interest:  
Reference: 209635  
Owner: Sikh Association of Western Australia  
Location: 280 (Lot 123) Shreeve Road, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Nil.  
Area: 2.0582ha  
Previous Ref: OCM 23 August 2011 (Resolution 390)  
Appendix: Nil.

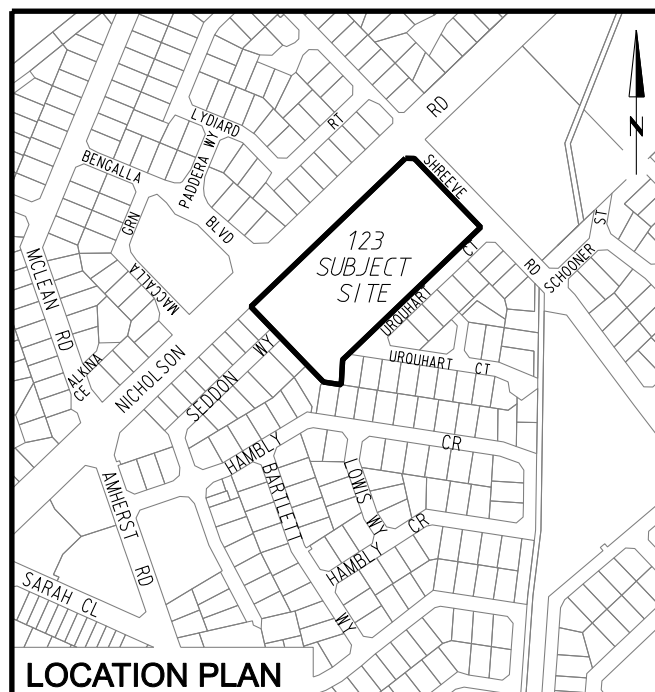
**PURPOSE OF REPORT**

For Council to authorise legal proceedings against the property owners of 280 (Lot 123) Shreeve Road, Canning Vale, for the breach of conditions of planning approval that apply to 280 (Lot 123) Shreeve Road, Canning Vale.

**BACKGROUND**

The subject site is 2.0582ha in area and is located at the corner of Nicholson Road and Shreeve Road, Canning Vale. It contains an existing two storey Place of Worship (Sikh Temple), caretakers' dwelling and a bitumen parking area abutting the northern boundary facing Nicholson Road. The remainder of the site is vacant.

A plan showing the location of the property follows.



*Item 13.5.5 Continued*

### **Site History**

On 27 August 1998, the City approved an application for a temple and community hall on the subject site. The temple was constructed in 2000, however, the community hall has not yet been constructed. The original approval required that a minimum of 80 car parking bays be constructed as part of the development, but did not stipulate any attendance restrictions.

On 22 February 2011, Council resolved (Resolution 54) to approve an application for a meeting room/storage facility along the south eastern boundary of the site. In progressing the planning application, a site visit was undertaken, during which it became apparent that development had occurred on the site without Council approval. This development included modifications to the approved car parking layout and the construction of a bitumen parking area. As a result, Council resolved (Resolution 55) to direct the landowners to reinstate the approved car parking layout, or alternatively, submit an application seeking approval for such development.

On 23 August 2011 (Resolution 390) Council resolved to approve the application for modifications to the existing car parking layout and new car parking area on the subject site, subject to the following conditions:

- "1. Carparking bays shown on the approved plan are to be maintained to the satisfaction of the City. The driveways, accessways and carbays are to be paved, drained and marked to City's standards in accordance with the approved plan and Table 3B of Town Planning Scheme No. 6.*
- 2. Kerbing is to be provided along the edge of end car bays to the satisfaction of the City.*
- 3. The applicant shall submit a drainage plan, to the satisfaction of the City, showing how stormwater drainage from the development and/or paved areas is to be disposed of within the confines of the property, within 30 days from the date of this determination.*
- 4. Drainage works are to be undertaken in accordance with an approved drainage plan, within 30 days of the date of the drainage plan being approved by the City.*
- 5. A landscape plan for the development site and the adjoining road verge(s) is to be submitted to the City's satisfaction within 30 days from the date of this determination in accordance with the City's Local Planning Policy 4.5 – Development – Landscaping.*
- 6. Landscaping and irrigation of the development site is to be installed in accordance with the approved landscaping plan within 30 days of the date of the landscaping plan being approved by the City, and thereafter maintained to the City's satisfaction.*
- 7. Arrangements being made to the satisfaction of the City of Gosnells, within 60 days of the date of this approval, for the payment of the requisite developer cost contribution applicable to the land under the Canning Vale Outline Development Plan Development Contribution*

*Item 13.5.5 Continued*

*Arrangement, in accordance with Schedule 12 of Town Planning Scheme No. 6.*

8. *Satisfactory arrangements being made with the City to ensure that the crossover on Nicholson Road is only used for emergency vehicular access/egress."*

To this date the applicant has failed to comply with any of the above conditions.

## **DISCUSSION**

The City has conducted long and protracted discussion with the owner, to gain a satisfactory conclusion on this matter.

The existing car park has been the subject of previous compliance action by the City, with a direction notice previously being issued against the land owner.

The current approval was granted after lengthy discussions with the land owner. The land owner is fully aware of the obligations under the planning approval, yet has not complied with the stated conditions.

Section 218(c) of the *Planning and Development Act 2005* (Act) provides that it is an offence to undertake development in contravention of any condition of planning approval. Section 223 of the Act provides for a maximum penalty of \$50,000 for an offence and \$5,000 for each day that the offence continues. Section 40 of the *Sentencing Act 1995* provides that these penalties are multiplied by five times the amounts where a company is the offending party, that is, the maximum penalties increase to \$250,000 and \$25,000 respectively.

## **CONCLUSION**

The owners have been made fully aware of the City's concern about the works that have to be undertaken at the site and have been afforded generous and extended opportunities to comply with conditions of the relevant planning approval.

## **FINANCIAL IMPLICATIONS**

Legal fees, funds for which have been budgeted, should be recouped at least in part, subject to a favourable ruling by the Court.

## **STATUTORY IMPLICATIONS**

- City of Gosnells Town Planning Scheme No. 6
- *Planning and Development Act 2005*
- *Sentencing Act 2005*
- City of Gosnells Planning Approval dated 23 August 2011.

## **VOTING REQUIREMENTS**

Simple Majority required.

*Item 13.5.5 Continued*

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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**519 Moved Cr L Griffiths Seconded Cr J Brown**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Sikh Association of Western Australia being the property owners of 280 (Lot 123) Shreeve Road, Canning Vale for non-compliance of conditions of planning approval dated 23 August 2011.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

**13.5.6 AMENDMENT NO. 108 TO TOWN PLANNING SCHEME NO. 6 - INITIATION - DEVELOPMENT CONTRIBUTION ARRANGEMENT FOR SOUTHERN RIVER PRECINCT 1**

Author:	R Windass
Author's Declaration of Interest:	Nil.
Reference:	Various
Application No:	PF09/00015
Applicant:	City of Gosnells
Owner:	Various
Location:	Southern River Precinct 1
Zoning: MRS:	Urban
TPS No. 6:	Residential Development
Review Rights:	Nil, however responsibility for final approval lies with the Minister for Planning.
Area:	Approximately 67.5ha
Previous Ref:	OCM 22 February 2005 (Resolution 56-60) OCM 10 June 2003 (Resolution 352-353)
Appendices:	13.5.6A Southern River Precinct 1 Sub-precinct Plan 13.5.6B Proposed Scheme Amendment Map 13.5.6C Draft Development Contribution Plan Report

**PURPOSE OF REPORT**

For Council to consider:

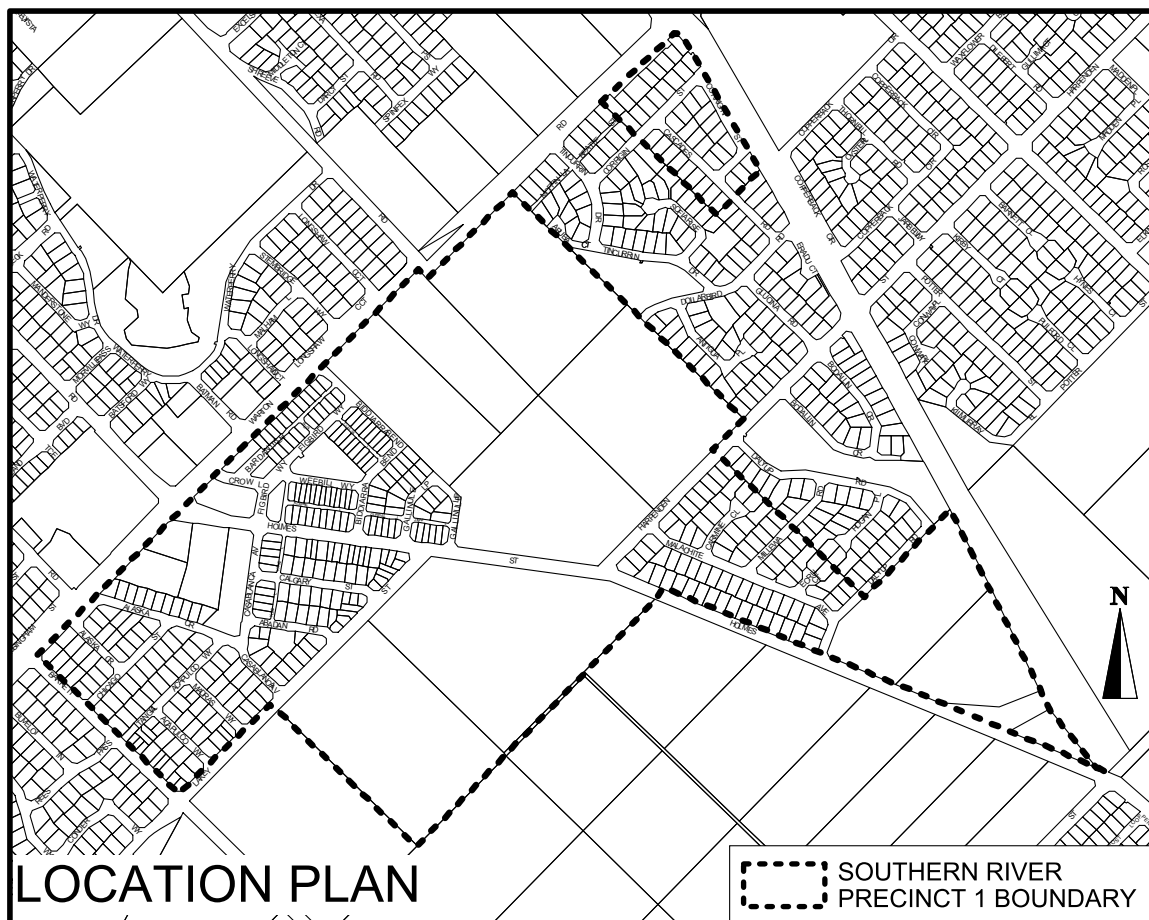
- i) Initiating an amendment to Town Planning Scheme No. 6 (TPS 6) to establish a Development Contribution Arrangement (DCA) for the provision of Common Infrastructure Works (CIW) within Southern River Precinct 1 (Precinct 1).
- ii) Adopting a draft Development Contribution Plan report as the basis for making interim contribution arrangements with owners who seek final approval for subdivision and development ahead of finalisation of the proposed TPS 6 amendment.

**BACKGROUND****Location**

Precinct 1 is zoned Urban in the Metropolitan Region Scheme (MRS) and Residential Development in TPS 6. It is comprised of a mix of recently developed residential estates, commercial premises, a community facility and several undeveloped landholdings, some containing areas of high environmental value.

