



ORDINARY COUNCIL MEETING  
14 FEBRUARY 2012

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 .....	2
4.	ANNOUNCEMENTS BY THE PRESIDING MEMBER.....	3
5.	REPORTS OF DELEGATES.....	3
6.	QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS .....	3
6.1	QUESTION TIME.....	5
6.2	PUBLIC STATEMENTS.....	9
7.	CONFIRMATION OF MINUTES.....	10
8.	THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS.....	10
8.1	PETITION TO SUPPORT THE REJECTION OF THE PROPOSAL FOR A 24 HOUR MCDONALD'S AT LOT 8 FOREST LAKES DRIVE, THORN LIE .....	10
9.	APPLICATIONS FOR LEAVE OF ABSENCE.....	11
10.	QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN.....	11
11.	ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY .....	12
	13.5.10 DEVELOPMENT APPLICATION - NINE MULTIPLE DWELLINGS - 25 (LOT 20) CAMBERWELL STREET, BECKENHAM.....	13
	13.5.13 DEVELOPMENT APPLICATION - PLACE OF WORSHIP, MULTI-PURPOSE BUILDING, CAFÉ (RESTAURANT), SHOPS AND OFFICES - 225 (LOT 282) CAMPBELL ROAD, CANNING VALE.....	22
	13.5.16 DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (TWO COMMERCIAL TENANCIES AND 26 MULTIPLE DWELLINGS) - 69 (LOT 1) WHEATLEY STREET, GOSNELLS.....	34

Item	Report Title	Page No.
	13.5.22 INITIATION OF LEGAL PROCEEDINGS - 470 (LOT 404) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE.....	52
	13.5.23 INITIATION OF LEGAL PROCEEDINGS - 478 (LOT 405) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE.....	56
12.	MINUTES OF COMMITTEE MEETINGS.....	60
13.	REPORTS.....	60
13.1	CHIEF EXECUTIVE OFFICE.....	60
13.2	COMMUNITY ENGAGEMENT.....	60
13.2.1	HISTORY AND HERITAGE ADVISORY GROUP MEETING - 1 DECEMBER 2011.....	60
13.2.2	COMMUNITY SPONSORSHIP PROGRAM - REPORT ON SPONSORSHIPS PROVIDED UNDER CATEGORIES SPORTS REPRESENTATION/COMMUNITY RECOGNITION, SCHOOL BOOK PRESENTATION AND EDUCATION SCHOLARSHIPS DURING 2010/2011 FINANCIAL YEAR.....	62
13.2.3	COMMUNITY SPONSORSHIP PROGRAM - NATURAL DISASTER EMERGENCY RELIEF DONATION TO MARGARET RIVER BUSHFIRES APPEAL 2011.....	64
13.3	CORPORATE SERVICES.....	66
13.3.1	FINANCIAL ACTIVITY STATEMENTS - DECEMBER 2011.....	66
13.3.2	PAYMENT OF ACCOUNTS - DECEMBER 2011.....	68
13.3.3	RATING - VALUATION BASE.....	69
13.3.4	TENDER 42/2011 - SUPPLY OF GOODS AND SERVICES TAX (GST) ADVICE.....	74
13.3.5	MINOR AMENDMENT COUNCIL POLICY 4.1.8 - PROCUREMENT OF GOODS OR SERVICES.....	77
13.3.6	BUDGET VARIATIONS.....	80
13.4	INFRASTRUCTURE.....	85
13.4.1	TENDER 05/2011 PIONEER PARK PEDESTRIAN BRIDGE.....	85
13.4.2	TENDER 31/2011 LANDSCAPE MAINTENANCE OF ESTATE AND PARKLAND AREAS.....	89

Item	Report Title	Page No.
13.4.3	TENDER 35/2011 GROUNDWATER BORES.....	93
13.4.4	TENDER 39/2011 GENERAL LANDSCAPE WORKS.....	96
13.4.5	PROPOSED AMENDMENT TO CONTRACT WITH AGL ENERGY SERVICES LIMITED TO PROVIDE FOR REMOVAL OF POWER GENERATION PLANT AT FORMER KELVIN ROAD LANDFILL SITE, ORANGE GROVE.....	99
13.4.6	GOSNELLS ROADWISE ADVISORY GROUP - WEDNESDAY 7 DECEMBER 2011.....	101
13.5	PLANNING AND SUSTAINABILITY.....	103
13.5.1	PROPOSED MODIFICATIONS TO MADDINGTON ROAD PRECINCT A OUTLINE DEVELOPMENT PLAN.....	103
13.5.2	DEVELOPMENT APPLICATION - ALTERATION/ADDITION TO EXISTING APPROVED PYLON SIGN - 210 (LOT 2) SPENCER ROAD, THORNIE.....	107
13.5.3	DEVELOPMENT APPLICATION - ANCILLARY ACCOMMODATION - 75 (LOT 31) RIMMER LANE, KENWICK.....	115
13.5.4	DEVELOPMENT APPLICATION - FAMILY DAY CARE - 9 (LOT 602) WETLANDS WAY, SOUTHERN RIVER.....	121
13.5.5	DEVELOPMENT APPLICATION - SCHEDULE 9A AMENDMENT FOR RECREATION - PRIVATE (GYMNASIUM) - UNIT 6, 5 (LOT 102 STRATA LOT 7) HUGHES STREET, CANNING VALE.....	128
13.5.6	INITIATION OF LEGAL PROCEEDINGS - RESERVE R36894 (LOT 3280) MADDINGTON ROAD, MADDINGTON - NON COMPLIANCE WITH TOWN PLANNING SCHEME NO. 6.....	135
13.5.7	INITIATION OF LEGAL PROCEEDINGS - NON COMPLIANCE WITH SECTION 214 DIRECTIONS NOTICE - 101 (LOT 73) BROOK ROAD, KENWICK.....	139
13.5.8	INITIATION OF LEGAL PROCEEDINGS - 13 (LOT 3) JADE STREET, MADDINGTON AND SUBURBAN SCRAP METALS PTY LTD - NON COMPLIANCE WITH TOWN PLANNING SCHEME NO. 6.....	144
13.5.9	AMENDMENT NO. 132 TO TOWN PLANNING SCHEME NO. 6 - REZONING OF 1537 (LOT 50) AND 1539 (LOT 51) ALBANY HIGHWAY, BECKENHAM FROM RESIDENTIAL R17.5 TO OFFICE (RESTRICTED USE).....	149

Item	Report Title	Page No.
13.5.10	DEVELOPMENT APPLICATION - NINE MULTIPLE DWELLINGS - 25 (LOT 20) CAMBERWELL STREET, BECKENHAM <b>(ITEM BROUGHT FORWARD - REFER TO ITEM 11)</b> .....	154
13.5.11	MINOR MODIFICATIONS TO SOUTHERN RIVER PRECINCT 2 PHASE 2 OUTLINE DEVELOPMENT PLAN - LOT 9014 FURLEY ROAD, SOUTHERN RIVER.....	155
13.5.12	DEVELOPMENT APPLICATION - WIND TURBINE - 67 (LOT 5025) CONNELL AVENUE, MARTIN.....	158
13.5.13	DEVELOPMENT APPLICATION - PLACE OF WORSHIP, MULTI-PURPOSE BUILDING, CAFÉ (RESTAURANT), SHOPS AND OFFICES - 225 (LOT 282) CAMPBELL ROAD, CANNING VALE <b>(ITEM BROUGHT FORWARD - REFER TO ITEM 11)</b> .....	164
13.5.14	DEVELOPMENT APPLICATION - HOME OCCUPATION - CAKE BAKING AND COOKING CLASSES - 44 (LOT 450) BROOKSIDE SQUARE, CANNING VALE.....	165
13.5.15	DEVELOPMENT APPLICATION - STORAGE - 206 (LOT 10) MADDINGTON ROAD, MADDINGTON.....	171
13.5.16	DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (TWO COMMERCIAL TENANCIES AND 26 MULTIPLE DWELLINGS) - 69 (LOT 1) WHEATLEY STREET, GOSNELLS <b>(ITEM BROUGHT FORWARD - REFER TO ITEM 11)</b> .....	178
13.5.17	DEVELOPMENT APPLICATION - GROUPED DWELLING - 21 (LOT 23) LENA STREET, BECKENHAM.....	179
13.5.18	MODIFICATION TO CENTRAL MADDINGTON OUTLINE DEVELOPMENT PLAN - 30 (LOT 26) RIVER AVENUE AND 1993 (LOT 808) ALBANY HIGHWAY, MADDINGTON.....	184
13.5.19	DEVELOPMENT APPLICATION - SIGNAGE - MONOLITH SIGN - 137 (LOT 306) KELVIN ROAD, MADDINGTON.....	192
13.5.20	INITIATION OF LEGAL PROCEEDINGS - NON - COMPLIANCE WITH CONDITIONS OF PLANNING APPROVAL - 888 (LOT 99) NICHOLSON ROAD, CANNING VALE.....	196
13.5.21	INITIATION OF LEGAL PROCEEDINGS - 37 (LOT 72) VICTORIA ROAD, KENWICK - NON COMPLIANCE WITH TOWN PLANNING SCHEME NO. 6.....	199

Item	Report Title	Page No.
13.5.22	INITIATION OF LEGAL PROCEEDINGS - 470 (LOT 404) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE <b>(ITEM BROUGHT FORWARD - REFER TO ITEM 11)</b>	203
13.5.23	INITIATION OF LEGAL PROCEEDINGS - 478 (LOT 405) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE <b>(ITEM BROUGHT FORWARD - REFER TO ITEM 11)</b>	203
13.6	GOVERNANCE	204
13.6.1	2011 ANNUAL ELECTORS' MEETING	204
14.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	205
15.	NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING	205
16.	URGENT BUSINESS	205
17.	CONFIDENTIAL MATTERS	205
18.	CLOSURE	205



Minutes of the Ordinary Council Meeting held in the City of Gosnells Civic Centre Council Chambers, 2120 Albany Highway, Gosnells on Tuesday 14 February 2012.

---

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

The Mayor declared the meeting open at 7.30pm 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

A printed copy of this notice is provided in the Public Gallery:

*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 G DEWHURST  
CR L GRIFFITHS  
CR R HOFFMAN  
CR S IWANYK  
CR K JONES  
CR R LAWRENCE  
CR O SEARLE

**STAFF**

ACTING CHIEF EXECUTIVE OFFICER  
DIRECTOR CORPORATE SERVICES  
ACTING DIRECTOR INFRASTRUCTURE  
DIRECTOR PLANNING & SUSTAINABILITY  
DIRECTOR GOVERNANCE  
MINUTE CLERK

MS A COCHRAN  
MR R BOUWER  
MR M HAMLING  
MR C TERELINCK  
MR T PERKINS  
MISS S MACGROTTY

**PUBLIC GALLERY**

27

**2.2 APOLOGIES**

Nil.

**2.3 LEAVE OF ABSENCE**

Nil.

**3. DECLARATIONS OF INTEREST**

Cr L Griffiths declared an Impartiality Interest in Item 13.4.6, "Gosnells RoadWise Advisory Group - Wednesday 7 December 2011".

**Reason:** Member of the RoadWise Advisory Group.

Cr T Brown declared an Impartiality Interest in Item 13.4.6, "Gosnells RoadWise Advisory Group - Wednesday 7 December 2011".

**Reason:** Member of the RoadWise Advisory Group.



Cr J Brown declared an Impartiality Interest in Item 13.2.1, "History and Heritage Advisory Group meeting - 1 December 2011".

**Reason:** Council Delegate on the History and Heritage Advisory Group.

Cr O Searle declared an Impartiality Interest in Item 13.2.1, "History and Heritage Advisory Group meeting - 1 December 2011".

**Reason:** Member of the History and Heritage Advisory Group.

Cr O Searle declared an Impartiality Interest in Item 13.4.6, "Gosnells RoadWise Advisory Group - Wednesday 7 December 2011".

**Reason:** Member of the RoadWise Advisory Group.

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

(without discussion)

The Mayor circulated to Councillors a list of functions and events he had attended since 13 December 2011.

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

(without debate)

Cr T Brown commended the Community Engagement Directorate for all their hard work regarding the concerts and people in parks events. Cr Brown further stated that on the 4 February at the Summer Concert the special guest was Jon Stevens, this concert attracted a lot of people and was a very successful event.