The location and extent of Precinct 1 is shown on the following plan.

## Item 13.5.6 Continued

**History of Planning for Precinct 1**

Planning for Precinct 1 has been protracted and problematic, as evidenced by the following summary of key events:

- May 2001 - tenders were called for the preparation of an Outline Development Plan (ODP) for Precinct 1 to guide future subdivision and development. Council subsequently awarded the tender for the preparation of the ODP to Turner Master Planners.
- October 2001 - a design workshop was held where opportunities were explored for urban development amidst areas of environmental value, particularly Bush Forever sites and wetlands assigned a conservation category by the State Government. A draft ODP was prepared as an outcome.
- 11 June 2002 - Council resolved to support the draft ODP for Precinct 1 and forward it to the Western Australian Planning Commission (WAPC) to seek support for the proposal to be advertised for public comment once a drainage management plan, schedule of common infrastructure works and other supporting documentation had been prepared. Council also resolved to support the MRS and TPS 6 being amended to provide for urban development in Precinct 1.
- 10 June 2003 - Council considered a report that detailed difficulties that had been experienced in progressing the draft ODP to the public consultation stage.

*Item 13.5.6 Continued*

The main issues related to how to structure a DCA, particularly the intended approach to the acquisition of land required for conservation purposes. The report discussed a shared approach to land acquisition and compensation between Council, the WAPC and landowners (through developer contributions). Council resolved to determine that the draft ODP and supporting documentation for Precinct 1 was satisfactory for advertising for public comment.

- August 2003 - the draft ODP was formally advertised for comment to government agencies and landowners. Concerns were raised by many of the agencies and landowners. The most significant of the concerns related to the extent of land to be set aside for conservation and related compensation arrangements. The draft ODP was not subsequently finalised.
- Throughout 2004 - In an effort to address the issues and expedite the planning for Precinct 1, the City facilitated a number of landowner/agency workshops to examine a range of matters including environmental requirements, urban form and structure and developer contributions.
- 22 February 2005 - Council considered a report that discussed the outstanding issues that were continuing to stall planning and development in parts of Precinct 1, particularly the lack of certainty about the areas required for conservation. The report discussed the comments raised on the advertised ODP and recognised that subdivision had, in the meantime, been approved by the WAPC in parts of Precinct 1 ahead of broader issues being resolved such as conservation requirements, contribution arrangements and the residential density codings to be applied to developable land. The report concluded that the most effective method to establish a planning framework for Precinct 1 would be to divide the area into six sub-precincts. This approach was intended to facilitate further discussion between landowners and relevant state agencies for those sub-precincts where particular land use issues were still to be resolved, while setting development parameters for the sub-precincts where subdivision had been approved by the WAPC. Council resolved to divide Precinct 1 into six sub-precincts (Resolution 58 - see Appendix 13.5.6A), adopt ODPs for Precincts 1A and 1D (Resolution 59) and to seek support from the State Government and servicing agencies to finalise planning in Precinct 1 in the interests of fair and equitable outcomes for all landowners (Resolution 60).
- Between 2005 and 2008 - Council and the WAPC adopted ODPs for Precincts 1A, 1B, 1D, 1E (Phase 1) and 1F. The adopted ODPs for Southern River Precinct 1 are shown on the consolidated sub-precincts ODP plan contained in Appendix 13.5.6A. The WAPC also approved various applications for subdivision in these Precincts. There has not however been any agreed solution to the identification and acquisition of land for conservation purposes and consequently no DCA formally established.

**The Need for a Developer Contribution Arrangement**

It was envisaged at the outset of the planning process for Precinct 1 that some form of DCA would be required, given the fragmented land ownership in the area and the need for an equitable approach to the provision of new infrastructure to service urban development.

*Item 13.5.6 Continued*

The decision of Council in February 2005 to divide Precinct 1 into six sub-precincts had the desired effect of allowing ODPs to be prepared and finalised, and subdivision and development of much of the land in Precinct 1 to occur.

However, the formal establishment of a DCA has not occurred and as a consequence the parameters for operation of the arrangement and the availability of funds to undertake key infrastructure works remain uncertain.

As an interim approach in the absence of a formally established DCA, all land owners who have undertaken subdivision and major development in Precinct 1 have been required to enter into legal agreements with the City to secure their contribution to CIW costs, albeit without knowing what the ultimate contribution may be.

Preliminary contributions have been made or secured, typically in the order of between \$40,000 and \$50,000 for each hectare of developable land for CIW, depending on the timing of subdivision. These contributions were based on the estimated cost of CIW identified in an earlier, but not adopted, draft contribution arrangement. Contributions were also made in the form of land or cash-in-lieu equivalent to 10% of land value for public open space (POS).

The legal agreements have made provision to allow the City to call in additional contributions should the final DCA result in the CIWs and POS costs being greater than the preliminary estimates.

It should be noted that developer contributions made to date have not included any allowance for the cost of compensating landowners for the requirement to cede land for conservation purposes, which was part of the 2002 ODP/DCA proposal.

As at 16 September 2011, there was \$874,440 held in reserve for CIW and \$498,040 held for POS in Precinct 1.

**Significance of Unresolved Contribution Parameters**

Unresolved contribution parameters in Precinct 1 represent a significant issue for both landowners in the area and Council.

For landowners, there are varied interests in how a DCA may be structured in Precinct 1. Landowners who have already developed land have an expectation that funds contributed to the City will ultimately be spent on CIWs and POS. Residents of the new estates will similarly wish to see an appropriate level of infrastructure provided. Some developers have been required to provide security, in the form of either lots with caveats or bank guarantees, to the City pending finalisation of a DCA. These developers would like the City to relinquish the caveats and guarantees. There are other parties with landholdings located in Bush Forever site 125 who have an interest in whether compensation would be paid for any requirement to cede land for conservation.

For Council, there are two main concerns. The first concern relates to the fact that funds have been collected from developers who have undertaken subdivision in Precinct 1. The funds were collected in order to enable the completion of certain CIW and POS in future.



*Item 13.5.6 Continued*

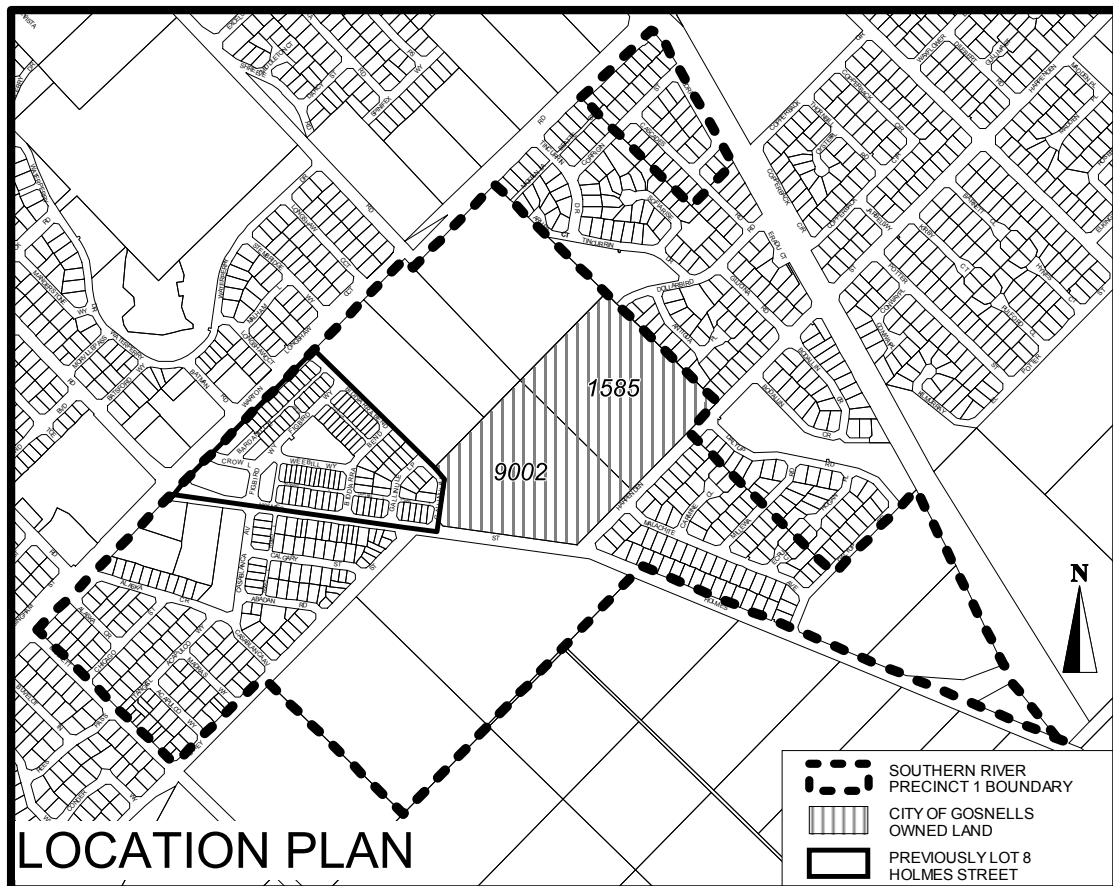
There is an obligation on Council to ensure that the funds it holds for Precinct 1 are transparently administered and used to complete the required CIWs and POS. Council's administration of a DCA would be better secured and more effective by operating under a head of power provided by TPS 6.

The second concern relates to Council's interests in terms of its ownership of land in Precinct 1. It is the former owner and developer of Lot 8 Holmes Street, which has recently been subdivided (and to which developer contributions are payable) and retains ownership of two freehold lots that are designated as Bush Forever sites and also contain conservation category wetlands.

The City owns the following lots in Precinct 1 freehold:

- Lot 9002 Holmes Street.
- Lot 1585 Holmes Street.

These lots are shown on the Location Plan, below. The extent of Bush Forever site 125 is illustrated on the Southern River Precinct 1 ODP Sub-precinct Plan, as contained in Appendix 13.5.6A, in the areas hatched in green and marked as Conservation.



*Item 13.5.6 Continued*

## **DISCUSSION**

Establishing a DCA typically involves a town planning scheme being prepared or amended to provide a legal basis for its operation.

It will be recommended that Council initiate an amendment to TPS 6 to establish a DCA for Precinct 1, with the intent of achieving a coordinated and equitable approach to infrastructure provision.

It is necessary in establishing a DCA to determine what infrastructure works and other costs are to be commonly funded (and those that are not), what cost allowance is to be made for those works and who will be required to fund the costs.

The following section of the report details the context, content and implications of the proposed amendment and associated documentation.

### **Planning Context**

#### Town Planning Scheme No.6

The establishment of a DCA for Precinct 1 requires an amendment to TPS 6 to formally provide a head of power for its operation.

A DCA must operate in accordance with the provisions of Schedule 12 of TPS 6.

Schedule 12 is currently the subject of an amendment proposal (Amendment No.122), where the provisions are to be modified to reflect new guidance for the establishment and operation of contribution arrangements, as set out in State Planning Policy 3.6 (SPP 3.6).

#### State Planning Policy 3.6 – Development Contributions for Infrastructure

The WAPC released SPP 3.6 in November 2009, which sets out the principles and considerations that apply to DCA's for the provision of infrastructure in new and redeveloping urban areas.

In particular, SPP 3.6 sets out a model format for TPS provisions and the required content and process for the preparation of a Development Contribution Plan (DCP).

#### Draft Local Planning Policy - Development Contribution Arrangements

Council at its meeting on 25 October 2011 noted a policy to guide the establishment and operation of DCAs.

The Policy contains the following provisions in respect to the establishment of a DCA:

*"The City, in establishing a DCA, will:*

- 2.1 Need to be satisfied that its involvement in facilitating a shared approach to the provision of certain development infrastructure through developer contributions would be in the community's best interests. This will involve consideration of a range of matters including, but not limited to:*

*Item 13.5.6 Continued*

- *Land tenure*
  - *Development potential limitations*
  - *Potential community benefits*
  - *Regional significance of development area and/or infrastructure*
  - *Environmental constraints*
  - *Involvement of other responsible authorities*
  - *Efficiency and coordination benefits*
  - *Financial risk*
  - *Available resources*
- 2.2 *Where possible, encourage appropriate provision of infrastructure through imposition of approval requirements on subdivision and development proposals or by private arrangements between land owners.*
- 2.3 *Amend the City Town Planning Scheme and prepare associated documents to establish the basis for and outline the intended operation of the proposed arrangement and will consult with affected land owners as part of this process.*
- 2.4 *Ensure the principles of State Planning Policy 3.6 - Development Contributions for Infrastructure are applied.*
- 2.5 *Ensure that it can be operated effectively and efficiently with minimal City involvement and exposure to financial risk.*
- 2.6 *Only agree to infrastructure items being included as a shared cost for developers where their provision could not be equitably or reasonably achieved without such an arrangement.*
- 2.7 *Have the estimated costs of items reviewed by an appropriately qualified external professional in accordance with relevant legislative requirements and procedures as a cost to the arrangement.*
- 2.8 *Make contingency provision in cost estimates to cover reasonably unforeseen events and ensure a shortfall of funds does not occur.*
- 2.9 *Include the anticipated cost of its administration as a contribution item."*

**Proposed Amendment Overview**

It is proposed to amend TPS 6 to establish a DCA for Precinct 1 in the following manner:

- Amend the Scheme Map, by including land within Precinct 1 as a Special Control Area - Development Contribution Area 6 (DCA 6), as detailed on the plan contained in Appendix 13.5.6B.
- Amend Schedule 12 of the Scheme Text to broadly define the CIW and associated costs applicable to proposed DCA 6, with specific details outlining the intended operation of the DCA contained in a DCP report.

*Item 13.5.6 Continued*

The draft DCP report is contained in Appendix 13.5.6C. It does not form part of the amendment resolutions, but it would be appended to the amendment document to be made available to land owners during the amendment's public consultation period to assist them to understand the intended operation of the DCA and, if necessary, make a submission.

The proposed amendment has been drafted to accord with the provisions of SPP 3.6 and Amendment No.122 to TPS 6.

Where there is any inconsistency between the content of the draft DCP report and the summary provided in the following section, the draft DCP report shall prevail.

### **Development Contribution Arrangement Overview**

It is proposed that the development of land within Precinct 1 will be subject to requirements to make contributions towards CIW and POS identified as common to developers in the proposed DCA6.

#### Common Infrastructure Works

The proposed DCA makes provision for contributions to be made towards certain infrastructure items for the benefit of development of Precinct 1.

It is proposed that contributions be collected for the following CIW items:

- Land for widening of Warton Road
- Upgrading of Warton Road between Barrett Street and Garden Street
- Construction of Garden Street, where it abuts the DCA
- Traffic signals at the intersections of Warton Road and Garden Street and Warton Road and Holmes Street
- Two fauna underpasses constructed beneath Holmes Street
- Costs to administer and operate the DCA.

<b>TABLE 1: Common Infrastructure Works Costs</b>	
1) Land Acquisition – Warton Road	\$567,600
2) Upgrade of Warton Road	\$1,206,700
3) Construction of Garden Street	\$756,200
4) Traffic Management	\$589,300
5) Fauna Underpasses - Holmes Street	\$100,000
6) Administration	\$300,000
<b>Estimated total cost for CIW</b>	<b>\$3,519,800</b>

The CIW costs are proposed to be apportioned over the area estimated to be developable. The following table details the calculated developable area.

*Item 13.5.6 Continued*

<b>TABLE 2: Calculation of CIW Contribution Area</b>	
Gross Land Area	67.5127 ha
Less	
Bush Forever/Conservation Sites	18.4566 ha
Community Purpose Site	0.4116 ha
Public Open Space	5.8809 ha
Regional Road Widening	0.4366 ha
<b>Net Contribution Area (NCA)</b>	<b>42.3270 ha</b>

As Tables 1 and 2 detail, CIW costs within the DCA area have been estimated at \$3,519,800. The division of these costs over the 42.3270ha of land developed or expected to be developed for commercial and residential purposes in Precinct 1 results in a contribution rate of \$83,200/ha rounded to the nearest \$100.

The proposed CIW are items that are typically included within such arrangements and are consistent with the requirements of SPP 3.6. One exception is the fauna underpasses to be constructed under Holmes Street, which are intended to provide safe passage for animals, such as bandicoots, between the important conservation areas severed by this road.

The need for the construction of the underpasses results from the requirements of the Department of Environment and Conservation and are considered to be a shared responsibility of all developers of land within Precinct 1.

Additional details on the scope of proposed CIW is provided in the draft DCP report. It is intended that the DCP report, once formally adopted, will be amended annually to adjust CIW cost estimates in line with any cost escalation.

#### Public Open Space

The draft DCP report proposes that requirements for the provision of POS are applied in accordance with State Planning Policy requirements. In effect, this means that the following requirements will be applicable:

- A minimum of 10% of developable land is to be set aside for POS. Where it is impractical to provide land for POS, a cash-in-lieu contribution is to be made, based on an agreed land valuation.
- Credit for restricted use POS (that is, POS land intended to fulfil a drainage or conservation function) will be restricted to a maximum of one-fifth of area of POS required as part of a particular subdivision or development.
- No compensation will be paid from the DCA for land provided for POS in excess of 10% of the developable area, including land that is required for conservation purposes, or not credited for POS.

The last point is discussed in more detail under the heading of Land Required for Conservation.

*Item 13.5.6 Continued*

This approach will effectively see each sub-precinct making its own arrangements for POS, rather than involving a situation that requires Council to administer a complicated POS equalisation arrangement between owners.

The following arrangements for POS provision have been made to date, or are anticipated to be made:

- Precinct 1A - Subdivision and development has been undertaken by multiple owners. One owner provided a combination of 0.5152ha of land free of cost for POS and drainage and a cash-in-lieu contribution to meet the standard 10% requirement. Other owners have provided a 10% cash-in-lieu contribution.
- Precinct 1B - Development of the 13.7ha of land in this sub precinct is underway. The applicable ODP identifies two areas of POS. A 4,000m<sup>2</sup> area for POS is required in addition to approximately 2.6ha required as a buffer to the adjoining Bush Forever/Parks and Recreation reserve. While the areas required for POS represent approximately 21% of the area of the sub-precinct, credit for the buffer area as useable POS is substantially limited.
- Precinct 1C - With the exception of a long established veterinary clinic, land in this sub-precinct is not developed. A significant portion of the area is a Bush Forever site and required to be set aside for conservation purposes.
- Precinct 1D - The owner of land in this sub-precinct provided a 10% cash-in-lieu of land contribution for POS.
- Precinct 1E - Most of the land in this sub-precinct is currently being developed. The applicable ODP identifies an area of POS, intended to satisfy the minimum 10% requirement for a substantial portion of the sub-precinct. Given Bush Forever and wetland-related issues, the calculation of allowable POS credits is currently under review, pending assessment of a POS management plan required under a subdivision approval. Cash-in-lieu contributions may be required in addition to land to be ceded for POS, depending on the extent of restricted use POS given credit.
- Precinct 1F - 0.5152ha of land was ceded free of cost for POS and drainage as part of the City's subdivision of Lot 8 Holmes Street, in addition to the 0.4114ha site for the Amherst Village Community Centre, representing approximately 14.5% of the developable area of the subdivision.

**Exclusions from the DCA**

The proposed list of CIW items represent a reduction on the list of CIW contained in the initial 2002 ODP/DCA proposal. The key difference is the exclusion of the cost of compensating land owners for ceding land for conservation purposes. The costs of constructing drainage basins and shared paths have also been excluded, as these will instead be provided by individual subdividers. The rationale for these and other exclusions from the proposed DCA are discussed below.

Land Required for Conservation

As a consequence of directions from the State Government in other nearby planning precincts, the proposed DCA does not include any requirement for developers to contribute to the cost of acquiring wetlands and other land required to be set aside for

*Item 13.5.6 Continued*

conservation purposes, nor does it make any provision for owners of land required for conservation to be compensated from the DCA.

The establishment of a DCA in Precinct 1 has primarily been delayed by the lack of definition in respect to the extent of land required for conservation and the broader question of whether landowners should be compensated for ceding land for conservation from the DCA.

Council has previously, on several occasions, resolved to advocate to the State Government that landowners required to cede land for conservation purposes throughout the City should be fairly and equitably compensated. One method by which Council has sought to ensure that fair and equitable compensation occurs has been through the establishment of DCAs, such as those that operate in the Canning Vale ODP and Southern River Precinct 2 ODP areas, where developer contributions are collected and used to compensate owners for ceding land for conservation.

In recent times the WAPC has confirmed its position on the issue of compensation for conservation land being included as a common cost in DCAs. This was most clearly expressed as part of its consideration of the Local Structure Plan for Southern River Precinct 3. In September 2009, the WAPC indicated that it would not support the inclusion of compensation costs for wetlands and Bush Forever sites being funded by developers in the Precinct 3 area. Unfortunately the WAPC did not indicate how it considered compensation arrangements should be otherwise addressed, essentially meaning the individual land owner must either accept that little or no compensation will be paid or to contest the situation through legal challenge.

It is therefore inferred that the WAPC will not support any new proposal to establish a DCA that includes the cost of compensation for conservation land being a common developer contribution item.

The general basis for these decisions is understood to be on the premise that acquisition of conservation land as a common cost to developers is not specifically provided for in SPP 3.6.

In Precinct 1, the land identified as having conservation value forms part of Bush Forever site 125. Bush Forever site 125 is identified as subject to a "strategic negotiated planning solution" (SNPS). It is not proposed to be reserved under the MRS for Parks and Recreation like many other Bush Forever sites, however the following should be noted from documents published in relation to Bush Forever:

*"Bush Forever will encourage structure planning, land coordination and cost-sharing arrangements and the strategic coordination of bushland conservation and development to achieve the protection of Bush Forever Sites in their entirety, where possible, and equitable and reasonable outcomes for private landowners affected by Bush Forever Sites." (Government of Western Australia 2000, Bush Forever Volume 1 – Policies, Principles and Processes)*

*Item 13.5.6 Continued*

SNPSs apply in the following contexts:

- Where lots in separate ownership form part of a Bush Forever site
- Where the Bush Forever site forms part of a larger development area and the area has the potential for detailed structure planning and coordination of development
- Where large landholdings are evident, including government bodies who may have a number of sites affected by Bush Forever.

The objectives of a SNPS include:

- To optimise conservation and planning objectives for sites with multiple ownership
- To provide a fair and equitable distribution of open space (including Bush Forever sites) when coordinating future development in areas of multiple ownership, while seeking to protect the Bush Forever Sites in their entirety, where possible and a reasonable outcome
- To negotiate with large landholders and special land-use interest groups on a strategic basis, using implementation mechanisms aimed at satisfying conservation and development objectives.

According to the WAPC's draft Bushland Policy for the Perth Metropolitan Region (Statement of Planning Policy 2.8 – July 2004), such implementation mechanisms include structure plans, guided schemes, precinct planning and developer contribution arrangements.

Notwithstanding the apparent policy conflict in relation to conservation issues and the establishment of DCAs, in the context of Precinct 1, the requirement for developer contributions to be collected to fund the purchase of all conservation land within the area would result in an excessive and potentially unviable contribution rate and an onerous financial burden on landowners within Precinct 1. This is because there is approximately 18.5ha of Bush Forever land in Precinct 1 and approximately 42ha of land that is developable. A contribution requirement for compensation would arguably be an unreasonable or inequitable impost on developers.