Cr W Barrett advised that he recently represented the Mayor at the Maddington Cricket Club 100 Year Celebration Gala Dinner, and expressed his thanks to the Council for the opportunity to attend such a great event. Cr Barrett congratulated the Maddington Cricket Club on a very successful and organised event.

#### **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**13 December 2011 Ordinary Council Meeting

The following questions were posed at the 13 December 2011 Ordinary Council Meeting with the response as already provided to the correspondent listed accordingly:

**Mr Ken Frazer of Lots 4, 5, 6, 10 and 11 Morley Street, Maddington asked the following questions:**

**Q1** Given that item 13.5.3 is adopted, when can a formal planning application be submitted?

**Response:** In reply to Mr Frazer the Manager Planning Implementation provided the following written response on 19 December 2011.

*"I refer to the question you asked at Council's meeting on 13 December 2011, which read:*

*Given that item 13.5.3 is adopted, when can a formal planning application be submitted?*

*Item 13.5.3 relates to modifications proposed by the Western Australian Planning Commission to the Central Maddington Outline Development Plan (ODP).*

*Council resolved to support the proposed modifications and advice of this has since been conveyed to the Commission.*

*The City understands that the Commission will soon make its determination on the ODP. If the ODP is approved without the requirement for any additional changes, it will then be returned to the City for final adoption. This is essentially only an administrative action that can be executed in a matter of days after receiving notification of the Commission's approval. Affected land owners will be informed when this occurs.*

*Final adoption of the ODP will pave the way for the City to be able to support applications for subdivision and development that accord with the ODP and other relevant planning requirements."*

**6.1 QUESTION TIME**

Question Time for the Public commenced at 7.36pm.

**Sandra Baraiolo on behalf of the Gosnells District Progress and Ratepayers Association asked the following questions:**

**Q1** In light of the problems surrounding the All Earth facility on Kelvin Road, is the proposed building material crushing plant at 24 Austin Avenue, Kenwick an appropriate activity given that it is so close to residential housing and it directly abuts the Bickley Brook?

**Q2** It is the understanding of the Association that recycling activities and storage of recyclable materials are currently taking place at 24 Austin Avenue, Kenwick.

Are these activities in compliance with the development approval and are the new and existing buildings approved or in compliance with the City of Gosnells and its relevant bylaws?

**Response:** The Director Planning and Sustainability advised that the City granted development approval in 2009 for a very small amount of recycling to occur from that property, and the crushing activity was to be contained within a shed.

The City is aware of the DEC application for a permit and the City is liaising with the DEC to see if that application ties in with the planning approval that was granted previously or whether it constitutes an expansion of the activity.

In relation to the second question, All Earth does have approval for a very limited amount of building and recycling works. However, as part of the City's investigations, it will be assessed to ensure what is happening is compliant with the current approval.

**Mr Warner Baxter of 37 Kelvin Road, Maddington asked the following question:**

**Q1** When are Council going to take on board recommendations agreed in principal by the State Government, the City of Gosnells Ratepayers under the vision for Maddington to ensure all future planning by the City of Gosnells would lift the valuation of the residential area which is deemed to be so low as to be unacceptable? A special mention was directed to the industrial and commercial areas. This vision should be defended at all times.

**Response:** The Director Planning and Sustainability advised that the outcomes from that enquiry by design process are still informing our forward planning for the Maddington area, therefore the City is taking into account these issues.

It relation to some of the concerns, these appear to be from the recent approvals, which were assessed in regards to planning law and the way the Town Planning Scheme stands at the moment.

The Mayor advised that Mr Baxter's question would be taken on notice and responded to in writing.

**Ms Erinn Barratt of Unit 2, 67 Wheatley Street, Gosnells asked the following questions:**

**Q1** Although the zoning on the property at 69 Wheatley Street is initially Town Planning Scheme No.6 Local Centre, I would like to know why the planning department has not recognised that the property also has a Town Planning Scheme 20 development guide that, to my understanding, only allows a residential code of up to R40, and if they have, why has it been ignored?

**Q2** Why is the planning department willing to allow the development at the aforementioned address, to exceed the maximum allowable building height by 2.2 metres, as stated in their report to Council?

**Response:** The Director Planning and Sustainability stated that he did not believe the administration missed any critical planning aspects of the proposal when writing the report, and advised that the application had been assessed by numerous senior staff members.

However, the Director Planning and Sustainability advised that he would take the questions on notice and review the information before providing a response in writing.

**Ms Sharon Womersley of 2 Pilot Road, Huntingdale asked the following questions:**

**Q1** Will Council apply for an increase in the budget for the project of the construction of the roundabout at the intersection of Balfour and Bullfinch Streets, Huntingdale, to allow for the construction of the block wall which forms part of the boundary fence of 2 Pilot Road, Huntingdale as described in the plans issued to residents?

**Q2** Can Council offer a reason as to why the plan issued to residents does not accurately reflect what has been constructed and why the changes were not communicated to the residents?

**Response:** The Acting Director Infrastructure advised that the questions would be taken on notice and responded to in writing.

**Mrs Sandra Baraiolo of PO Box 427, Maddington asked the following questions:**

**Q1** Why were Councillors advised by the City of Gosnells planning department in a report dated the 13 December 2011, to grant approval of an application for retrospective approval for 2 sea containers to be at 15 Victoria Road, Kenwick?

Nearmap's confirm from the 8 May 2008 to the 23 January 2012, no sea container have ever been on the ground. They have only ever been located on the top of a commercial vehicle trailer that they have never touched the physical ground. This would appear to mean that 2 sea containers could be conveyed onto the property in any location at any time.

**Q2** Could the City of Gosnells confirm that planning permission can be sought and given for structures to be located on the ground? Even retrospectively?

**Response:** The Director Planning and Sustainability stated that the application was made by the owner of that property for retrospective approval for 2 sea containers, and from the City's examinations (photography) there were sea containers evident for a portion of the time when the application was received.

Furthermore, it was noted that a complaint and photograph was received during this time which mentioned a sea container located on an adjoining property.

Therefore, in reference to the available information, the City has provided a report to Council to suggest that the neighbour wanted to have sea containers on his site, in which an application was received, and various forms of photography were done. It then subsequently came to light that the sea containers were not on the ground and the reasons for applying for a retrospective approval are unknown.

However, the fact is that the sea containers are now no longer on the site and therefore if the neighbour wanted to put sea containers on his property in the future he would need to submit a separate application.

**Mrs Jennifer Napolitano of 10 Rangeview Place, Canning Vale asked the following questions:**

**Q1** What is the exact wording contained in the original Amendment 478 documents adopted by the Gosnells City Council, and stating how public open space is to be valued and how often and from what area and what pages and what paragraph of what document are you quoting from?

**Response:** The Director Planning and Sustainability stated that the City is currently in the process of writing a detailed response to Mrs Napolitano as the City has received 5 emails containing several questions and statements.

In the response will be a copy of the Amendment document for Mrs Napolitano's reference.

**Q2** Did the last 3 property valuations done by Propel Valuers of Perth for Gosnells City Council Amendment 478 Outline Development Plan Area, to determine the price to be paid to anyone who has an excess of public open space on their land, use examples of sales evidence of properties sold and under offer or under contract in Amendment 478 Outline Development Plan area of Canning Vale to support any of those valuations?

Please list any of the Canning Vale properties in Amendment 478 Outline Development Plan area that they used?

**Response:** The Director Planning and Sustainability advised that the questions would be taken on notice and responded to in writing.

Question Time for the Public concluded at 7.51pm.

## 6.2 PUBLIC STATEMENTS

Public Statement Time commenced at 7.52pm.

### Notation

*The Mayor invited Jennifer McGlinn of 262 Campbell Road, Canning Vale, who had submitted a public statement form prior to the commencement of the meeting in relation to item 13.5.13 "Development Application - Place of Worship, multi-purpose building, café (restaurant), shops and offices - 225 (Lot 282) Campbell Road, Canning Vale" of the agenda, to the microphone, however, they were not present at the meeting.*

**6.2.1** Ms Errin Barratt of Unit 2, 67 Wheatley Street, Gosnells made a statement in relation to Item 13.5.16 "Development Application - Mixed Use Development (Two Commercial Tenancies and 26 Multiple Dwellings) - 69 (Lot 1) Wheatley Street, Gosnells" speaking against the proposed staff recommendation:

Ms Barratt expressed the view that the positioning of the prospective units, would result in the lack of privacy and the carpark issues which were all major concerns regarding this development application and these issues re-iterate why herself and her neighbours were objecting to the proposal.

**6.2.2** Mr John Liddelow of 470 Bickley Road, Kenwick made a statement in relation to Item 13.5.22 "Initiation of Legal Proceedings - 470 (Lot 404) Bickley Road, Kenwick - Non-Compliance with Directions Notice" and Item 13.5.23 "Initiation of Legal Proceedings - 478 (Lot 405) Bickley Road, Kenwick - Non-Compliance with Directions Notice" speaking against the proposed staff recommendations:

Mr Liddelow advised Council that he had made the following changes in an endeavour to address the matters raised by the City:

1. Leased a yard to remove excess trucks and trailers.
2. Submitted an application to build transportable homes.
3. Ceased works on the concrete floors; and advised that
4. Another application would be submitted for the storage of 3 sea containers.

Public Statement Time concluded at 7.57pm.

**7. CONFIRMATION OF MINUTES**

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**1 Moved Cr J Brown Seconded Cr W Barrett**

That the Minutes of the Ordinary Council Meeting held on 13 December 2012, as published and distributed be confirmed as an accurate record.

CARRIED 12/0

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

**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.

**8.1 PETITION TO SUPPORT THE REJECTION OF THE PROPOSAL FOR A 24 HOUR MCDONALD'S AT LOT 8 FOREST LAKES DRIVE, THORNLIE**

Cr T Brown presented a petition initiated by Chris Ralph of 18 Gimlet Place, Thornlie containing 144 signatures. The petition stated:

*"We the undersigned electors of the City of Gosnells request that the City reject the proposal for a 24 hour McDonald's on Lot 8 Forest Lakes Drive, Thornlie for the following reasons:*

- Failure to consult with the community on any of the details of this proposal,*
- Leaving the preparation of management plans for waste and noise until after approval from the City, allowing their preparation without community consultation,*
- Failure to present to the community a comprehensive traffic management plan,*
- Absence of a noise mitigation strategy to deal with noisy patrons travelling to and from the venue,*
- Impacts on local air-quality. McDonald's grills emit pollutants and odours,*
- Anti-social behaviour - How will McDonald's control the behaviour of patrons who congregate near the venue,*
- Litter. Fast food outlets are known to be amongst the worst sources of litter in our community,*
- Light pollution from advertising signage."*



COUNCIL RESOLUTION
--------------------

**2 Moved Cr R Hoffman Seconded Cr S Iwanyk**

That the petition initiated by Chris Ralph of 18 Gimlet Place, Thornlie containing 144 signatures that seeks consideration of a petition to support the rejection of the proposal for a 24 hour McDonald's at Lot 8 Forest Lakes Drive, Thornlie be received and a report be prepared for Council's consideration.

**CARRIED 12/0**

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

**AGAINST:** *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]

<b>COUNCIL RESOLUTION</b>
---------------------------

**3 Moved Cr J Brown Seconded Cr G Dewhurst**

That for the convenience of the Public Gallery, the following items be brought forward to this point of the meeting for discussion:

Item 13.5.10 Development Application - Nine Multiple Dwellings - 25 (Lot 20) Camberwell Street, Beckenham;

Item 13.5.13 Development Application - Place of Worship, Multi-Purpose Building, Café (Restaurant), Shops and Offices - 225 (Lot 282) Campbell Road, Canning Vale;

Item 13.5.16 Development Application - Mixed Use Development (Two Commercial Tenancies and 26 Multiple Dwellings) - 69 (Lot 1) Wheatley Street, Gosnells;

Item 13.5.22 Initiation of Legal Proceedings - 470 (Lot 404) Bickley Road, Kenwick - Non-Compliance with Directions Notice;

Item 13.5.23 Initiation of Legal Proceedings - 478 (Lot 405) Bickley Road, Kenwick - Non-Compliance with Directions Notice.