The surrender of the conservation sites free of cost would be a cost to the wider City of Gosnells community, given Council's ownership of a significant portion of the Bush Forever sites in Precinct 1, and to the other affected private landowners. This is not considered reasonable or equitable either.

It is outside the scope of this report to address what other options may exist for Council and other owners to seek compensation for land it owns which is affected by Bush Forever, however it is clear that levying a charge on developers of land in Precinct 1 is not an option that will get the support of the State Government. Consequently, such a levy is not proposed for inclusion in the amendment and associated draft DCP report.



*Item 13.5.6 Continued*

### Exclusion of Drainage Basins

Conoble Park undertook one of the first subdivisions in Precinct 1 in 2005, in sub-precinct 1A. As part of its subdivision, it constructed drainage facilities within the area of POS on Casablanca Avenue.

The cost of these drainage facilities were approved as a credit against the owner's contribution obligations, to a value of \$72,879. This was agreed to as at that time, the cost of certain drainage works was included in the initial 2002 ODP/DCA proposal.

As detailed above, the cost of constructing drainage facilities is now proposed to be an individual subdivider's cost, rather than a common cost. This is because each sub-precinct has its own drainage requirements and trying to equalise the cost of meeting those requirements across Precinct 1 would complicate the establishment and operation of the DCA and represent an unnecessary financial and administrative burden on the City.

Should it eventuate that drainage costs are not included as a CIW, as proposed, Conoble Park should be required to repay the credit it was given for drainage works in its subdivision. This will be addressed following the finalisation of the proposed amendment.

### Subdivisional Requirements

Costs associated with building new and upgrading existing local roads and footpaths and extending service mains and associated facilities (water, power, gas, telecommunications, sewer, other drains etc) are not included in the draft proposed DCA and will need to be met individually by developers.

This is consistent with the manner in which DCAs operate elsewhere in the City.

### **Valuation Approach**

An important component of the proposed DCA is what is referred to as the land valuation basis. The land valuation basis will be used to estimate the cost of acquiring land required for certain public purposes and in turn assist to determine the value of CIW contributions needed to fund the cost.

The land valuation basis will be the market value, assuming the required land is zoned and unconstrained for residential development. This is intended to ensure contribution rates reflect the estimated cost of acquiring land and land owners are fairly compensated, without undue burden on the broader community.

Schedule 12 of TPS 6 sets out how the land valuation basis is determined and adjusted over time. It also sets out the rights of landowners to dispute a valuation adopted by Council.

It will be recommended that an interim land valuation basis be adopted using advice from an independent property valuer engaged by the City in relation to the Canning Vale ODP which is located immediately to the north-west of Precinct 1, pending the formal appointment process of an agreed valuer. The adoption of a land valuation basis at \$1,300,000/ha (\$130/m<sup>2</sup>) is proposed, based on valuation advice given in June 2011. Further details are provided in the draft DCP report at Appendix 13.5.6C.

*Item 13.5.6 Continued*

The land valuation basis will be updated at the time of the annual review of the DCP report.

**Financial Implications**

Any DCA that Council takes on the management of has an inherent degree of financial risk and administrative cost. The main financial risk is that the funds to be collected will not be sufficient to meet the cost of the infrastructure required. This could result due to an escalation in the cost of infrastructure or land, costing or contribution calculation errors or unforeseen circumstances such as if landowners choose not to develop (and therefore do not contribute). Council, and therefore the broader community, would have the responsibility to manage the DCA over a long period and contribute to overcome any funds shortfall.

Financial risks can be mitigated to an extent by factoring contingency amounts into cost estimates and pro-actively managing the DCA.

While there are risks and costs associated with setting up and operating a DCA, the cost of not establishing a DCA could be more significant by failing to provide a proper basis for funds already collected and those still to be collected for important infrastructure to service future community needs.

Preliminary contributions were collected from developers in Precinct 1 to fund future CIWs and in the absence of an approved DCA were secured under legal agreements. The legal agreements allowed for "top up" payments to be made in the event that preliminary contributions were insufficient to fund complete works and allowed for reimbursement payments to be made in the event that preliminary contributions were in excess of what was required. Legal agreements were to be finalised once the DCA was approved and the exact CIWs and associated costs were determined.

There is an issue in that contributions collected to date have been in the order of \$40,000 to \$50,000/ha generally around the period of 2005 to 2006. Funds held in reserve have been accruing interest, however the cost of undertaking some of the CIW, such as the upgrade of Warton Road and traffic signals at its intersections with Holmes Street and Garden Street, together with inflation, has resulted in contribution rates increasing to approximately \$83,000/ha. It is possible that the funds held in reserve, in addition to those still to be collected may not be sufficient to meet the cost of providing CIW.

Contribution rates cannot simply be increased and there could be some difficulties relying on the provisions of the legal agreements entered into with developers to call-in additional contributions. Inevitably the broader community may have to fund any shortfall, which is not necessarily inappropriate given the CIW proposed for inclusion in the DCA are items that provide broad community benefit.

Unfortunately in some respects the City was not able to prevent the approval of subdivision of land in Precinct 1 ahead of a DCA being formally established. Indeed SPP 3.6 now prevents a local government from not supporting subdivision and development on the basis that a DCA is required but not yet in place.

The situation in Precinct 1 is indicative of the significant challenges local government faces in managing urban growth in areas that are held in multiple ownership and subject to major environmental constraints.

Item 13.5.6 Continued

**CONCLUSION**

It will be recommended that Council establish, through Amendment No. 108 to TPS 6, a DCA for Precinct 1. The proposed DCA is necessary to facilitate the equitable provision of CIW required as part of the development of the area.

It will also be recommended that while Amendment No.108 progresses through the statutory process that Council adopt the draft DCP report on an interim approach basis.

**FINANCIAL IMPLICATIONS**

All costs of processing the proposed Scheme Amendment (including the documentation and advertising) will be met by the City Growth operational budget.

**STATUTORY IMPLICATIONS**

- Town Planning Regulations 1967 – Amendments to Local Planning Schemes
- Environmental Protection Act (Section 48) – Scheme Assessments.

**VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION (1 OF 4) AND COUNCIL RESOLUTION**

**520 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council, pursuant to Section 75 of the *Planning and Development Act 2005* (as amended) adopt Amendment No. 108 to Town Planning Scheme No. 6 for the purpose of advertising for public comment, which proposes the following modifications:

1. Amending the Scheme Map by applying a Special Control Area - Development Contribution Area 6 to the Southern River Precinct 1 area, as depicted on the Scheme Amendment map contained in Appendix 13.5.6B.
2. Amending the Scheme Text by inserting the following new Attachment F into Schedule 12:

**ATTACHMENT F**

Reference No.	DCP 6
Area Name	DCA 6 (Southern River Precinct 1 Outline Development Plan DCA)

Item 13.5.6 Continued

Relationship to other planning instruments	This Development Contribution Plan operates in association with the Southern River Precinct 1 Outline Development Plan Area, adopted pursuant to Clause 7.4.15 of the Scheme.
Infrastructure and administration items to be funded	<ol style="list-style-type: none"> <li>1. Land Acquisition for Arterial Roads</li> <li>2. Arterial Road Upgrade</li> <li>3. Arterial Road Construction</li> <li>4. Traffic Management</li> <li>5. Fauna Underpasses</li> <li>6. General Administration and Studies</li> </ol>
Method for calculating contributions	As detailed in the Southern River Precinct 1 Outline Development Plan Development Contribution Plan Report.
Period of operation	Five years from the date of gazettal of Amendment No. 108 to Town Planning Scheme No. 6.
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.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 4) AND COUNCIL RESOLUTION

**521 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council forward Amendment No. 108 to Town Planning Scheme No. 6 to:

1. The Environmental Protection Authority (EPA) for comment, pursuant to Section 81 of the *Planning and Development Act 2005*; and
2. The Western Australian Planning Commission for consent to advertise for public comment;

and subject to no objections being received from the EPA and advertising consent being granted by the Commission, advertise the amendment pursuant to Regulation 25(2) of the Town Planning Regulations 1967 (as amended) for a period of 42 days to the satisfaction of the Director Planning and Sustainability.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

Item 13.5.6 Continued

STAFF RECOMMENDATION (3 OF 4) AND COUNCIL RESOLUTION

**522 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council adopt on an interim basis the draft Development Contribution Plan report for Southern River Precinct 1, as contained in Appendix 13.5.6C.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (4 OF 4) AND COUNCIL RESOLUTION

**523 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council endorse the inclusion of the draft Development Contribution Plan report for Southern River Precinct 1 in the documentation associated with Amendment No. 108 to Town Planning Scheme No. 6, for the purposes of advertising for public comment.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

**13.5.7 MADDINGTON ROAD PRECINCT A OUTLINE DEVELOPMENT PLAN - FINALISATION**

Author: C Windass  
Author's Declaration Nil.  
of Interest:  
Application No: PF09/00016  
Applicant: Burgess Design Group  
Owner: Various  
Location: Lots 412-414, 5-6, 125-126, 2 and 103 Maddington Road, Maddington  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal or Western Australian Planning Commission against any discretionary decision of Council.  
Area: 16.93 hectares  
Previous Ref: OCM 8 March 2011 (Resolution 80)  
Appendices: 13.5.7A Draft Maddington Road Precinct A Outline Development Plan (as advertised)  
13.5.7B Schedule of Submissions.  
13.5.7C Government Agency Comment  
13.5.7D Draft Maddington Road Precinct A Outline Development Plan (as modified after advertising)

**PURPOSE OF REPORT**

For Council to consider final adoption of the draft Outline Development Plan (ODP) for Maddington Road Precinct A.

**BACKGROUND****History**

On 27 May 2008 Council provided a recommendation to the Western Australian Planning Commission (WAPC) on the lifting of the Urban Deferment under the Metropolitan Region Scheme (MRS) for the Maddington Road Precinct A ODP area. Council resolved (Resolution 214-215) to support the lifting of the Urban Deferment and requested that the WAPC automatically rezone the subject area from Rural to Residential Development. This was subsequently approved by the WAPC. In accordance with the Residential Development zoning, an ODP is required to provide a framework to coordinate subdivision and development of land within the area.

On 8 March 2011 Council resolved (Resolution 80) to advertise a draft ODP for the Maddington Road Precinct A area.

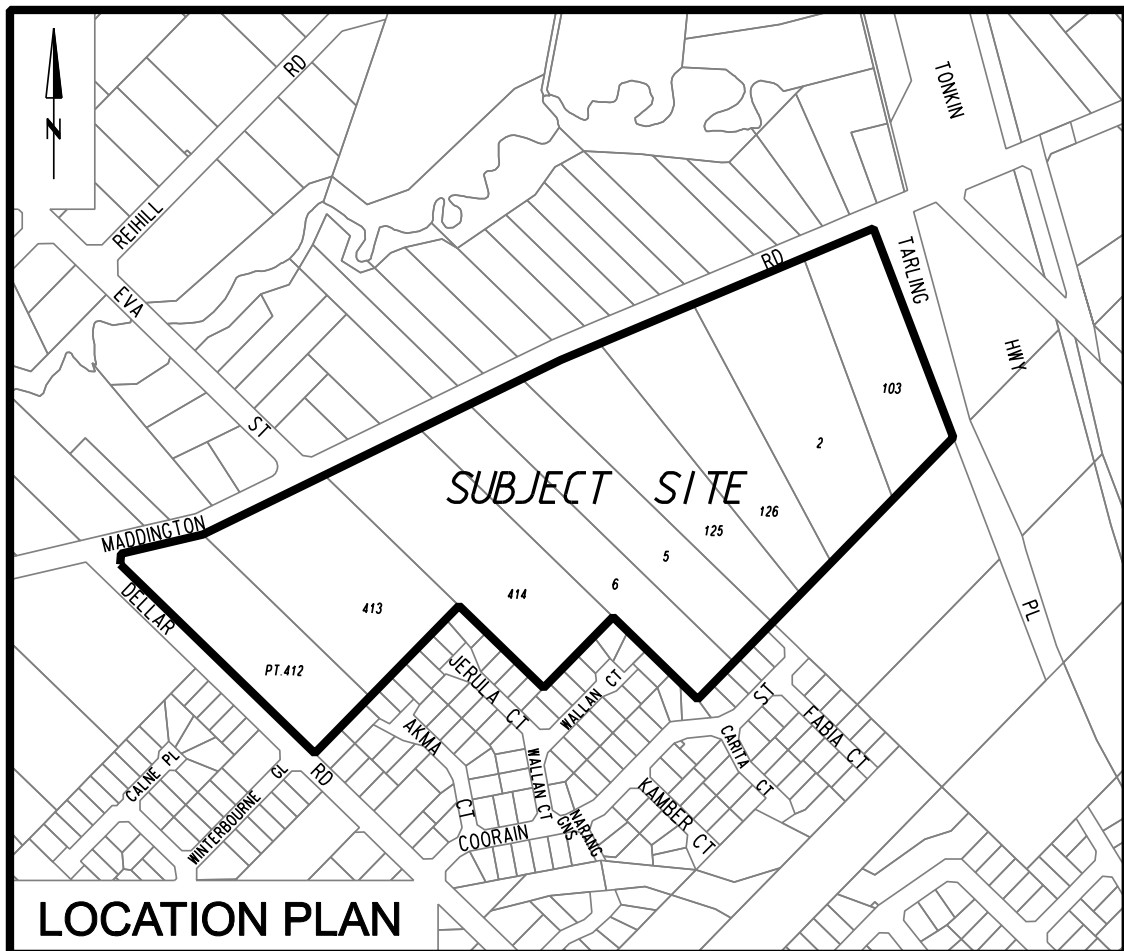
Item 13.5.7 Continued

**Site Description**

The subject area consists of various rural/residential lifestyle properties comprising partially cleared vacant land and pasture. The Belrose Aged Care Facility is located within the area on Lot 413. The subject area is generally bounded by Maddington Road to the north, Tarling Place to the east, Dellar Road to the west and the existing Maddington residential suburb to the south.

The northern side of Maddington Road is occupied by land zoned Residential/Light Industry Composite. This land is characterised by large lots between 2,000m<sup>2</sup>-5,000m<sup>2</sup> with a residential dwelling located at the front and a light industrial business located at the rear. The objective of this zoning is to accommodate small-scale industrial businesses which require a dwelling for the operator to reside in. It also provides a suitable interface between Industrial zoned land and Residential zoned land. The subject area has nine landholdings amongst eight landowners.

A location plan identifying the subject properties follows:



Item 13.5.7 Continued

**Proposal**

The draft ODP proposes:

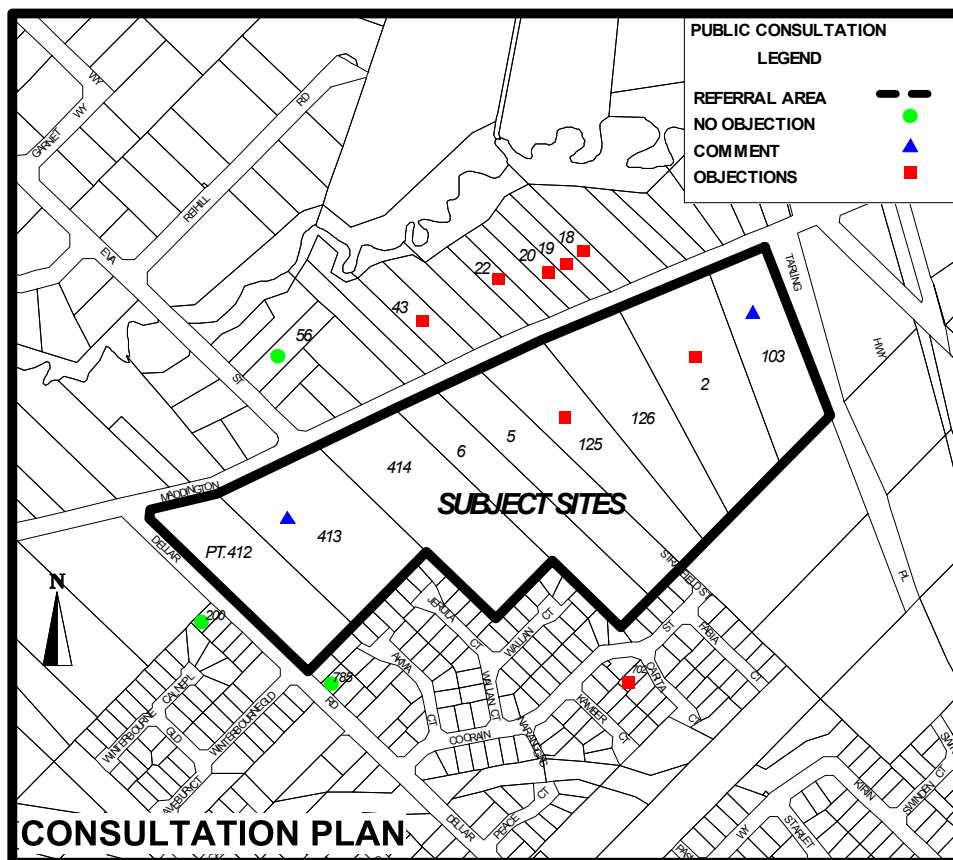
- Low density (R20 and R25) and medium density (R30 and R40) residential lots
- A lot pattern based on a road network grid system which facilitates a permeable street layout
- Three pockets of public open space (POS) surrounded by medium density residential lots to facilitate good surveillance over these spaces.

**Consultation**

In accordance with Council's Resolution 80, the proposal was advertised for public comment by way of written invitation to all landowners within the ODP area and those within 100m radius of the area. A copy of the draft ODP is contained as Appendix 13.5.7A.

A total of 13 submissions were received during the advertising period, comprising eight objections, two comments and three non objections to the proposal. A summary of the submissions received is included in a Schedule of Submissions attached as Appendix 13.5.7B.

A map identifying the location of each submission follows.





*Item 13.5.7 Continued*

The main issues raised in the submissions are as follows:

- Traffic Infrastructure
- Public Open Space
- Public Road Access
- Residential Density

Each is considered in turn along with other applicable technical matters.

**Referrals**

In addition to the above consultation, the draft ODP was referred to a number of government agencies for review and comment. The City received five submissions from government agencies, with a summary of those submissions and comments thereon detailed in the table contained as Appendix 13.5.7C.

**DISCUSSION****Traffic**

The proposal was referred to Main Roads WA for comment given its proximity to Tonkin Highway (a Primary Regional Road under the Metropolitan Region Scheme). Main Roads lodged a submission on the proposal advising that it had no objection subject to the following condition being imposed:

- "1. *The applicant is required to undertake a transport noise assessment in accordance with the guidelines of the Western Australian Planning Commission's State Planning Policy 5.4 "Road and Rail Transport Noise and Freight Considerations in Land Use Planning".*

It will be recommended that Council modify the ODP to include a notation consistent with the Main Roads WA request. The recommended notation will be as follows:

*"A transport noise assessment is to be prepared in accordance with the guidelines of the Western Australian Planning Commission's State Planning Policy 5.4 "Road and Rail Transport Noise and Freight Considerations in Land Use Planning" prior to subdivision and/or development being supported"*

Numerous landowners who reside and operate businesses on properties serviced by Maddington Road lodged submissions raising concerns about roundabouts being proposed along this road. These properties are zoned Composite Residential/Light Industry (Composite) and the concerns related to general traffic safety associated with industrial traffic using this road, and whether the proposed roundabouts would affect industrial vehicles from accessing adjacent properties. The draft ODP (as advertised) proposed two roundabouts along Maddington Road; one at the proposed four-way intersection with Eva Street and a new subdivisional road and the other at the proposed three-way intersection with a new subdivisional road. The concerns raised by submitters about these roundabouts and general traffic safety are summarised as follows:

*Item 13.5.7 Continued*

- Maddington Road is used by heavy vehicles, a significant portion of these emanating from the Composite-zoned properties opposite the ODP area. It would be difficult for heavy vehicles to negotiate these roundabouts without damaging them and/or causing a traffic safety issue.
- The easternmost roundabout along Maddington Road is positioned directly adjacent to Composite-zoned properties. A roundabout in this location would restrict/impede vehicle access to these properties.
- General safety concern regarding heavy vehicle movements along Maddington Road given the interface between Composite properties and the Residential zoned land proposed by the ODP, and the subsequent increase in traffic.

In reviewing the proposal in light of the traffic issues raised by submitters it was determined that the easternmost roundabout along Maddington Road could potentially impact on vehicle access to adjacent Composite-zoned lots. It will therefore be recommended that Council modify the ODP to remove reference to the easternmost roundabout along Maddington Road.

The issue of general safety associated with heavy vehicle movements along Maddington Road will be addressed at the subdivision stage through the upgrading of this road, the construction of the roundabout at the Eva Street intersection, and implementation of appropriate traffic management measures. It should be noted that the land required from Lot 413 to accommodate the roundabout is shown indicatively on the draft ODP. The actual land requirement will need to be determined at the detailed design stage.

**Public Open Space**

A submission was lodged on behalf of the landowner of Lot 2 Maddington Road raising various concerns about the ODP design, including the perceived inequitable distribution of POS and how the POS distribution proposed by the ODP will adversely impact on this landowner.

The submitter referred to a previous version of the ODP in which five parcels of POS were proposed throughout the ODP area. This was referred to by the submitter to draw attention to the potential for a more equitable distribution of the POS throughout the ODP area. The assessment of the previous version of the ODP considered the five parcels of POS as being an inefficient use of land due to the creation of small parks with poor useability for recreational purposes. This scenario would also result in an additional maintenance cost to the City with no material benefit to the community. Subsequently, the applicant (Burgess Design Group) was requested to consolidate the POS into three parcels. The resultant plan indicates Lot 2 as accommodating approximately half of the designated POS area, which is considered as equitable as could be reasonably achieved. In this case, the sharing of POS across two properties (rather than one property accommodating the entire designation) is considered the most practical means of providing a consolidated area of open space.

In reviewing the proposal, it is considered that the area of proposed POS located exclusively on Lot 413 could be shared across both Lot 413 and Lot 412, thereby reducing the burden that applies to one individual site. Relocating that proposed area of POS further south would have the additional benefit of creating a greater separation from the central area of open space, resulting in a more even distribution of POS

*Item 13.5.7 Continued*

across the ODP area. It will therefore be recommended that Council modify the ODP to relocate the southernmost area of POS further south so as to straddle both Lots 412 and 413.

**Public Road Access**

The submission lodged on behalf of the owners of Lot 2 Maddington Road raised a concern about the lack of direct access (via a public road) from Maddington Road, which would restrict this lot from being developed independently of the others within the ODP area. The development of this lot relies on one of the adjoining lots being developed first to provide public road access directly to Lot 2. Ideally, each landowner would be able to develop independently of any other, however at times it is not always possible for direct access for each lot within an ODP to be achieved. The draft ODP proposes three new subdivisional roads with access from Maddington Road, which is considered to be the maximum number of access points that are desirable from a traffic safety and amenity perspective.