**CARRIED 12/0**

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

**AGAINST:** *Nil.*

**13.5.10 DEVELOPMENT APPLICATION - NINE MULTIPLE DWELLINGS -  
25 (LOT 20) CAMBERWELL STREET, BECKENHAM**

Author: R Munyard  
Author's Declaration Nil.  
of Interest:  
Reference: 223845  
Application No: DA11/00287  
Applicant: Surizah Pty Ltd  
Owner: Surizah Pty Ltd  
Location: 25 (Lot 20) Camberwell Street, Beckenham  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 791m<sup>2</sup>  
Previous Ref: 11 May 2010 (Resolution 193)  
13 April 2010 (Resolution 152)  
Appendix: 13.5.10A Site, Floor and Elevation Plans

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for nine multiple dwellings at 25 (Lot 20) Camberwell Street, Beckenham as the proposal is outside the authority delegated to staff due to an objection being received during the consultation period.

**BACKGROUND**

On 21 December 2009, the City received an application for 87 multiple dwellings over the adjoining sites 25 (Lot 20), 27 (Lot 62) and 41 (Lot 1) Camberwell Street, Beckenham.

On 13 April 2010, Council resolved (Resolution 152) to defer consideration of this application to allow for a redesign of the proposal to address overlooking and overshadowing concerns.

On 11 May 2010, Council reconsidered the proposal for 87 multiple dwellings and resolved (Resolution 193) to approve the application subject to conditions. To date this approval has not been enacted upon.

On 26 August 2011, the City received a new application, the subject of this report, for nine multiple dwellings only on 25 (Lot 20) Camberwell Street, Beckenham.

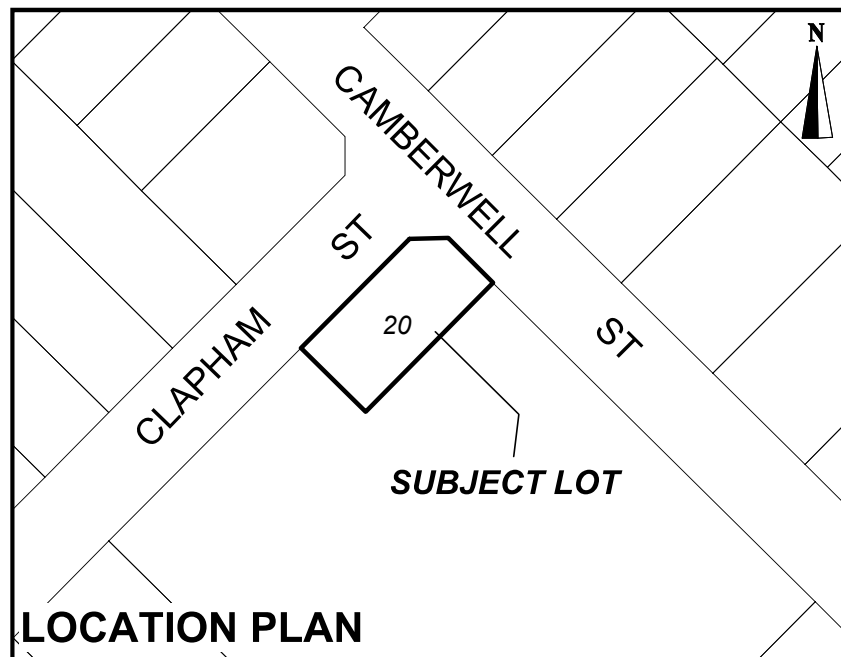
**Site Description and Planning Framework**

The subject site is located on the corner of Camberwell Street and Clapham Street and is situated approximately 320m from Beckenham train station and approximately 230m from William Street. A major commercial showroom development, know as the "Bulkyplex" site, is situated on William Street, approximately 80m from the subject site. Existing development on the subject site consists of a single dwelling and an outbuilding.

*Item 13.5.10 Continued*

The property is zoned Residential Development under Town Planning Scheme No. 6 (TPS 6) and falls within the Central Beckenham Sub-Precinct I Outline Development Plan (ODP) which designates the subject lot as Residential R60. Surrounding development comprises single storey dwellings on the eastern side of Camberwell Street and light industrial tenancies along the length of Clapham Street.

A location plan of the subject lot is shown below.

**Proposal**

The application involves the following:

- Demolishing the existing dwelling and outbuilding on the site
- The construction of nine multiple dwellings in the form of a three storey building
- Units 1, 4 and 7 contain one bedroom and Units 2-3, 5-6 and 8-9 contain two bedrooms
- Nine carparking bays for residents, contained within three carports
- Three visitor bays, one of which is proposed within the Clapham Street verge (in the event of Council approval, a condition could be imposed requiring a contribution towards the provision of this on-street bay)
- Bicycle storage facilities, a communal bin store and nine storerooms.

The site, floor and elevation plans are contained as Appendix 13.5.10A.

Item 13.5.10 Continued

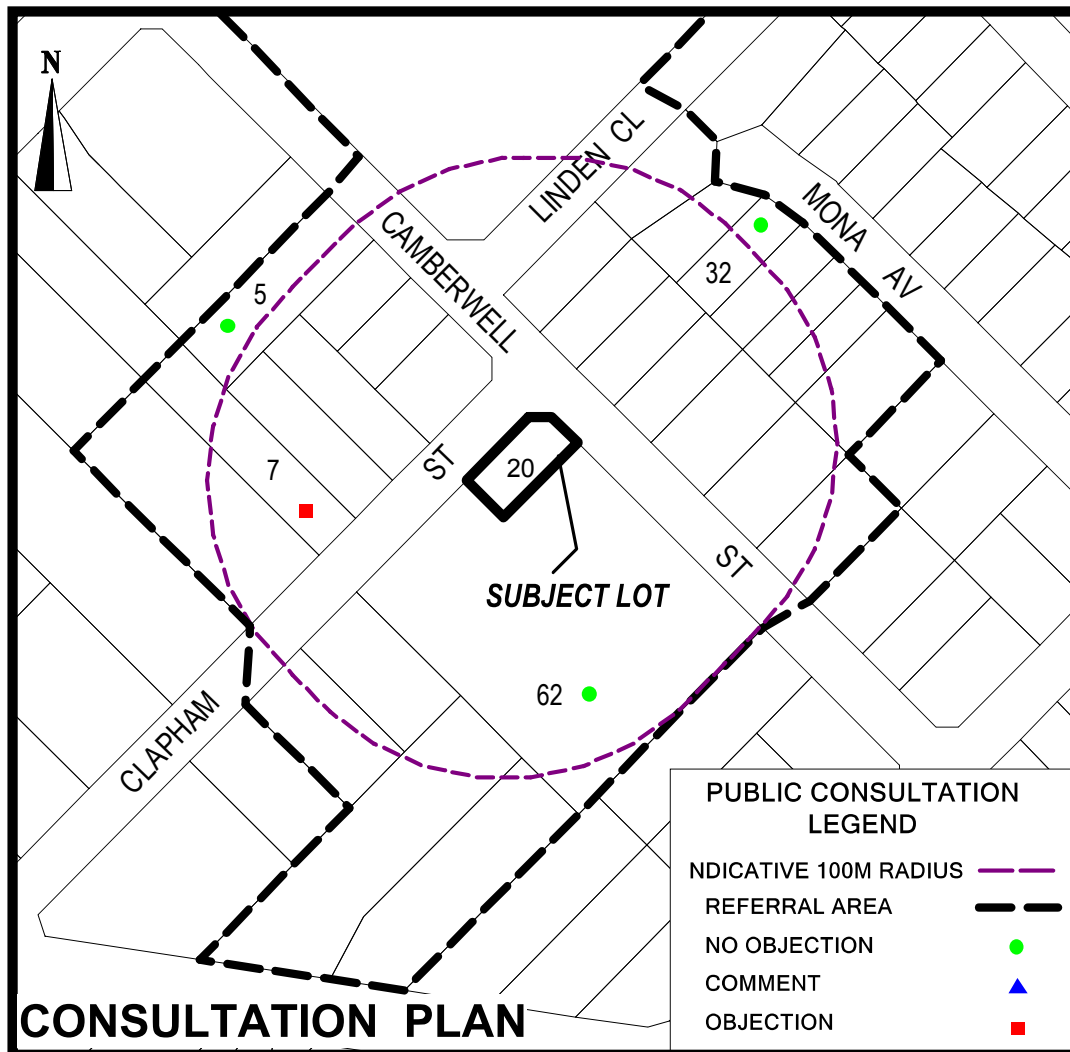
**Consultation**

The proposal was advertised for public comment for 14 days in accordance with the requirements of TPS 6 and Local Planning Policy 4.1 - Advertising/Referral of Development Applications (LPP 4.1), during which time four submissions were received; one raising objection and three raising no objection. A summary of the submissions received and staff comments thereon are tabled below.

1.	<b>Affected Property:</b> 22 (Lot 7) Clapham Street Beckenham	<b>Postal Address:</b> 22 Clapham Street BECKENHAM WA 6107
<b>Summary of Submission</b>		<b>Comment</b>
Object to proposal. We do not want an access driveway onto Clapham Street. This was not on the original plans. Clapham Street is an industrial street with trucks. This should not be mixed with residential driveways. Clapham Street already has a lot of traffic as it is used as a shortcut to avoid the traffic lights. There will be more of a chance of an accident if there is a busy driveway onto it.		Noted. See Traffic section of report.
2.	<b>Affected Property:</b> 15 (Lot 5) Camberwell Street Beckenham	<b>Postal Address:</b> PO Box 344 NORTH PERTH WA 6906
<b>Summary of Submission</b>		<b>Comment</b>
No objection to proposal.		Noted.
3.	<b>Affected Property:</b> 27 (Lot 62) Camberwell Street Beckenham	<b>Postal Address:</b> Suite 17, 885 Albany Highway EAST VICTORIA PARK WA 6101
<b>Summary of Submission</b>		<b>Comment</b>
No objection to proposal.		Noted.
4.	<b>Affected Property:</b> 5 (Lot 32) Mona Avenue Beckenham	<b>Postal Address:</b> Private Bag 22 EAST PERTH WA 6892
<b>Summary of Submission</b>		<b>Comment</b>
No objection to proposal.		Noted.

A plan showing the consultation area and the origin of the submissions received is shown overleaf.

Item 13.5.10 Continued



**DISCUSSION**

**Town Planning Scheme No. 6**

Land Use Designation

The site is zoned Residential Development under TPS 6. In accordance with Table 1 of TPS 6, Multiple Dwellings are a "D" use in a Residential Development zone, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

The Central Beckenham Sub-Precinct I ODP designates the subject lot as Residential R60. Clause 7.7.2(a) specifies that "the provisions of the Outline Development Plan apply to the land within the Outline Development Plan area as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme".

*Item 13.5.10 Continued*

This means that, by virtue of TPS 6 and the approved Central Beckenham Sub-Precinct I ODP, the subject land is Residential. Multiple Dwellings in a Residential zone are an "A" use which means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after consultation with surrounding landowners.

In this regard the subject application was advertised in accordance with the requirements of TPS 6 and LPP 4.1.

Special Control Area - Central Beckenham Housing Sub-Precinct I

The subject site is within the Central Beckenham Housing Sub-Precinct I Special Control Area (Sub-Precinct I SCA) and the following TPS 6 provisions apply:

- "6.6.1 Subdivision and development undertaken within the Special Control Area will require the upgrading to existing common infrastructure and/or construction of new common infrastructure.*
- 6.6.2 The cost of upgrading the common infrastructure in the area shall be equitably shared by all owners within the Special Control Area.*
- 6.6.3 Prior to subdivision being supported or development being approved within the Special Control Area, Council requires an Outline Development Plan to be approved pursuant to Part 7 of the Scheme, and a Development Contribution Plan to be prepared to identify the estimated costs of upgrading the common infrastructure and the associated administration of a Developer Contribution Arrangement and the method for the equitable sharing of the costs by owners.*
- 6.6.4 The Developer Contributing Arrangement shall operate in accordance with Schedule 12 of the Scheme and is to be prepared in conjunction with the Outline Development Plan".*

On 5 April 2011, Council resolved (Resolution 123) to initiate Amendment No. 122 to TPS 6 to modify the statutory framework which governs how Development Contribution Arrangements (DCA) are established and administered by the City. It should be noted that as part of Amendment No. 122, Clause 6.6 (ie. the above provisions) of TPS 6 is proposed to be deleted.