**Residential Density**

The draft (advertised) ODP provided for a range of residential densities between R20 and R40, with the higher densities proposed for the areas considered to be the most conveniently located in terms of their accessibility to areas of POS. In response to the public consultation on the draft ODP, numerous submissions suggested that the densities proposed should be modified in particular areas. These submissions are discussed below.

1. Submission 8 suggests that Lot 2 should be identified as Residential R25 rather than Residential R20.

Response: Whilst it is open to Council to modify the draft ODP to increase the residential density as requested, such a modification is considered inappropriate in order to maintain the diverse range of densities provided throughout the ODP area.

2. Submission 8 also suggests that Lot 2 should be identified as Residential R30 rather than Residential R25.

Response: The advertised ODP proposed a density scenario which provides a diverse range of densities throughout the ODP area. While it is considered appropriate for R25 to be located surrounding POS, the request to increase this density to R30 is not without merit, as the POS would benefit from increased surveillance. Therefore, it will be recommended that Council modify the ODP to increase the density coding for the areas of land around the POS from Residential R25 to Residential R30.

3. Submission 9 suggests that Lot 103 should be identified as Residential R40 rather than Residential R25.

Response: Given the rationale provided above regarding increasing the density for land surrounding POS, it is considered appropriate to increase the density of Lot 103 (among others) to R30. It is considered that increasing the density to Residential R40 would be inconsistent with other density areas surrounding the POS within the ODP. Therefore, it will be recommended that Council modify

*Item 13.5.7 Continued*

the ODP to increase the density coding for the areas of land around the POS from Residential R25 to Residential R30.

**Detailed Tree Survey Plan**

In the report presented to Council's 8 March 2011 meeting, it was stated that a Detailed Tree Survey Plan was required to be submitted to identify the location, height, canopy, species and condition of all mature trees and other significant vegetation. The Plan is required pursuant to Local Planning Policy 4.7 - Planning and Development of Public Open Space and Streetscapes. The report stated that the Plan was to be submitted during the advertising period. Subsequently, the proponent prepared the required plan which identified a number of trees that should be retained as part of the proposed areas of POS. This issue will be addressed in more detail as part of future POS Development Plans submitted that will accompany subdivision proposals within the ODP area.

**Recommended Modification to the Draft ODP**

The following table lists a number of recommended modifications to the draft (advertised) ODP. A modified ODP plan, incorporating the following changes, is contained as Appendix 13.5.7D.

No.	Recommended Modification	Reason(s)
1.	Relocate the southernmost area of Public Open Space further south so as to straddle both Lots 412 and 413.	As discussed within earlier sections of this report.
2.	Increase the residential density for Lot 412 from R30 to R40 and remove the proposed laneway.	The change is proposed in response to POS being allocated to Lot 412 (as detailed in 1. above). The proposed density increase is considered minor and is considered a good design response which will increase surveillance over the POS.  The change will also result in the removal of a laneway with direct access onto Maddington Road which is considered desirable from a traffic safety and amenity perspective.
3.	Remove the roundabout proposed along Maddington Road (adjacent to Lot 126).	As discussed within earlier sections of this report.
4.	Designate Lot 413 as Residential R40 rather than 'Existing Aged Care Facility'.	The change is proposed in response to a request by the owner of Lot 413. It is considered appropriate as it will provide necessary guidance in the event that the land is developed in the future.
5.	Increase the residential density for Lots 2, 103 and 126 from R25 to R30.	As discussed within the earlier sections of this report.
6.	Adding a notation to the ODP to address the upgrading of Maddington Road, with that notation to read as follows:  <i>"The portion of Maddington Road fronting the development site will be required to be upgraded as part of the future subdivisional works, with works required to be to the satisfaction of the City."</i>	The change will address the need for Maddington Road to be upgraded at the time of subdivision.

Item 13.5.7 Continued

7.	<p>Adding a notation to the ODP to address transport noise, in accordance with state government policy requirements, with that notation to read as follows:</p> <p style="padding-left: 40px;"><i>"A transport noise assessment is to be prepared in accordance with the guidelines of the Western Australian Planning Commission's State Planning Policy 5.4 "Road and Rail Transport Noise and Freight Considerations in Land Use Planning" prior to subdivision and/or development being supported."</i></p>	<p>As discussed within the earlier sections of this report.</p>
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**Statutory Process**

In accordance with clauses 7.4.7(a) and (b) of TPS 6, the following options are available to Council in progressing the draft (advertised) ODP:

- Adopt the advertised ODP (attached in Appendix 13.5.7A) without modification
- Adopt the advertised ODP with modifications
- Refuse to adopt the advertised ODP.

It will be recommended that Council adopt the advertised ODP with modifications (as contained in Appendix 13.5.7D), and in accordance with the Scheme, forward the adopted ODP to the WAPC for determination.

**CONCLUSION**

The draft ODP provides a framework for the orderly and proper planning for the Maddington Road Precinct A area. The proponent has sufficiently addressed the technical and planning requirements applicable to the draft ODP and the subject land. It will therefore be recommended that Council adopt the Maddington Road Precinct A Outline Development Plan, subject to modifications, as discussed in this report.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.7 Continued

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION

**524 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to clause 7.4.7 of Town Planning Scheme No. 6 note the submissions received in respect of the proposed Maddington Road Precinct A Outline Development Plan and endorse the responses to those submissions, as contained in Appendix 13.5.7B.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION

**525 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to Clause 7.4.7(a) of Town Planning Scheme No. 6, adopt the proposed Maddington Road Precinct A Outline Development Plan with modifications, as contained in Appendix 13.5.7D.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION

**526 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to Clause 7.4.9 of Town Planning Scheme No. 6 forward the duly modified Maddington Road Precinct A Outline Development Plan to the Western Australian Planning Commission for approval.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

**13.5.8 DRAFT LOCAL PLANNING POLICY - HOME BASED ACTIVITIES**

Author: L Gibson  
Author's Declaration Nil.  
of Interest:  
Reference: PF11/00019  
Previous Ref: OCM 9 August 2011 (Resolution 365)  
Appendices: 13.5.8A Draft Local Planning Policy - Home Based Activities  
13.5.8B Local Planning Policy 2.5 - Home Business

**PURPOSE OF REPORT**

For Council to consider the final adoption of the draft Local Planning Policy - Home Based Activities and the revocation of Local Planning Policy 2.5 - Home Business.

**BACKGROUND**

On 9 August 2011, Council resolved (Resolution 365) to advertise the draft Local Planning Policy - Home Based Activities for public comment. A copy of the draft Policy, as advertised, is contained as Appendix 13.5.8A.

**Consultation**

The draft Policy was advertised for public comment by way of:

- An advertisement in a local newspaper
- Display on the City's website.

No submissions were received.

**DISCUSSION****Draft Local Planning Policy**

The draft Policy provides clear guidance on the assessment and determination on proposals involving the Family Day Care, Home Business and Home Occupation uses. It requires all such applications to be advertised for public comment before being determined; acknowledging that in some instances home based uses may have a detrimental impact on the amenity of a local area.

**Revocation of Adopted Local Planning Policy**

In addition to adopting the new policy, it is proposed to revoke the existing Local Planning Policy 2.5 - Home Business, as contained as Appendix 13.5.8B.

Clause 2.5 of Town Planning Scheme No. 6 allows a local planning policy to be revoked by either:

- (a) The adoption by Council of a new policy under clause 2.4 that is expressed to supersede the existing local planning policy
- (b) Publication of a notice of Council's revocation of the policy once a week for two consecutive weeks in a newspaper circulating in the Scheme area.

*Item 13.5.8 Continued*

Given that the existing Home Business policy is proposed to be replaced with a new policy, its revocation can occur as part of the adoption of the new policy, in accordance with (a) above.

**CONCLUSION**

The draft local planning policy will provide an improved decision-making tool to guide the assessment and determination of applications involving a home based activity.

It will therefore be recommended that Council:

- Adopt the draft Local Planning Policy - Home Based Activities, as contained in Appendix 13.5.8A
- Revoke Local Planning Policy 2.5 - Home Business, as contained in Appendix 13.5.8B.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

In accordance with Clause 2.4.3 of Town Planning Scheme No. 6, if Council resolves to adopt the draft Policy, with or without modifications, a notice of the Policy must be published once in a newspaper circulating in the Scheme area. A copy of the adopted Policy is to be forwarded to the WAPC for its information.

**VOTING REQUIREMENTS**

- Staff Recommendations 1 and 2 - Simple Majority required.
- Staff Recommendation 3 - for revocation of Policy: Absolute Majority required (requires the support of one third (4) of the Offices of Members of Council for the matter to be considered)

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION
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**527 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to Clause 2.4.2(a) of Town Planning Scheme No. 6, note that no submissions were received in respect of the draft Local Planning Policy - Home Based Activities.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*



Item 13.5.8 Continued

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION
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**528 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to Clause 2.4.2(b) of Town Planning Scheme No. 6, adopt the draft Local Planning Policy - Home Based Activities, as contained in Appendix 13.5.8A and pursuant to Clause 2.4.3 of Town Planning Scheme No. 6, publish a notice of the adopted Policy once in a local newspaper circulating in the Scheme area, and forward a copy of the adopted Policy to the Western Australian Planning Commission.

CARRIED 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION
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**529 Moved Cr L Griffiths Seconded Cr J Brown, Cr S Iwanyk and Cr W Barrett**

That Council, pursuant to Clause 2.5(a) of Town Planning Scheme No. 6, revoke Local Planning Policy 2.5 - Home Business, as contained in Appendix 13.5.8B.

CARRIED BY ABSOLUTE MAJORITY 10/0

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

## **13.6 GOVERNANCE**

### **13.6.1 2012 MEETING SCHEDULE - ORDINARY COUNCIL, PUBLIC ART AND AUDIT COMMITTEES**

Author: K Farrow  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 13.6.1A Meeting calendar

#### **PURPOSE OF REPORT**

For Council to adopt a schedule of meeting dates for Ordinary Council meetings and the Audit Committee for the year 2012.

#### **BACKGROUND**

Ordinary Council Meetings are held on the second and fourth Tuesday of each month, with the exception of January which is generally deemed a recess period for Council.

Establishing the meeting schedule in advance provides efficiencies in the City's forward planning and facilitates arrangements for advertising.

The Local Government (Administration) Regulations 1996 prescribe that at least once each year a local government is to give local public notice of the dates on which Ordinary Council meetings and certain Committee meetings are to be held in the next 12 months.

Audit Committee meetings are generally conducted on a quarterly basis on the first Tuesday in the months of February, May, August and November, or as required at the determination of the Presiding Member or Committee. As there is no delegated authority to this committee, the meetings are not open to the public and as such, meeting dates are not required to be advertised.

The City's Public Art Committee meetings are scheduled on an as needs basis, and therefore a schedule of meetings is not proposed in this report. It should be noted however, that as the Public Art Committee has Delegated Authority from Council its meetings are required to be publicly advertised and open to the public. Such advertising will be undertaken as meetings are scheduled.

#### **DISCUSSION**

A review of the Department of Commerce schedule of Western Australian Public Holidays for 2012 indicates public holidays for the Easter period fall on 6 and 9 April. By adopting a schedule of Ordinary Council meetings for the second and fourth Tuesdays, the first meeting in April falls on 10 April. Due to the Easter holiday period it is proposed the Agenda be produced and circulated to Councillors a day earlier than usual.

As resolved by Council in previous years, only one meeting is proposed for December as the fourth Tuesday falls on Christmas Day. It is proposed the meeting for the final month of the year be convened on 18 December 2012.

*Item 13.6.1 Continued*

It is proposed that the Audit Committee's first meeting for 2012 be delayed to occur on 6 March, to ensure sufficient time for completion of the annual Statutory Compliance Audit Return and reporting to the Audit Committee prior to endorsement by Council. It should be noted that the duly endorsed Return must be provided to the Department of Local Government by no later than 31 March 2012.

**FINANCIAL IMPLICATIONS**

The cost for advertising the 2012 Ordinary Council Meeting dates will be met from the Governance operational budget.

**STATUTORY IMPLICATIONS**

Regulation 12 of the Local Government (Administration) Regulations 1996.

**VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION****530 Moved Cr R Hoffman Seconded Cr W Barrett**

That Council adopt and give Local Public Notice of the following schedule of Ordinary Council meetings for 2012:

14 and 28 February 2012  
13 and 27 March 2012  
10 and 24 April 2012  
8 and 22 May 2012  
12 and 26 June 2012  
10 and 24 July 2012  
14 and 28 August 2012  
11 and 25 September 2012  
9 and 23 October 2012  
13 and 27 November 2012  
18 December 2012.

**CARRIED 10/0**

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

*Item 13.6.1 Continued*

STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION
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**531 Moved Cr R Hoffman Seconded Cr W Barrett**

That Council adopt the following schedule of Audit Committee meetings for 2012:

6 March 2012  
1 May 2012  
7 August 2012  
6 November 2012.

**CARRIED 10/0**

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

**13.6.2 2011 DELEGATED AUTHORITY REVIEW**

Author: K Farrow  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: OCM 14 December 2010 (Council Resolution 608)  
 Appendix: 13.6.2A Proposed 2011/2012 Delegated Authority Register

**PURPOSE OF REPORT**

Council is requested to review the delegations contained within the City's Delegated Authority Register and endorse the amendments proposed, which provide for improvements to the City's decision making processes.

**BACKGROUND**

Under the *Local Government Act 1995* and certain other legislation, the Council and the Chief Executive Officer has the power to delegate certain functions and duties.

Delegations are designed to improve operational efficiency by allowing decisions to be made by the most appropriate person. Delegations may have conditions imposed on them which the person with that delegated authority must comply with.

In accordance with sections 5.18 and 5.46 the *Local Government Act 1995*, the City is required to maintain a register of the delegated authorities and further require that delegations be reviewed at least once each financial year.

**DISCUSSION**

The Delegated Authority Register has been reviewed and the revised version is attached as Appendix 13.6.2A. The proposed amendments are highlighted yellow; new text is shown in red and text to be deleted is depicted with a ~~strikethrough~~.

Only a limited number of amendments are proposed as the City's delegated authorities are considered to be stable and functionally fulfilling their purpose. The following table outlines the outcome of this review and the changes proposed.

Ref	Delegation Title	Précis of Proposed Amendment	Reason
1.1.1	Acquisition and Disposal of Property – Public Art Work	No change	-
1.2.1	Signs, Hoardings and Bill Posting	No change	-
1.2.2	Appoint Authorised Persons	No change	-
1.2.3	Powers of Entry	No change	-
1.2.4	Disposing of Confiscated or Uncollected Goods	No change	-
1.2.5	Road Closures - Temporary	No change	-
1.2.6	Expressions of Interest and Request for Tenders	No change	-

Item 13.6.2 Continued

1.2.7	Acquisition and Disposal of Property	<p>Proposed amendment is to increase the individual contract agreement amount under condition two of this delegation, from \$500,000 to \$600,000 excluding GST.</p> <p>Secondly, the delegation is further amended to incorporate the specific delegation made by Council regarding the disposal of Lots 572 Holmes Street, 520 and 522 Crow Lane ( formerly Lot 8, Holmes Street Southern River - refer to Council Resolutions 268 and 269, from the Ordinary Council Meeting held on 28 June 2011).</p>	<p>The limit of \$500,000 has not been increased since 1999. The Reserve Bank of Australia calculates that the equivalent of \$500,000 in 1999 is approximately \$702,000 in 2010.</p> <p>The purpose of the second amendment is to ensure that Council's decision regarding the subdivision of lot 8 is recorded appropriately for future reference as this disposal is not yet complete.</p>
1.2.8	Municipal Fund Procedures and Payments	No change	-
1.2.9	Trust Fund	No change	-
1.2.10	Debts – Waiver, Concessions or Write Off	No change	-
1.2.11	Investments	No change	-
1.4.1	Building Plans and Specifications	No change	-
1.4.2	Demolition Licences	No change	-
1.4.3	Certificates of Classification	No change	-
1.4.4	Building Licence – Permit Materials to be Deposited on Street	No change	-
1.4.5	Building Notices – Alterations, Unlawful Works, Dangerous, Uncompleted and Neglected Buildings	No change	-
1.4.6	Fire Escapes – Building Notices	No change	-
2.1.1	TPS – Appointment of Authorised Persons	No change	-

## Item 13.6.2 Continued

2.1.2	TPS - Development Control	Proposed amendment to include minor variations of up to 10% of the number of car parking bays required under Table 3A of the Town Planning Scheme No. 6, except for Shopping Centres. Minor variations would need to be justified and comply with clause 5.13 of the Town Planning Scheme No.6.	This amendment would save considerable resources and improve processing time for inconsequential variations. Larger variations will still be required to go to Council.
2.1.3	TPS – Residential Design Codes	Administrative amendment proposed to refer to the Residential Design Codes of Western Australia 2010, instead of 2002. Additionally, the Policy reference number has changed so a minor amendment is proposed to correct that.	Administrative amendments to update references.
2.1.4	TPS – Outline Development Plans – Minor Variations	No change	-
2.1.5	TPS – Outline Development Plan – Advertise	No change	-
2.1.6	TPS – Outline Development Plan – Final Adoption	No change	-
2.1.7	TPS – Detailed Area Plans	Administrative amendment proposed to the 'Council's Conditions on Delegation' section to update the policy reference number.	Administrative amendment to update references.
2.1.8	TPS – Unauthorised Development - Directions	Delegation number was incorrectly labelled 2.1.9 - amendment to label this delegation 2.1.8.	Administrative amendment.
3.1.1	Strata Title Certificates	No change	-
3.2.1	Bush Fires Act – Powers and Duties	No change	-
3.2.2	Bush Fires Act – Prohibited Burning Times	This amendment would allow the Mayor and Chief Bushfire Control Officer to vary restricted burning times in accordance with section 18(5) of the <i>Bush Fires Act 1954</i> .	This amendment will allow the City to immediately vary restricted burning times if required.
3.2.3	Bush Fires Act – Prosecutions	Minor amendment proposed to also delegate the power to prosecute under the <i>Bush Fires Act 1954</i> to the Manager Governance. This position was created after this delegation was created. Similarly, the position of Team Leader Ranger Services no longer exists and therefore should be removed.	Reflects the City's current position titles.

*Item 13.6.2 Continued*

3.3.1	Food Act 2008 – Prohibition Orders	No change	-
3.3.2	Food Act 2008 – Registration of Food Business	No change	-
3.3.3	Food Act 2008 – Appointment of Authorised Persons and Designated Officers	No change	-
3.3.4	Food Act 2008 – Prosecutions	No change	-

Legislation in Western Australia also provides for State Government functions or duties to be delegated to local government and such delegated authorities are included in the City's Delegated Authority Register at Part 4, as listed below. These delegations are determined by the relevant external agency and do not require review or adoption by Council.

<b>Environmental Protection Act 1986</b>		
	<b>Title</b>	<b>Details</b>
4.1.1	Noise Control – Serve Environmental Protection Notices [s65(1)]	Delegation No.52 - Gazette No.47, 19 March 2004
4.1.2	Noise Control – Keeping of Log Books, Noise Control Notices, Calibration and Approval of Non-Complying Events [Reg.16]	Delegation No.68 - Gazette No.127, 22 June 2007
4.1.3	Noise Control – Noise Management Plans [Reg.13]	Delegation No.69 - Gazette No.149, 20 July 2007

<b>Planning And Development Act 2005</b>		
	<b>Title</b>	<b>Details</b>
4.2.1	Western Australian Planning Commission – Referral Arrangements	Gazette No.222, 19 December 2008
4.2.2	Western Australian Planning Commission – Development Applications	Gazette No.157, 13 August 2010
4.2.3	Western Australian Planning Commission – Section 25 of Strata Titles Act 1985	Gazette No.98, 9 June 2009

<b>Main Roads Western Australia</b>		
	<b>Title</b>	<b>Details</b>
4.3.1	Control Certain Roadside Advertisements On Highways And Main Roads	Delegated Authority by Commissioner of Main Roads Western Australia – April 1987



*Item 13.6.2 Continued*

## **FINANCIAL IMPLICATIONS**

Nil.

## **STATUTORY IMPLICATIONS**

Section 5.16 of the *Local Government Act 1995* (Act) provides for the delegation of some powers and duties to certain committees of Council. Section 5.17 prescribes limitations on the powers and duties that may be delegated to certain committees of Council.

Section 5.42 of the Act enables a local government to delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the Act, subject to the limitations prescribed in section 5.43.

Other statutes administered by local governments such as the *Bush Fires Act 1954* and Town Planning Schemes under the *Planning and Development Act 2005* also enable a local government to delegate specific functions and powers to Officers.

Sections 5.18 and 5.46 of the Act require the City to maintain a register of the delegated authorities and further require that delegations be reviewed at least once each financial year.

## **VOTING REQUIREMENTS**

Absolute Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
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### **532 Moved Cr J Brown Seconded Cr S Iwanyk**

That Council adopt the listed Delegated Authorities inclusive of assigned delegates, conditions, limitations and amendments, as contained in the 2011/2012 Delegated Authority Register attached as Appendix 13.6.2A.

**CARRIED BY ABSOLUTE MAJORITY 10/0**

**FOR:** Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.

**AGAINST:** Nil.

**13.6.3 BUILDING APPLICATION - GARAGE EXTENSION - 43 (LOT 790) GUNDARING TURN, CANNING VALE**

Author: J McAnulty  
 Author's Declaration Nil.  
 of Interest:  
 Reference: 232250  
 Application No: BA11/01428  
 Applicant: LMH Builders  
 Owner: Lisa Haboldt  
 Location: 43 (Lot 790) Gundaring Turn, Canning Vale  
 Zoning: MRS: Urban  
 TPS No. 6: Residential Development (R17.5)  
 Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
 Area: 633m<sup>2</sup> (Lot)  
 Previous Ref: Nil.  
 Appendix: Nil.

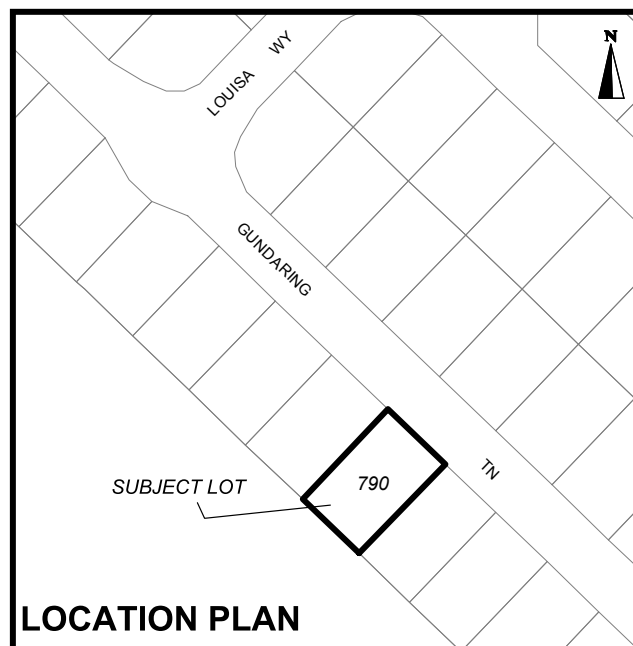
**PURPOSE OF REPORT**

For Council to consider an application for a Garage wall to be constructed on the side boundary of 43 (Lot 790) Gundaring Turn, Canning Vale, as the proposal is outside the authority delegated to staff due to objections received during the advertising period.