Amendment No. 122 has been advertised for public comment. A report on the matter is currently in preparation and it is anticipated that it will be presented to Council for consideration in the near future.

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

The application was assessed against and complies with most aspects of the Multiple Dwelling requirements of the R-Codes in respect to the R60 density coding which applies to the land. In those instances of non-compliance with the Acceptable Development provisions (prefixed with 'A'), assessment of the proposal against the related Performance Criteria (prefixed with 'P') of the R-Codes has been undertaken.

It is noted that the City's Local Planning Policy 1.1.1 - Residential Development (LPP 1.1.1) has not yet been updated to reflect recent updates to the R-Codes. It is expected however, that LPP 1.1.1 will be updated to coincide with a further update to the R-Codes, expected to be undertaken by the Western Australian Planning Commission in 2012.

Item 13.5.10 Continued

R-Code and Policy Provision		Assessment/Comment
1.	<p><b>7.3.2 Landscaping</b></p> <p>A2 Landscaping of open spaces in accordance with the following:</p> <ul style="list-style-type: none"> <li>• lighting provided to pathways, and communal open space and car parking areas; and</li> <li>• clear sight lines at pedestrian and vehicle crossings.</li> </ul> <p>P2 The space around the building is designed to allow for planting. Landscaping of the site is to be undertaken with appropriate planting, paving and other landscaping that:</p> <ul style="list-style-type: none"> <li>• meets the projected needs of the residents;</li> <li>• enhances security and safety for residents; and</li> <li>• contributes to the streetscape.</li> </ul>	<p>No lighting has been proposed as part of the subject application.</p> <p>As no lighting has been shown on any plan, the development proposal therefore does not comply with the Acceptable Development Criteria. An assessment against the Performance Criteria is therefore required.</p> <p>See Assessment/Comment for 7.3.6 <i>Sight lines at vehicle access points and street corners</i> in following section of Table.</p> <p>The development proposal does not satisfy the Performance Criteria as the absence of lighting would not enhance the security and safety of residents.</p> <p>It will therefore be recommended that in the event of Council approval, a condition be imposed requiring compliance with the above Acceptable Development provision by an internal site lighting plan at the Building Licence stage.</p>
2.	<p><b>7.3.6 Sight lines at vehicle access points and street corners</b></p> <p>A6 Structures (walls, fencing, meter boxes) and vegetation are not to exceed 0.75m in height within 1.5m of where walls and fences adjoin vehicle access points.</p>	<p>The development proposal has provided visually permeable fencing in conjunction with an automatic sliding gate between visitors' and residents' carparking areas and in this regard is compliant with the Acceptable Development Criteria. An assessment against the Performance Criteria is therefore not warranted in this instance.</p> <p>However, unspecified landscaping is proposed to be planted on at least one side of the visually permeable fencing which could potentially hinder sight lines as the landscaping matures.</p> <p>It will therefore be recommended that in the event of Council approval, a condition be imposed requiring that landscaping along this portion of the visually permeable fence be limited to species which grow to a maximum height of 0.75m to ensure adequate sight lines are maintained.</p>



*Item 13.5.10 Continued*

### **Car Parking**

The R-Codes car parking requirements for multiple dwellings are based on the size and number of dwellings proposed as well as a site's proximity to public transport. Furthermore there is a requirement for the provision of visitors' bays at a rate of 0.25 bays per dwelling.

In regards to the subject proposal, the R-Codes require seven bays for use by the residents and three visitor bays. There is a provision of nine resident bays and two visitor bays on site, thus representing a surplus of two resident bays and a shortfall of one visitor bay. The application proposes one on-street visitor bay within the Clapham Street verge to negate the on site shortfall.

It will therefore be recommended that in the event of Council approval, a condition be imposed requiring a contribution towards the provision of one on-street carparking bay within the Clapham Street verge to be paid to the City, prior to the issue of a Building Licence, for the ongoing maintenance of the embayment.

### **Traffic**

One of the submissions raised the concern that the location of the crossover serving the development proposal on Clapham Street would increase the potential for accidents to occur as a result of having residential traffic conflict with the existing industrial traffic, consisting of various trucks. In this regard, it should be noted that the development proposal maximises the distance between the crossover and the junction of Clapham Street and Camberwell Street which is considered to be desirable.

Furthermore, the addition of nine multiple dwellings, with one or two bedrooms per dwelling, is not considered to severely increase the traffic volumes on Clapham Street, nor the surrounding roads as Clapham Street and Camberwell Street are both Local Access Roads. Under the Council's adopted Road Network Hierarchy, roads of this classification are able to accommodate a maximum desirable volume of 3,000 vehicles per day. The additional traffic the proposal will generate is not considered to be significant and not anticipated to impact negatively upon the surrounding roads' functionality.

In addition, it should be noted that Clapham Street and Camberwell Street are both public roads accessible for use by residential and light industrial traffic.

### **Public Open Space**

As the subject application is proposing nine dwellings, a contribution of at least 10% of the landholding for public open space (POS) is applicable, in accordance with State planning policy. Given the size of the subject lot and lack of designation under the Central Beckenham Sub Precinct I ODP for public open space on the site, a cash-in-lieu contribution, in accordance with State policy and to the City's satisfaction, could satisfy the POS requirement. It will therefore be recommended that in the event of Council approval, a condition be imposed requiring this contribution being met.

*Item 13.5.10 Continued*

## **CONCLUSION**

The proposal is supported for the following reasons:

- The non compliance with the R-Code Acceptable Development provisions can be adequately addressed through appropriate conditions to ensure any detrimental impact on the amenity of the locality is minimised
- The proposal is consistent with the R60 designation of the Central Beckenham Sub-Precinct I ODP and the type of development is considered appropriate given the subject site's proximity to Beckenham train station
- The proposal is not expected to generate an excessive amount of traffic within the surrounding 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
- Central Beckenham Sub-Precinct I Outline Development Plan
- Residential Design Codes
- Local Planning Policy 4.1 - Advertising/Referral of Development Applications.

## **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

### **4 Moved Cr R Mitchell Seconded Cr T Brown**

That Council approve the application for nine multiple dwellings at 25 (Lot 20) Camberwell Street, Beckenham received 26 August 2011 and the amended plans received 30 November 2011, subject to the following conditions:

1. Provision of at least 10% public open space under Section 152 of the Planning and Development Act 2005, in the form of a cash-in-lieu contribution, in accordance with Section 155 of the Planning and Development Act 2005, to be paid to the City's satisfaction prior to the issue of a Building Licence.

*Item 13.5.10 Continued*

2. A geotechnical report is to be submitted in accordance with Australian Standards, detailing site conditions with respect to soil, groundwater and stormwater disposal. The report is to stipulate whether the site is suitable for on-site infiltration or what works are required to be implemented to provide for this capability or a suggested alternate means of disposal.
3. 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 of Gosnells.
4. Bin collection areas capable of accommodating the number of bins required for the development are to be identified and, if necessary, constructed, to the satisfaction of the City.
5. 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.
6. Arrangements being made, to the satisfaction of the Manager Technical Services, for a contribution towards the provision of one on-street carparking bay on Clapham Street, as per the City's adopted Fees and Charges Schedule, prior to the issue of a Building Licence.
7. Existing vehicle crossovers that are not required as part of the development shall be removed and the verge reinstated to the satisfaction of the City.
8. All cut and fill to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
9. The site is to be connected to the reticulated sewerage system.
10. Installation of turf on the verges abutting the subject site, as shown on the submitted site plan, is to be installed (prior to the occupation of any of the dwellings), and thereafter maintained, in accordance with the City's guidelines on permissible verge treatments.
11. External finishes and colour schemes are to be submitted and approved prior to the issue of Building Licence to the satisfaction of the City.
12. The existing Camberwell Street verge tree is not to be damaged or removed during works.

**CARRIED 12/0****FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr G Dewhurst, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Lawrence, Cr R Mitchell, Cr O Searle and Cr D Griffiths.***AGAINST:** *Nil.*

**13.5.13 DEVELOPMENT APPLICATION - PLACE OF WORSHIP, MULTI-PURPOSE BUILDING, CAFÉ (RESTAURANT), SHOPS AND OFFICES - 225 (LOT 282) CAMPBELL ROAD, CANNING VALE**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 227258  
Application No: DA11/00250  
Applicant: Motus Architecture  
Owner: Uniting Church In Australia  
Location: 225 (Lot 282) Campbell Road, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 1.6392ha  
Previous Ref: OCM 19 December 2000 (Resolution 1020)  
OCM 22 October 2002 (Resolutions 864-866)  
OCM 16 December 2008 (Resolution 623-625)  
Appendices: 13.5.13A Detailed Area Plan  
13.5.13B Site Plan  
13.5.13C Floor Plan  
13.5.13D Elevation Plan  
13.5.13E Schedule of Submitters  
13.5.13F Schedule of Submissions  
13.5.13G Consultation Plan  
13.5.13H Parking Calculations and Assessment

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for a Place of Worship, a multi-purpose building, Café (Restaurant), Shops and Offices at 225 (Lot 282) Campbell Road, Canning Vale. The proposal is outside the authority delegated to staff due to objections being received during the advertising period.

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

The site is 1.6392ha in area and contains an existing pre-primary school and car parking area. The property is zoned Residential Development under Town Planning Scheme No. 6 (TPS 6) and is designated as a Place of Worship/School/Community Purpose/Private Recreation site, subject to a Detailed Area Plan (DAP), under the West Canning Vale Outline Development Plan (ODP). A DAP has been adopted over the property which establishes the general arrangement of permitted land uses on the property, including the pre-primary school site and a shared car parking layout. The DAP is contained in Appendix 13.5.13A.

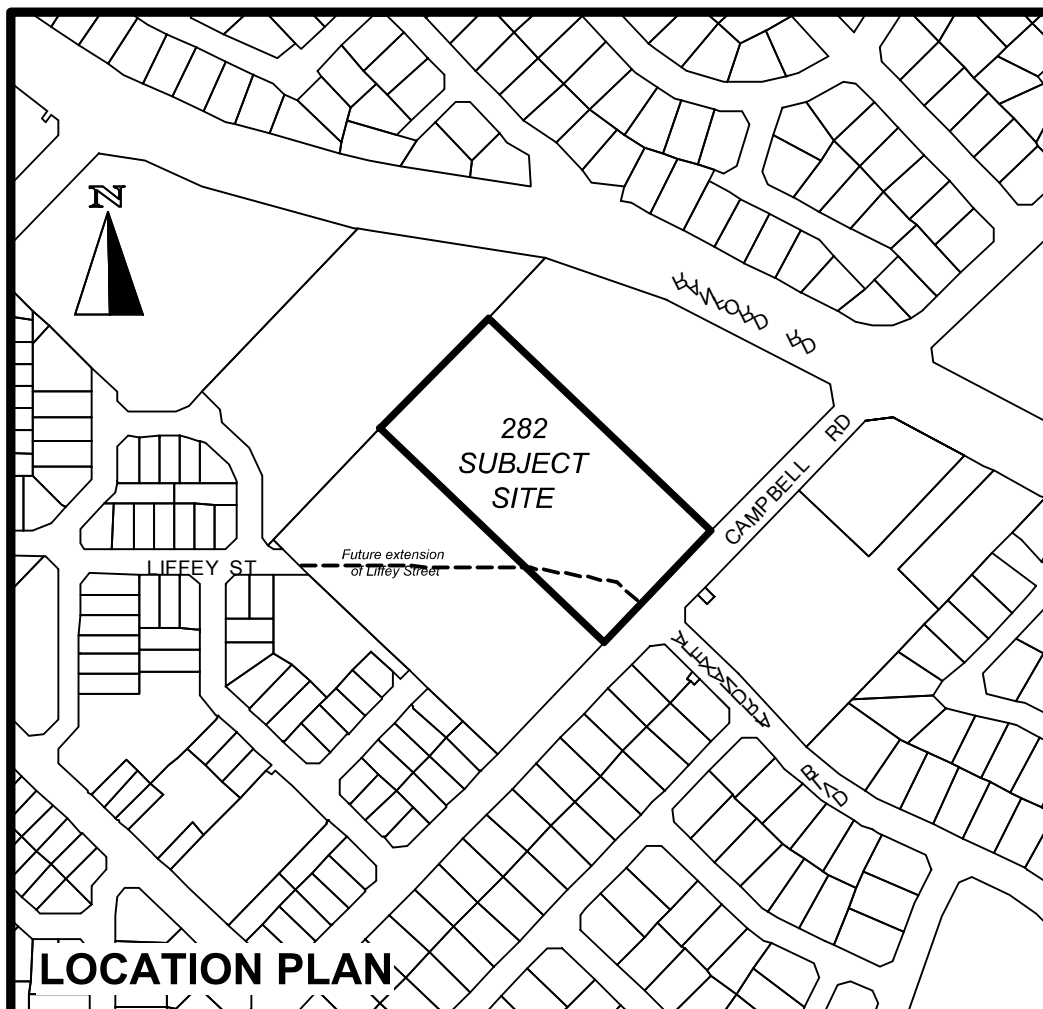
The ODP proposes a 'Neighbourhood Connector Road', which will form an extension of Liffey Street to Campbell Road, bisecting the southern corner of the site. The road extension will connect Liffey Street with the intersection of Campbell Road and Alexandria Boulevard. The portion of the site to the south of the connector road is

Item 13.5.13 Continued

designated as Residential R40. Subdivisional works are currently being undertaken to construct the portion of this future road which is on Lot 282. The ODP also proposes a road along south-western boundary of the site which will form an extension of Plunkett Turn and contain seven on-street car parking bays, as demonstrated on the attached DAP. This road will be constructed upon the development of the adjoining lot abutting the south-western boundary (Lot 283).