**BACKGROUND**

**Site Description**

A plan showing the location of the subject site is shown below.



*Item 13.6.3 Continued*

The subject property is 633m<sup>2</sup> in area and contains one single storey four bedroom two bathroom residential dwelling. The property is zoned R17.5 under Town Planning Scheme No. 6 (TPS 6) and runs adjacent to Canning Vale Prison.

**Proposal**

The application proposes:

- To extend the garage to the boundary of 45 (Lot 788) Gundaring Turn, Canning Vale. The proposal is considered to make effective use of the space available to the owners to store a caravan and work tools more securely and provide an elevation in keeping with the street
- The garage is currently setback 2m from the side boundary. The proposal would reduce this setback to nil
- The length of the wall on the boundary would be 8.870m, with a wall height at a maximum of 2.61m, and the primary street setback will remain the same at 6.26m.

The only aspect of the proposal requiring the consideration of Council is the neighbour's objection to the proposal's external boundary wall as all other aspects of the development comply with the relevant provisions of the R-Codes, associated TPS6 policy and Building Code requirements.

**Consultation**

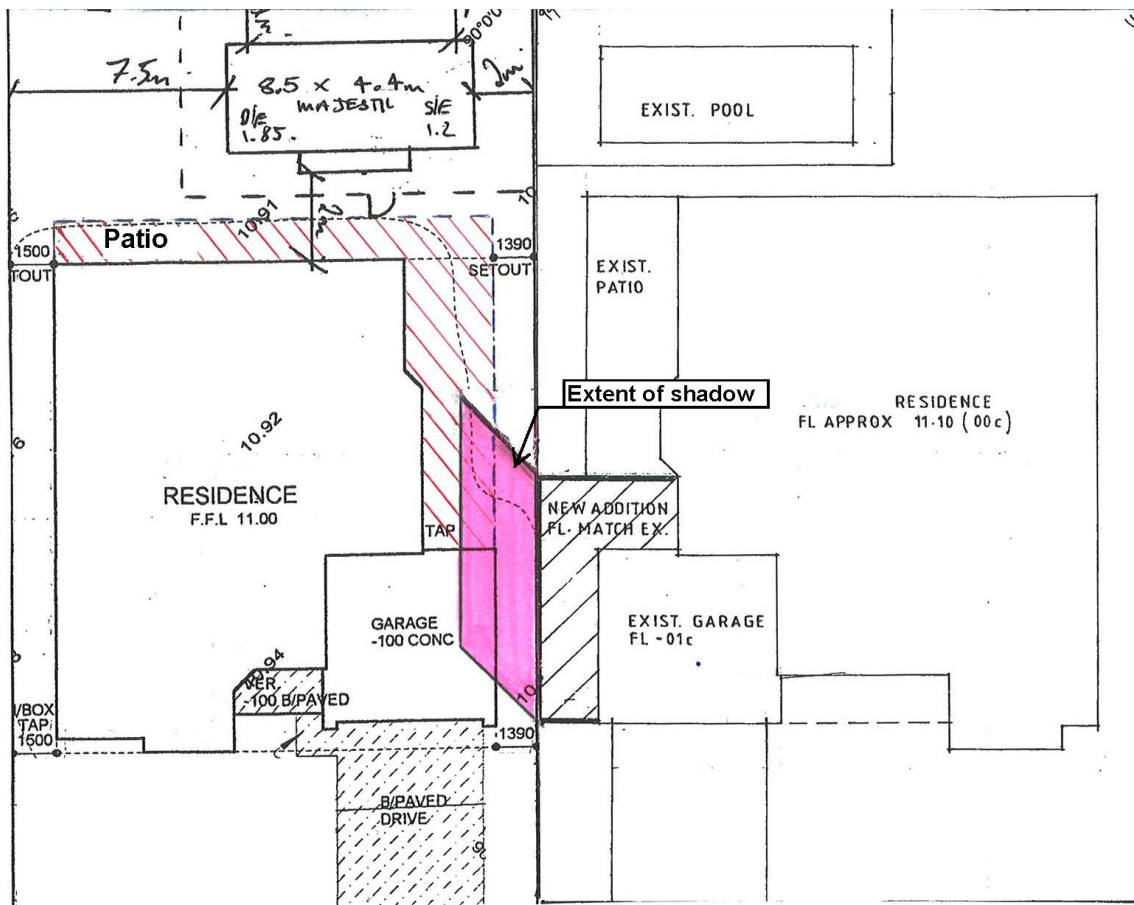
The proposal was advertised by the applicant in accordance with Council Policy requirements, during which time a submission was received, objecting to the proposal.

A summary of this submission and comments thereon are detailed below.

1	<b>Affected property:</b> 45 Gundaring Turn Canning Vale WA 6155	<b>Postal Address:</b> 45 Gundaring Turn Canning Vale WA 6155
	<b>Summary of Submission</b>	<b>Comment</b>
	Object to the proposal	Noted.
	1.1 The extension would shade entertaining area by 27m <sup>2</sup> .	Refer to Overshadowing section of the report.
	1.2 Light would be reduced to kitchen and dining area.	Refer to Overshadowing section of the report.
	1.3 The extension would have a detrimental visual impact on entertaining area.	Refer to Boundary Wall section of the report.
	1.4 The extension would reduce air movement through the entertaining area.	Refer to Boundary Wall section of the report.
	1.5 Request for a 1m setback	Refer to Boundary Wall section of the report.

A site plan identifying the location of the proposed building and neighbour's residence follows.

Item 13.6.3 Continued



The main issues raised in the submission are as follows:

- Overshadowing
- Visual impact to entertaining area
- Light and air movement to entertaining area and kitchen.

Each is discussed in turn, along with any other applicable technical matters.

**DISCUSSION**

The proposal has been assessed against the relevant provisions of the Residential Design Codes (R-Codes) and Residential Development Policy 1.1.1.

**Residential Design Codes (R-Codes)**

The proposal has been assessed against the R-Codes and complies with all relevant provisions with the exception of "Buildings on the Boundary". Under the Acceptable Development standards of the R-Codes, there is no criterion to assess a boundary wall on an R17.5 Zoned property. When a boundary wall is proposed, the proposal requires assessment against the Performance Criteria of the R-Codes and the City's Local Planning Policy 1.1.1 Residential Development.

*Item 13.6.3 Continued*

### **Overshadowing**

For the subject site, overshadowing is not considered an issue as it complies with the acceptable development criteria of the R-Codes section 6.9.1 Solar Access for Adjoining Sites. This stipulates that properties coded R25 and lower must not exceed 25% of shadow on 21 June. The proposal will cast a shadow over less than 5% of the total area of the adjacent block, a large portion of which will be on to the neighbour's garage wall. It should also be noted that 45 (Lot 788) Gundaring Turn has a patio with a solid roof installed adjacent to the proposal, that already shades the kitchen and dining room windows and the shadow cast by the proposal falls short of those windows.

### **Boundary Wall and Air Movement**

The performance criteria of the R-Codes specify that applications which incorporate boundary walls should not adversely affect the amenity of the neighbouring property, and should only be approved where they:

- Make effective use of space
- Enhance privacy
- Otherwise enhance the amenity of the development
- Do not have any significant adverse effect on the amenity of the adjoining property
- Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

The proposed boundary wall will assist in making effective use of space on the lot by providing an area where a 7.26m long caravan, work trailer and tools can be stored. This would enhance the amenity of the site as these would otherwise be stored at the front of the property, detrimentally affecting the streetscape. It is considered that the proposed boundary wall would not adversely affect the amenity of the neighbouring property, as the wall will not cast a shadow on the adjoining habitable rooms and only a small proportion of the outside living area.

Under Table 2b of the R-Codes, the minimum side setback for the window of a kitchen or dining room is 1.5m. In this instance, the 3.9m setback of the kitchen and dining room window of 45 (Lot 788) Gundaring Turn is more than sufficient to allow for ample air movement.

### **CONCLUSION**

The proposal is supported for the following reasons:

- The development complies with the Performance Criteria set out in the R-Codes for walls on boundaries and will not impact on the amenity of the neighbouring resident to an extent considered inappropriate
- The development would be beneficial to the streetscape as it would provide an improved front elevation to 43 (Lot 790) Gundaring Turn, Canning Vale.

It is therefore recommended that the proposal be approved.

*Item 13.6.3 Continued*

## FINANCIAL IMPLICATIONS

Nil

## STATUTORY IMPLICATIONS

- City of Gosnells Town Planning Scheme No 6
- Residential Design Codes 2008 - Clause 6.3.2
- City of Gosnells Local Planning policy 1.1.1 Residential Development - Clause 6.3.2.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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### 533 Moved Cr R Mitchell Seconded Cr W Barrett

That Council approve the application for Garage extension at 43 (Lot 790) Gundaring Turn, Canning Vale dated 12 August 2011 subject to the following conditions:

1. The applicant obtaining the relevant Building Licence.
2. The finish of the wall fronting 45 Gundaring Turn, Canning Vale is to the satisfaction of the Manager Building Services.

CARRIED 10/0

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

**13.6.4 ANNUAL REPORT 2010-2011**

Author: H Smallwood  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 13.6.4A 2010-2011 Annual Report

**PURPOSE OF REPORT**

For Council to consider adoption of the 2010-2011 Annual Report for the City of Gosnells.

**BACKGROUND**

Section 5.53(1) of the *Local Government Act 1995* (Act) requires that local governments develop and publish an annual report for each financial year. The content of the annual report is specified in s5.53(2). Section 5.54 of the Act requires that the local government accept the annual report for a financial year no later than 31 December after that financial year. Section 5.54 of the Act also specifies that an absolute majority is required.

Further, in accordance with Section 5.55, as soon as practical after the report has been accepted, the Chief Executive Officer is to give local public notice of its availability.

**DISCUSSION**

The Annual Report contained within Appendix 13.6.4A contains the statutory reports of and financial statements for the City for the period 1 July 2010 to 30 June 2011. The Annual Report also contains information on the City's Future Plan, Disability Services Plan, Record Keeping Plan and Freedom of Information activity.

Council Policy 5.4.1 Annual Electors' Meeting prescribes that the Annual Electors Meeting for the City will be held on the second Monday of December. In accordance with the Act, the Report will be presented to that meeting.

**FINANCIAL IMPLICATIONS**

It will cost approximately \$2,000 to print the annual report and to advertise its availability in accordance with the requirements of the *Local Government Act 1995*. It is proposed that this expenditure be met from the Communications and Marketing Advertising and Promotions account, JL 95-94031-3210-000.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*  
*Disability Services Act 1993*  
State Records Principals & Standards 2000  
Local Government (Administration) Regulations 1996  
Local Government (Financial Management) Regulations 1996

*Item 13.6.4 Continued*

**VOTING REQUIREMENTS**

Absolute Majority required

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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**534 Moved Cr W Barrett Seconded Cr R Hoffman**

That Council accept the City of Gosnells Annual Report for the 2010-2011 financial year as contained in Appendix 13.6.4A.

**CARRIED BY ABSOLUTE MAJORITY 10/0**

**FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Mitchell, and Cr O Searle.*

**AGAINST:** *Nil.*

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**15. NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING**

Nil.

**16. URGENT BUSINESS**  
(by permission of Council)

Nil.

**17. CONFIDENTIAL MATTERS**

Nil.

**18. CLOSURE**

The Mayor declared the meeting closed at 8.19pm.