Subject to the finalisation of the subdivisional works, the property will be located on the corner of Campbell Road and Liffey Street and is approximately 120m from the Campbell Road/Ranford Road intersection. The property is surrounded by mostly vacant undeveloped land, and is located in close proximity to the Ranford Road Shopping Centre on the eastern side of Campbell Road. The adjoining lot to the north-east has been identified for a mix of uses, including a Tavern, Offices, Café, Showrooms and Grouped Dwellings.

A map identifying the location of the property follows.



*Item 13.5.13 Continued*

## **Site History**

On 19 December 2000 (Resolution 1020) Council resolved to approve a Place of Worship on the site which involved using existing buildings and constructing new buildings to be used for administration purposes, a café, a chapel, a playgroup and a youth club. The proposed uses were considered to be both complementary, and incidental to the predominant Place of Worship use. This approval was never acted upon, however Council on 22 October 2002 (Resolutions 864-866) approved an application to use the existing outbuildings on the property for a variety of church based activities, including the activities proposed in the previous approval.

Council, on 16 December 2008 (Resolutions 623-625), resolved to approve a DAP on the subject site. The DAP was based on conceptual plans identifying the arrangement of land uses on the site. The layout included the development of a pre-primary school on the northern portion of the site (approved by the Western Australian Planning Commission (WAPC) on 20 May 2011), and on the southern portion of the site land is set aside for future development of the Place of Worship. A shared car parking arrangement is provided between the pre-primary school and the Place of Worship.

The layout of the Place of Worship site was determined based on plans that had been submitted at the time when the DAP was approved. As such the DAP notes that the land uses 'Place of Worship', 'Community Purpose' and 'Recreation Private' are approved land uses on the site. The subject application does not conform with the approved DAP because a revised layout for the site is now proposed and additional land uses have been introduced. TPS 6 allows for Council to consider variations to DAPs providing that such variations conform to the intent of any related ODP.

## **Proposal**

The application involves the following:

- A two staged development where the first stage comprises a multi-purpose building and café building and the second stage comprises a function room building (essentially an auditorium), and a commercial building containing shops and offices
- The overall operation of the site will be run by a Church group who will be using the site for Place of Worship purposes
- The 112 bay car parking area (including five on-street bays) will be shared with the existing pre-primary school. Seven additional car bays will be constructed at a later date in a future subdivisional road reserve upon the development of the adjoining south-western lot. This will involve the removal of two on-site parking bays to make way for a crossover. Four car bays are also proposed to be constructed on Campbell Road.

### Stage 1

- The multi-purpose building will be two-storey and contain a number of offices and four multi-purpose rooms. The building is proposed to be used as the administration centre for the operation of the Place of Worship. The building will also be used by a local child care group, a playgroup and will be available for use by local community groups

*Item 13.5.13 Continued*

- A café (Restaurant), to be run on a commercial basis, is to operate seven days a week between 9am and 5:30pm
- The multi-purpose building is proposed to be used in Stage 1 as a Place of Worship accommodating up to 175 people until the Function Room is constructed as part of Stage 2, in which case the multi-purpose building will no longer be used for this purpose.

Stage 2

- A function room to be used occasionally by community groups on weekdays and to be used as the Place of Worship accommodating up to 320 people on Sundays
- A two-storey commercial building containing three shop tenancies on the ground floor comprising a total of 262m<sup>2</sup> floor area, and an office tenancy on the first floor comprising 256m<sup>2</sup> of floor area.

A site plan, floor plan and elevation plan are contained as Appendices 13.5.13B, 13.5.13C and 13.5.13D respectively.

Under the DAP the land uses Place of Worship, Community Purpose and Recreation - Private are approved uses for the site. The subject application is seeking a variation to the DAP as the proposed plans differ from the original concept plans that the DAP was formulated from. In addition to this, the application is proposing additional land uses which were not identified on the approved DAP being a 'Shop', an 'Office' and a 'Restaurant' (Café). It is considered that the other uses of the site fall within the approved land uses of Place of Worship and Community Purpose.

The subject proposal differs from the approved DAP in terms of the range of land uses and their arrangement on the site, hence the need for Council determination. The subject proposal is though of a similar scale and intensity to the approved DAP, in particular the Place of Worship component which is the primary generator of parking demand.

**Consultation**

The proposal was advertised for public comment for 14 days in accordance with TPS 6 requirements, during which time 64 submissions were received, 21 objecting to the proposal, 33 raising no-objection and 11 which provided comment.

A summary of these submissions and comments thereon are provided in the Schedule of Submissions contained in Appendix 13.5.13E. A list of the properties where the owner/occupier made a submission is contained as Appendix 13.5.13F. A map identifying the origin of each submission is contained in Appendix 13.5.13G. It should be noted that in several cases the origin of the submission could not be shown on the plan as it originated from outside the consultation area, or the submitter requested that their submission not be made public.

*Item 13.5.13 Continued*

The main issues raised in the submissions are as follows:

- The impact of the development on traffic in the area
- Whether the number of car parking bays proposed would adequately accommodate the proposed development
- Noise associated with the proposed use.

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

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

The application comprises the land uses Place of Worship, Community Purpose, Shop, Office and Restaurant. In accordance with Table 1 of TPS 6, all of these land uses, apart from the Place of Worship, are "D" uses in the Residential Development zone. This means that they are not permitted unless the local government has exercised its discretion by granting planning approval. The Place of Worship land use is an "A" use in the Residential Development zone which means that advertising of the proposal is required in accordance with Scheme provisions.

Clause 7.6.4(a) of TPS 6 allows for Council to vary an approved DAP providing that such variations conform to the intent of any related Outline Development Plan. This is discussed in a later section of the report.

**Local Planning Policy 2.8 - Planning Guidelines for Places of Worship**

Local Planning Policy 2.8 was adopted by Council in March 2011. The policy is intended to assist consistent decision making on planning grounds, in a manner that meets the aims of the Scheme. It therefore expresses the major planning considerations that Council needs to consider when assessing such proposals. These considerations include the following:

- Zoning and Location Factors
- Scale of operation
- Built form
- Acoustic characteristics
- Traffic and road hierarchy
- On site parking.

These issues are addressed in turn below.



*Item 13.5.13 Continued*

### **Zoning and Location Factors**

LPP 2.8 emphasises that Place of Worship applications should be in keeping with the objectives of the zone as set out by TPS 6 and complement the predominant activities and uses within the zone and on adjoining property. As mentioned above the subject site has long been identified as being suitable for Community Purpose and Place of Worship use.

Given that the site is in close proximity to an existing Neighbourhood Centre and abuts land within the ODP area identified for commercial land uses, it is considered that the Place of Worship land use, as well as the proposed Restaurant, Shop and Office uses, since they are not of a significant scale, are appropriate in this location.

### **Scale of Operation**

LPP 2.8 provides that the Council take into account the capacity of the development, the intended role, degree of usage and permanent on-going use when considering an application for a Place of Worship.

The application proposes a staged development. The applicant has advised that once Stage 1 is completed, it is anticipated that approximately 175 people will be using the site. This will, over time, expand to approximately 320 people through the construction of Stage 2. It is considered that the expected numbers of people who will use the development is not unreasonable on a site of this size and it is not dissimilar to other Places of Worship within the City. It is considered that the development is of an appropriate scale for its location, within a developing activity centre with existing commercial uses.

### **Traffic**

The subject site abuts Campbell Road which is a Local Distributor Road under the care and control of the City. It connects to Ranford Road to the north at a traffic light controlled intersection. Ranford Road is identified as a 'District Distributor (A) road' under the Perth Metropolitan Functional Road Hierarchy and as an 'Other Regional Road' reservation under the Metropolitan Region Scheme.

A number of submissions have raised concerns with the potential for the proposed development to worsen existing traffic problems in the area. A Traffic Impact Study (TIS) has been undertaken with the purpose of assessing the potential traffic impacts associated with the proposed Place of Worship.

The TIS identified that the intersection of Campbell Road and Ranford Road is currently performing at undesirable levels. On occasion during a two hour period between 7:30am and 9:30am, and during a one and a half hour period between 3pm and 4:30pm, vehicles extend back to the Liffey Street roundabout. The TIS noted that with the addition of traffic from the proposed development, the frequency of queues extending to the roundabout will increase.

The TIS notes that the intersection performance is currently nearing the point where improvements are warranted and suggests that a left turn lane approximately 80 metres long on the south leg of Campbell Road would improve the existing situation. Given that the much of the traffic in the area is affected by regional flows, the applicant contends that the responsibility for improvements lies with the road asset owner (ie the

*Item 13.5.13 Continued*

City). The City upgraded the intersection of Campbell Road and Ranford Road from a roundabout to traffic lights during the widening of Ranford Road in 2010.

The City is currently investigating the potential to further upgrade the intersection (installing a left turn lane) with grant funding from the State or National Building Black Spot program, in order to accommodate future traffic generation from the further development of the West Canning Vale ODP area. However, land will need to be acquired from the adjoining Lot 1008 Campbell Road as there is insufficient verge width to accommodate the road widening required for a left turn lane, and this should be noted when adjoining lot is developed in the future.

It was noted in the TIS that the intersection of Campbell Road and Liffey Street would perform satisfactorily in both the AM peak and PM peak periods. It also notes that the proposed crossover locations are appropriate and that vehicles should be able to safely enter/exit the site.

In terms of this application and its associated traffic generation, it is considered that the application is acceptable for the following reasons:

- The subject site has been previously identified and approved for the land uses 'Place of Worship' and 'Community Purpose' under the West Canning Vale ODP and associated DAP
- The existing traffic issue is a consequence of growth in the wider area
- The City is aware of the problem and remedial action is being investigated
- Since the development is a staged development, it is anticipated that initially approximately 175 people will be using the Place of Worship, which will increase over time to approximately 320 people. It is anticipated that before Stage 2 occurs, the traffic issue will be resolved
- Patrons/customers visiting the site are likely to use the site for more than one reason since the land uses on the site complement one another, for example the café and the playgroup, therefore reducing the amount of traffic generated.

**Car Parking**

The subject site currently provides 112 constructed car parking bays (including five on-street car bays). Subject to the development of the adjoining lot to the south-west, which will allow for the construction of a road, the overall development of the site will see two car parking bays removed to make way for a crossover, and a further seven on-street car parking bays constructed, resulting in a total of 117 car parking bays for the overall development. The subject application proposes to construct four on-street car parking bays on Campbell Road, which would bring the ultimate car parking figure to 121 car parking bays.

It is considered that the proposed on-street car parking on Campbell Road is inappropriate given the volume of traffic and the proximity of the roundabout. If the application is approved, it will be recommended that a condition be imposed requiring that these bays be removed from the plans, reducing the total number of bays to 117.

*Item 13.5.13 Continued*

In accordance with TPS 6 requirements, the development in conjunction with the existing pre-primary school on the site, would require approximately 236 car parking bays. Clause 5.13.4 of TPS 6 allows Council to vary the car parking requirements where different land uses have different hours of peak operation, and it is satisfied that there would be no resultant lowering of safety, convenience and amenity standards. The central factor here is that the Place of Worship operates mainly on weekends (Sundays) and the pre-primary operation during the day Monday to Fridays.

More specifically there are multiple uses proposed with different hours of operation. This allows for a potential shared parking scenario. Appendix 13.5.13H contains a table which details the expected hours of operation for the different land uses and the associated car parking required under TPS 6. There is one instance where there is no appropriate TPS 6 standard which could be used, and in that instance an estimate on how many car parking spaces are required is given.

In accordance with TPS 6 standards and as shown in the table, there is an expected weekday shortfall of 10 car bays between 10am and 11:30am and 41 bays between 2:30pm and 4pm. On Sundays there is an expected shortfall of 4 bays between 9am and 1pm.

The 41 bay shortfall on weekday afternoons is mainly due to the finishing times of the pre-primary school on the site. In this regard, the TIS identified that a typical pattern for the drop off and pickup of children associated with the pre-primary school, would require parents to park for no longer than 5 minutes at a time and bay turnover would be frequent. In addition to this, it is expected that some of the children attending the pre-primary school would also use the child care services as part of the multi-purpose building, and therefore some car bays would be 'shared' and the pick-up times of these children would be spread out over an extended period of time.

The applicant has advised that in the event that more car parking spaces are required, a grassed area to the north east, which is directly accessible from the car parking area, is available to accommodate approximately 25 cars. Any shortfall on weekday and Sunday mornings should be capable of being accommodated in this overflow area, and alleviated through the appropriate management of the site such as booking the use of the multi-purpose rooms to the community at appropriate times when car parking is available. If the application is approved, it will be recommended that a condition be imposed requiring that a parking management strategy be developed and implemented to the satisfaction of the City.

A submission has raised a concern with regards to the location of the proposed shops and office and their distance from the parking area. In this regard, it should be noted that there are no restrictions under TPS 6 specifying a minimum walking distance from a car parking bay to a building. However, from a practical perspective, parking areas need to be conveniently located. In this instance, the car parking bays are located approximately 45m from the commercial land uses with a direct connecting path, and as such are considered to be reasonably located.

*Item 13.5.13 Continued*

## **Amenity**

### Noise Amenity

A number of submissions raised concerns with regards to the potential for the development to generate excessive noise. In this regard, the Function Room building is proposed to be located along the north-eastern boundary, which provides a buffer from the residential lots to the south west of the site. In terms of the commercial land uses, such uses are present in the adjacent shopping complex. It is not unreasonable for these uses to be located on the subject site given the commercial nature of this part of the area as specified in the existing planning framework.

For the multi-purpose building and the associated use of a childcare and playgroup facility, it should be noted that the number of children the building will accommodate is low in comparison to the number of children at the adjoining primary school, and therefore the noise impact will be significantly less.

For the above reasons, it is anticipated that the proposed development will not generate an unreasonable level of noise, and in any event, the use of the site would be required to comply with the Environmental Protection (Noise) Regulations 1997 at all times.

### Visual Amenity and Built Form

The proposed development is mostly a two storey construction with a maximum height of 5.23m from finished ground level. The application proposes landscaping areas around the development including a water feature at the intersection of Campbell Road and Liffey Street. The shop and office building is proposed to be setback 2.9m from Campbell Road, and the multi-purpose building is proposed to be setback a minimum of 2.8m from Liffey Street, with an average of 5.9m.

A submitter has raised an objection to the development being of a two-storey construction. In this regard, the lot has been identified as forming part of an activity centre, whereby a mix of commercial uses can be developed, therefore buildings of a larger scale, typical to that of commercial areas, should be expected. It should also be noted that two storey buildings are not uncommon throughout various zones in the City, including the Residential zone.

With regard to the proposed setbacks, it should be noted that the setbacks are not dissimilar to newer commercial developments where 'main street' style development, which fronts and interacts with the street, is actively encouraged. This leads to enhanced urban and streetscape amenity, and the ability to create a public realm with a sense of place and community ownership.

In terms of the built form of the proposal, it is considered that the development is of a high quality construction. Through its various elements of architectural detailing, including the construction of a water feature and open areas, the site will become a focal point in the community and will aid in the creation of a strong sense of place for the area. The façade of the building is expected to positively contribute to the streetscape.

For the reasons mentioned above, it is considered that the built form of the development will positively contribute to the visual amenity of the area.

*Item 13.5.13 Continued*

## **CONCLUSION**

The proposal is supported for the following reasons:

- The subject site has been identified and approved for Place of Worship and Community Purpose land uses under the West Canning Vale ODP and DAP, and this proposal is of a similar scale and intensity to the approved DAP
- The site abuts an existing Neighbourhood Centre and land which has been identified for future commercial land uses to form an activity centre therefore it is considered that the proposed café, shops and office uses, due to their small scale nature, will complement existing and proposed land uses in that location.
- The development is of an appropriate scale for its location
- The available car parking on the site will be capable of accommodating the proposed development as well as the existing pre-primary school on the site
- Although there are existing traffic issues at the intersection of Campbell Road and Ranford Road, this is a consequence of development throughout the wider area, and it has been identified as an intersection requiring an upgrade
- The development is not expected to generate an unreasonable level of noise
- The proposed built form of the development is highly desirable and that it will enhance the visual 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
- Local Planning Policy 2.8 - Planning Guidelines for Places of Worship.

## **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.13 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

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

That Council approve the application for a Place of Worship, Multi-Purpose Building, Café, Shops and Offices at 225 (Lot 282) Campbell Road, Canning Vale, dated 5 July 2011 subject to the following conditions:

1. A geotechnical report is to be submitted in accordance with Australian Standards, detailing site conditions with respect to soil, groundwater and stormwater disposal. The report is to stipulate whether the site is suitable for on-site infiltration or what works are required to be implemented to provide for this capability or a suggested alternate means of disposal.
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 of Gosnells.
3. A minimum of 107 on-site car parking bays are to be provided, prior to the occupation of the buildings associated with Stage 1, and maintained to the satisfaction of the City. Upon the construction of the subdivisional road immediately abutting the school portion of the subject site (Plunkett Turn extension), a minimum of 105 on-site car parking bays and 12 on-street car parking bays are to be provided. 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.
4. All cut and fill to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
5. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
6. The site is to be connected to the reticulated sewerage system.
7. The portion of the site comprising the future subdivisional road required under the approved ODP (ie future extension to Plunkett Turn and Liffey Street) is to be ceded, free of cost prior to the issue of a Building Licence.
8. The applicant is to enter into a legal agreement with provision satisfactory to the City for:

*Item 13.5.13 Continued*

- i) The construction of the subdivisional road immediately abutting the school portion of the subject site and associated embayed car parking, prior to the construction of Stage 2 of the development or when the balance of the road reserve land on the abutting Lot 282 is created via subdivision, whichever occurs first.
  - ii) Future reciprocal access and parking arrangements with the Pre-Primary School portion of the lot.
9. Arrangements being made to the satisfaction of the City of Gosnells, prior to the issue of a Building Licence, for the payment of the requisite developer cost contribution applicable to the land under the West Outline Development Plan Development Contribution Arrangement, in accordance with Schedule 12 of Town Planning Scheme No. 6.
  10. A landscape plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's Local Planning Policy 4.5 – Development – Landscaping, and approved by the City, prior to the issue of a building licence.
  11. Landscaping and irrigation of the development site and adjoining road verges is to be installed prior to occupying the proposed development, and thereafter maintained, in accordance with the approved landscaping plan to the satisfaction of the Manager Parks and Environmental Operations.
  12. External finishes and colour schemes are to be submitted prior to the issue of Building Licence to the satisfaction of the City.
  13. The plans are to be amended to remove the proposed on-street car parking bays on Campbell Road.
  14. A Parking Management Plan is to be prepared prior to the issue of a Building Licence, and thereafter implemented, to the satisfaction of the City.

**CARRIED 12/0****FOR:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr G Dewhurst, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr K Jones, Cr R Lawrence, Cr R Mitchell, Cr O Searle and Cr D Griffiths.***AGAINST:** *Nil.*

**13.5.16 DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (TWO COMMERCIAL TENANCIES AND 26 MULTIPLE DWELLINGS) - 69 (LOT 1) WHEATLEY STREET, GOSNELLS**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 208578  
Application No: DA11/00294  
Applicant: Rob Anson Architect Pty Ltd  
Owner: Access Housing Association Inc  
Location: 69 (Lot 1) Wheatley Street, Gosnells  
Zoning: MRS: Urban  
TPS No. 6: Local Centre  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 1,733m<sup>2</sup>  
Previous Ref: Nil.  
Appendices: 13.5.16A Site/Floor Plan  
13.5.16B Elevation Plan  
13.5.16C Schedule of Submissions

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for a Mixed Use Development (Two Commercial Tenancies and 26 Multiple Dwellings) at 69 (Lot 1) Wheatley Street, Gosnells as the proposal is outside the authority delegated to staff due to:

- Non-compliance with Council Policy
- Non-compliance with the Acceptable Development provisions of the Residential Design Codes (R-Codes)
- Objections being received during the consultation period.

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

The subject site contains an existing vacant warehouse building, and is located on the corner of Wheatley and Bert Streets. The Bert Street road reserve is wider than normal (26m as opposed to 20m) where it abuts the development site due to the existence of Lot 190 Wheatley Street, which is owned by the City and forms an informal extension of the road reserve. A privately owned right-of-way abutting the rear boundary of the subject site runs along the entire length of the street block between Bert Street and Dorothy Street. The property is located within 50m of the Armadale Train line which runs adjacent to Wheatley Street, and is approximately 300m from the Gosnells Train Station.

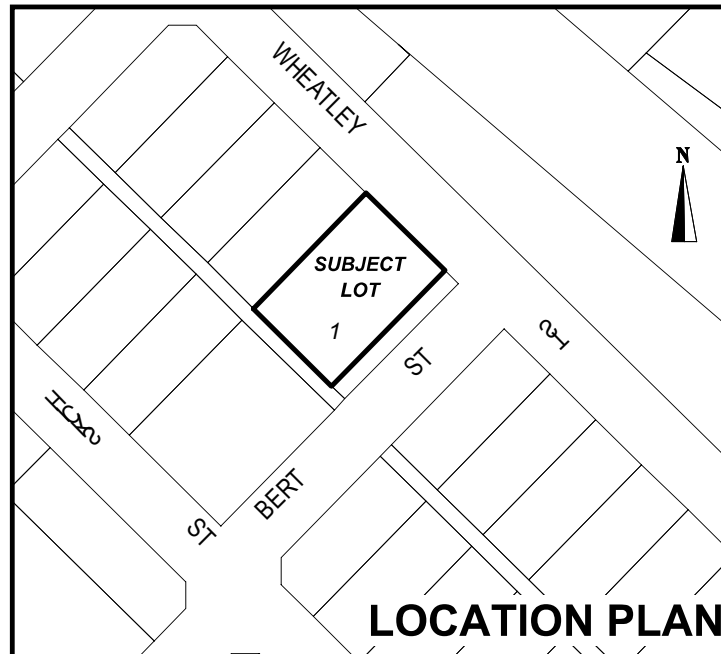
The property is zoned Local Centre under Town Planning Scheme No. 6 (TPS 6) and Urban under the Metropolitan Region Scheme (MRS). Adjoining properties along Wheatley Street between Bert Street and Fremantle Road are zoned Office under TPS 6. Properties to the rear of the site sharing the private right-of-way are zoned



*Item 13.5.16 Continued*

Residential R30/R40. The subject site is located within the Gosnells Town Centre Special Control Area where development is guided by Local Planning Policy 5.2 - Gosnells Town Centre Development.

A map identifying the location of the subject property follows.

**Proposal**

The application involves the following:

- Demolition of the existing warehouse building on the property
- Construction of a mixed use development comprising 26 Multiple Dwellings and two commercial tenancies
- Building height of between three and four storeys
- Two ground floor commercial tenancies, one of which is proposed to be used as a Café and the other is proposed to be used as an Office or Shop
- The multiple dwellings will be two bedroom, two bathroom dwellings
- A total of 38 car parking bays will be provided, with nine car parking bays to be constructed on Bert Street and the remaining bays are to be constructed at the rear of the building
- The proposed use of Lot 190 Wheatley Street for landscaping, footpaths and an alfresco area outside the proposed commercial tenancies.

A site/floor plan and elevation plan are contained as Appendices 13.5.16A and 13.5.16B respectively.

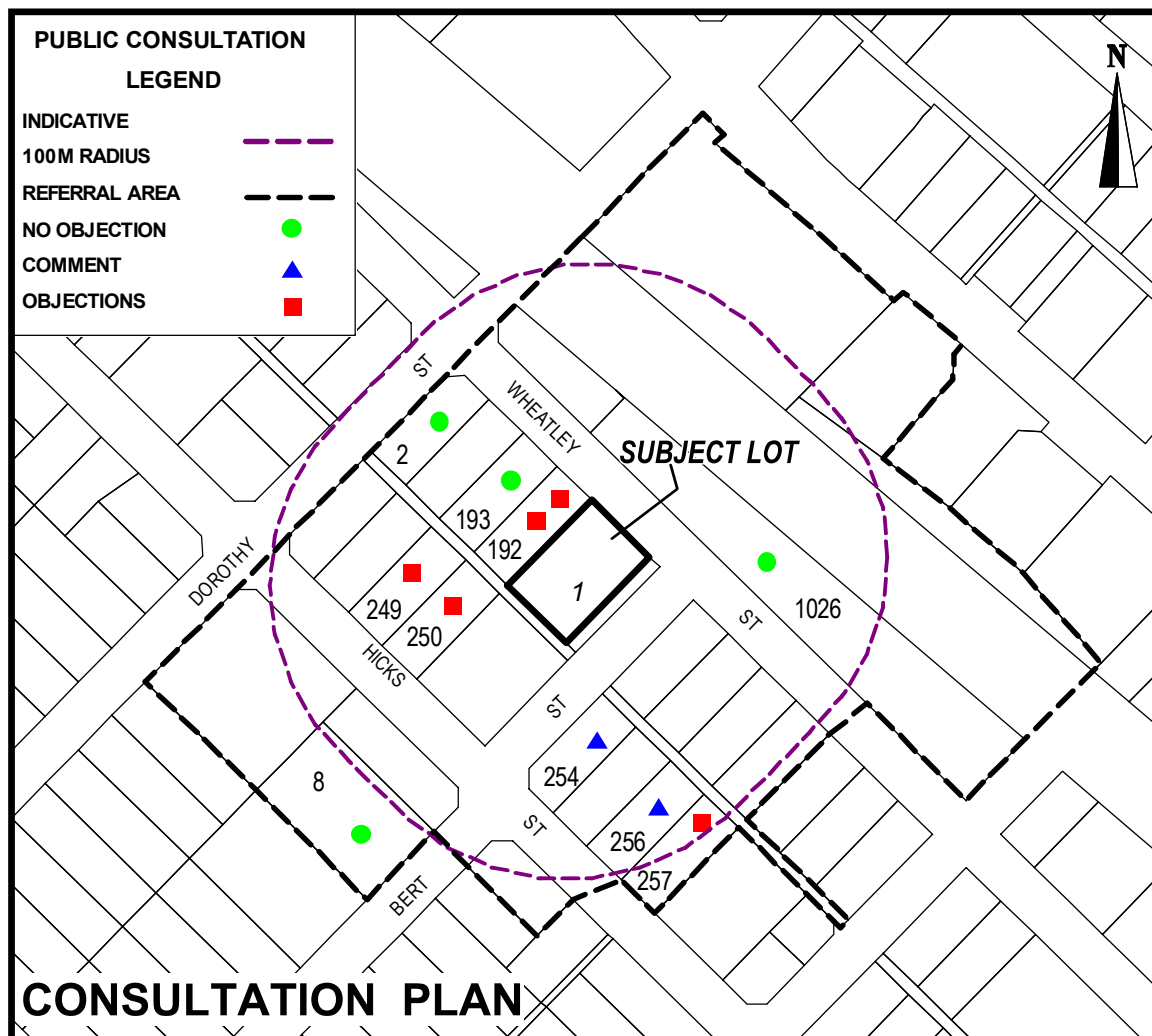
Item 13.5.16 Continued

**Consultation**

The proposal was advertised for public comment for 14 days in accordance with Council Policy/TPS 6 requirements, during which time 10 submissions were received, four objecting to the proposal, four raising no-objection and two of which provided comment. A summary of these submissions and comments thereon are provided in Appendix 13.5.16C.

Councillors and staff also attended an on-site meeting with residents of the adjoining property to discuss the proposal.

A map showing the consultation area and the origin of the submissions received follows. It should be noted that one objector owns two properties within the consultation area.



*Item 13.5.16 Continued*

The main issues raised in the submissions are as follows:

- Privacy
- Density
- Height
- Overshadowing
- Traffic.

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

## **DISCUSSION**

The proposal has been assessed against and complies with all relevant provisions of TPS 6, the Residential Design Codes (R-Codes) and City Policies, with the exception of those discussed in this section.

### **Town Planning Scheme No. 6**

#### Use Class Assessment

The subject site is zoned Local Centre under TPS 6. The objective of the zone is to provide for predominantly convenience retailing and community facilities which serve the local community, and gives a high level of accessibility for local residents.

In accordance with TPS 6, a Multiple Dwelling is an "A" use in the Local Centre zone, meaning that it is not permitted unless the local government has exercised its discretion by granting planning approval, after giving special notice through advertising. A Restaurant (Café) and a Shop are both "P" uses in the Local Centre zoning, meaning that they are permitted, providing the uses comply with the relevant development standards and requirements of the Scheme. An Office is a "D" use meaning that it is not permitted unless the local government has exercised its discretion by granting planning approval.

The commercial land uses proposed will provide for convenience retailing and services for the local community.

#### Mixed Residential/Commercial Development in Commercial Zones

Where mixed residential/commercial development is proposed in a commercial zoned area, Clause 5.8.4(a) of TPS 6 requires Council to have regard to the following:

- (i) *The character of the area and the need to protect commercial uses from undue influences or restrictions resulting from residential occupation.*
- (ii) *The suitability of the area for residential development with reference to the level of amenity and/or conflict between residential and commercial uses, acknowledging that residential uses in a commercial zone should expect a different level of amenity to that available in a residential area, and*

Item 13.5.16 Continued

- (iii) *The provision of the Residential Design Codes at the R80 density code and the objectives of the Scheme.*

In terms of point (i), although land along Wheatley Street is commercially zoned (Office), the character of the area on this section of Wheatley Street is mostly residential in nature. This area is one of many in Gosnells where the development potential of the land has not been taken up. It is therefore reasonable to allow commercial land uses with a mix of residential units. However, it should be expected that the residential development proposed should expect a different level of amenity to that available in a residential area. Given that the proposed commercial tenancies are of relatively small scale and are separate from the residential dwellings (including its car parking) conflict between the proposed uses is not anticipated.

With regards to point (iii), the Scheme provides for residential development at the Residential R80 density code with a maximum plot ratio of 1 when proposed in a commercial area. This means that the maximum amount of floor area allowed for a development can be the same as the amount of land area available on the site.

It should be noted that Clause 5.8.4(d) of TPS 6 provides for Council to vary any provision of the R-Codes it deems necessary to achieve a suitable standard of development where mixed residential and commercial development is proposed in a commercial zone.

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

The proposal complies with all relevant Acceptable Development provisions of the R-Codes, with the exception of those detailed in the table below. In the instances of non-compliance with the Acceptable Development provisions, assessment against the related Performance Criteria of the R-Codes has been undertaken.

The City's Local Planning Policy 1.1.1 - Residential Development, provides parameters for assessment against Performance Criteria of the R-Codes. It is expected, that LPP 1.1.1 will be updated to coincide with a further update to the R-Codes expected to be undertaken by the Western Australian Planning Commission this year.

Assessment of the proposal against the relevant R-Codes Acceptable Development provisions (prefixed by "A"), and the related Performance Criteria (prefixed by "P") are detailed below.

R-Code Clause/Requirement		Assessment/Comment
1.	<b>7.1.1 Building Size</b>	
	A1 Development complies with the maximum plot ratio requirements set out in table 4 (R80 - 1.0).	The submitted plans propose a plot ratio of 1.28.
	P1 Development of the building is at a bulk and scale indicated in the local planning scheme and is consistent with the existing or future desired built form of the locality.	Under Local Planning Policy 5.2 - Gosnells Town Centre Development, a maximum plot ratio of 1.5 is permitted. The proposal is therefore consistent with the future desired built form for the locality.

Item 13.5.16 Continued

R-Code Clause/Requirement		Assessment/Comment
2.	<p><b>7.1.2 Building Height</b></p> <p>A1 Development complies with the maximum height set out in table 4. Table 4 - Top of external wall (concealed roof) - 13m.</p> <p>P2 Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:</p> <ul style="list-style-type: none"> <li>• Adequate direct sun to buildings and outdoor living areas;</li> <li>• Adequate daylight to major openings to habitable rooms;</li> <li>• Access to views of significance from public places;</li> <li>• Buildings present a human scale for pedestrians;</li> <li>• Building facades are designed to reduce the perception of height through design measures; and</li> <li>• Podium style development is provided where appropriate.</li> </ul>	<p>The maximum height of the building is 13.2m.</p> <p>The building is proposed to be three storeys where it is closest to the boundary of adjoining properties, and increases to four storeys further away from the boundary on the eastern corner of the property (where Bert Street and Wheatley Street intersect). This means that the height variation gradually differs from that of adjoining properties therefore it is considered that this, in addition to the building being proposed to have a nil setback to the street and weather protective awnings over adjacent footpaths, will present a human scale development for pedestrians and reduce the perception of height, when measured from the street.</p>
3.	<p><b>7.1.3 Street Setback</b></p> <p>A3.1 Development complies with the minimum setback from the primary and secondary street(s) in accordance with table 4 (R80 - 2m).</p> <p>P3 Buildings are set back from street boundaries (primary and secondary) an appropriate distance to ensure they:</p> <ul style="list-style-type: none"> <li>• Contribute to the desired streetscape;</li> <li>• Provide articulation of the building on the primary and secondary streets;</li> <li>• Allow for minor incursions that add interest and reflect the character of the street without impacting on the appearance of bulk over the site;</li> <li>• Are appropriate to its location, respecting the adjoining development and existing streetscape; and</li> </ul> <p>Facilitate the provision of weather protection where appropriate.</p>	<p>The development is proposed to have a nil setback to Wheatley Street.</p> <p>Local Planning Policy 5.2 - Gosnells Town Centre Development prescribes a nil setback to principal streets at ground level.</p> <p>Although the adjoining development does not have a nil setback, the proposed development meets the objectives for the revitalisation of the area and is expected to contribute to a desired streetscape.</p>

Item 13.5.16 Continued

	<b>R-Code Clause/Requirement</b>	<b>Assessment/Comment</b>
4.	<p><b>7.1.4 Side and Rear Boundary Setback</b></p> <p>A4.2 In areas coded R80 - R160 and R-AC, the development complies with minimum side and/or rear boundary setback requirements as set out in table 5 subject to any additional measures in other elements of the codes.</p> <p>Table 5 - Width of the lot in metres - &gt;16 Side setback in metres - 4m</p> <p>P4.1 Buildings set back from boundaries or adjacent buildings so as to:</p> <ul style="list-style-type: none"> <li>• Ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;</li> <li>• Moderate the visual impact of building bulk on a neighbouring property;</li> <li>• Ensure access to daylight and direct sun for adjoining properties; and</li> <li>• Assist with the protection of privacy between adjoining properties.</li> </ul> <p>P4.2 In mixed use development, in addition to the above:</p> <ul style="list-style-type: none"> <li>• Side boundary setbacks to a retail/commercial component of a development is in accordance with the existing street context, subject to relevant local planning scheme provisions.</li> <li>• Retail/commercial development adjoining residential is designed to minimise the potential impacts between the two uses.</li> </ul>	<p>The width of the lot is greater than 16m therefore the side and rear setbacks are required to be 4m. On the north-western boundary (abutting residential) the proposed building is only setback 2.5m and on the south-western boundary it is proposed to be setback 1.5m (abutting a privately owned laneway).</p> <p>The right of way at the rear of the site is 5m in width and provides separation between the rear of the abutting properties. For this reason, it is considered that a 1.5m setback from this laneway is not unreasonable and will not impose significant building bulk on properties on the other side of the laneway.</p> <p>In terms of the reduced setback on the north-western boundary, it should be noted that overlooking will not occur on this side of the property and there are no major openings which are proposed to look into an adjoining property's private open space.</p> <p>In terms of the R-Code provision, it is considered that the width of the lot has little relation to side boundary setbacks and their impact, and rather consideration should be given to the depth of the lot (50.3m). With regards to the visual impact of building bulk on this boundary, it should be noted that the length of the wall in question only affects 30% of this boundary length, and abuts an adjoining property's car parking area. Also given that the subject site and adjoining, affected property both have commercial zonings, some building bulk could be expected.</p> <p>It should be noted that commercial buildings do not have a specified setback requirement. Therefore, if a purely commercial development were to be constructed on this property, it could potentially be built up to the boundary.</p> <p>The development does not abut any other commercial land uses. However, it is not anticipated that the commercial component of the proposal will impact on the adjoining residential dwellings given that they are located approximately 16.5m from the commercial component of the development at their nearest point.</p>

Item 13.5.16 Continued

R-Code Clause/Requirement		Assessment/Comment
5.	<p><b>7.4.3 Dwelling Size</b></p> <p>A3.1 Development that contains more than 12 dwellings are to provide diversity in unit types and sizes as follows: -</p> <ul style="list-style-type: none"> <li>• Minimum 20 per cent 1 bedroom dwellings, up to a maximum of 50 per cent of the development; and</li> <li>• Minimum of 40 per cent 2 bedroom dwellings</li> </ul> <p>P3 Each dwelling within the development is of a sufficient size to cater for the needs of the residents. The development must provide diversity in dwellings to ensure that a range of types and sizes is provided.</p>	<p>Each dwelling comprises 2 bedrooms.</p> <p>The applicant contends that the development caters for different household sizes because some of the dwellings contain two large bedrooms and some contain one large bedroom and one small bedroom.</p> <p>The sizes of the dwellings themselves are of a sufficient size to cater for the needs of future residents.</p>

Privacy and Overshadowing

A number of submissions raised concerns in relation to privacy/overlooking and solar access due to overshadowing. In relation to concerns about privacy, it should be noted that any overlooking along the north-western boundary is over the adjoining residential property's street setback area. The R-Code privacy provisions only relate to overlooking behind the street setback line. The proposal therefore does not conflict with the Codes.

The abutting residential development at 67 Wheatley Street is situated on the north western side of the proposal. In terms of overshadowing onto adjoining properties, there are no provisions which restrict the amount of overshadowing at the Residential R80 code. It should be noted however, that overshadowing occurs on the more southerly side of a building, and as such any shadowing will be cast over Bert Street.

**Local Planning Policy 5.2 - Gosnells Town Centre Development**

The subject site is located within the Gosnells Town Centre Special Control Area where development is guided by Local Planning Policy 5.2 - Gosnells Town Centre Development. The proposal complies with all the relevant provisions of the policy, with the exception of those detailed in the following table.

Item 13.5.16 Continued

Policy Clause/Requirement		Assessment/Comment
1.	<p>2.2 The built form of new development in the town centre is to comply with the following:</p> <p>ii) A maximum building height of 11m.</p> <p>iii) A maximum of 3 storeys.</p>	<p>The proposed building height is a maximum of 13.2m at its four storey sections which is 0.2m more than what is allowed under the R-Codes. The objective of the Policy is to contribute to the revitalisation of the Gosnells town centre, promote a mix of uses and for buildings to be of a height and scale that is appropriate for a town centre.</p> <p>It is considered that the proposed development will contribute to the revitalisation of the Gosnells town centre, and that the buildings will be of a height and scale that is appropriate for a town centre style development such as similar developments which have occurred in other town centre areas including Kelmscott and Subiaco.</p> <p>The building is proposed to be three storeys where it is closest to the boundary of adjoining properties, and increases to four storeys further away from the boundary on the eastern corner of the property (where Bert Street and Wheatley Street intersect). For this reason, and given that the building is only 0.2m taller than the R-Codes usual standard, it is considered that the four storey component is acceptable.</p>
2.	<p>3.2 The built form of new development is to incorporate activated street frontages which provide:</p> <p>ii) Entrance and window elements that form a minimum of 50 per cent of the surface area of the ground floor façade.</p> <p>iii) Continuous awnings above all ground floor facades.</p>	<p>The application does not comply with this provision because the residential dwellings proposed on the ground floor do not contain window or entrance elements over 50 per cent of the surface area. The commercial facades however, do comply with this provision and it is considered that the policy provision is primarily intended for commercial development in the town centre.</p> <p>Most of the ground floor development is residential. It is considered unreasonable that at least 50 per cent of the surface area be made up of entrances and window elements. These dwellings require some privacy protection.</p> <p>An awning is proposed around the commercial component of the development. An awning is not proposed along the south-eastern side of the building where it abuts residential dwellings, however given that a footpath will not run directly alongside this part of the building and will instead be landscaped, then this is considered acceptable.</p>



Item 13.5.16 Continued

	Policy Clause/Requirement	Assessment/Comment
	vi) Maximum length of a blank wall is 2 metres.	<p>There are several walls around the development which may be described as blank in terms of not containing windows/doors or architectural detail such as awnings. The facades do however feature different colours and textual finishes, therefore adding vitality and interest to the streetscape.</p> <p>The objective of this provision is to provide for physical and visual permeability between public and private domains, add vitality and interest in the street and provide opportunities for passive surveillance.</p> <p>It is considered that there are sufficient windows to provide visual permeability between the public and private domain whilst also providing for privacy. The blank walls have features to them which adds vitality and interest to the street. For these reasons, it is therefore considered that these walls are acceptable.</p>

**Car Parking**

The R-Codes stipulate that for multiple dwellings with a floor area less than 75m<sup>2</sup> that are within 800 metres of a train station, 0.75 car bays are required per dwelling, in addition to 0.25 visitor bays per dwelling. This means that 20 bays (rounded up from 19.5) are required to serve the dwellings, and seven bays (rounded up from 6.5) are required for visitors. Under LPP 5.2, one bay is required per 100m<sup>2</sup> gross floor area, and since both of the proposed commercial tenancies are under 100m<sup>2</sup>, a requirement of two bays is generated. A total of 29 bays are therefore required.

The application proposes to construct a total of 38 car parking bays, with nine car parking bays to be constructed on Bert Street, and 29 bays to be constructed at the rear of the building behind a security barrier. This is in excess of what is required under the R-Codes and Local Planning Policy 5.2. The seven bays required for visitors have been included as on-street car parking because the R-Codes stipulate that visitor bays need to be located close to the point of entry to a development and outside any security barrier. A cash-in-lieu contribution will be required for the construction and on-going maintenance of the on-street car parking bays in accordance with the *Local Government Act 1995*.

**Traffic**

A submission has raised a concern with regards to the potential for the development to generate traffic in the area. The applicant has prepared a Transport Statement in accordance with Western Australian Planning Commission (WAPC) policy to address any potential traffic issues associated with the development.

The Transport Statement identified that the overall development could generate between 160 and 190 vehicle trips per day, with an estimated 20 to 30 vehicle trips resulting during the developments peak hour. On this basis and taking into account the road hierarchy and local road layout, it is estimated that Wheatley Street (adjacent to the proposed development) carries approximately 1,000 vehicles per day. It is not expected that the proposed development will result in the surrounding roads exceeding their capacity.

*Item 13.5.16 Continued*

### **Building Code Issues**

Multiple dwellings and mixed use developments involve more stringent requirements under the Building Code of Australia than single and grouped dwelling developments. It has been identified that minor design refinements may be required to satisfy fire separation requirements under the Building Code, including the possible requirement to modify the setback of the building on the north-western boundary from 2.5m to 3m.

This may have minor implications on the design layout, and due to delegation requirements, if in the event that an amendment is required and if the application is approved, it will be recommended that a condition be imposed permitting these minor refinements to the satisfaction of the Manager Planning Implementation and Manager Building Services.

### **Urban Design**

In terms of the façade of the building, including the materials/colours used and minor architectural detailing, since the development is in the Gosnells Town Centre Special Control Area, it is considered that further discussion may be required between the applicant and the City so as to ensure that the finishes of the development contribute to the streetscape. Therefore, if the application is approved, it will be recommended that a condition be imposed requiring that external finishes and colour schemes be submitted and that further minor design refinements be made.

### **Noise**

The subject site could potentially be impacted by adverse noise from the nearby train line. In accordance with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning, a noise-sensitive development such as the proposed development requires the submission of a noise assessment in order to address compliance with noise parameters. The assessment may determine that certain building design guidelines, such as double glazed windows, need to be implemented. If the application is approved, it will be recommended that a condition be imposed requiring the preparation and implementation of a noise assessment in accordance with State Planning Policy 5.4.

### **Laneway**

As mentioned previously, a privately owned right-of-way runs along the rear of the property between Bert Street and Dorothy Street. The right-of-way itself forms part of a linear network of right-of-ways which stretches over a number of street blocks between Verna Street and Stalker Road and between Wheatley Street and Hicks Street. The right-of-way is in private ownership of a person who is now deceased. This laneway is currently being used by various property owners and businesses that abut it.

The right-of-way was created under Section 167A of the Transfer and Land Act 1893 which gives landowners adjoining the laneway implied access, however it does not permit access to the public at large or provide the City with any right to control traffic or maintain the surface to a satisfactory standard. For these reasons, it is considered inappropriate to allow development sites to have sole access from the right-of-way.

*Item 13.5.16 Continued*

Given that significant activity is currently occurring on this right-of-way it is considered to be appropriate that the City work towards ensuring that the rights-of-way are dedicated as public rights-of-way.

In terms of the development, it should be noted that it has been designed such that the car parking area is at the rear of the building abutting the right-of-way so that once the right-of-way tenure is resolved (by the City), there would be an opportunity for the car park to have access from the right-of-way to the site.

**CONCLUSION**

The proposal is supported for the following reasons:

- Despite the non compliances with the Acceptable Development provisions of the R-Codes and parameters under Local Planning Policy LPP 5.2 - Gosnells Town Centre Development, it is considered that the development is desirable for the area and meets the objectives of the Local Centre zone and Local Planning Policy
- The development will not impose an unreasonable level of overlooking and it will not affect any adjoining properties through overshadowing
- Adequate car parking is proposed to service the development.

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

**FINANCIAL IMPLICATIONS**

The proposed purchase or lease arrangement for Lot 190 Wheatley Street will provide an income to the City.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- Residential Design Codes (2008)
- Local Planning Policy 5.2 - Gosnells Town Centre Development.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.16 Continued

STAFF RECOMMENDATION
----------------------

**Moved Cr R Mitchell Seconded Cr R Lawrence**

That Council approve the application for a Mixed Use Development at 69 (Lot 1) Wheatley Street, Gosnells, dated 20 August 2011, subject to the following conditions:

1. Development may only be carried out in accordance with the terms of the application as approved herein and any approved plan.
2. A geotechnical report is to be submitted in accordance with Australian Standards, certifying that the land is physically capable of development and detailing site conditions with respect to soil, groundwater and stormwater disposal. The report is to stipulate whether the site is suitable for on-site infiltration or what works are required to be implemented to provide for this capability or a suggested alternate means of disposal.
3. 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 of Gosnells.
4. Arrangements being made, to the satisfaction of the Manager Technical Services, for a contribution towards the provision of 9 on-street parking bays on Bert Street.
5. Existing vehicle crossovers that are not required as part of the development shall be removed and the verge reinstated to the satisfaction of the City.
6. All on-street car parking is to be constructed in accordance with Australian Standard AS 2890.5.
7. All cut and fill is to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
8. The site is to be connected to the reticulated sewerage system.
9. Arrangements being made to the satisfaction of the City of Gosnells, prior to the issue of a Building Licence, for the payment of the requisite developer cost contribution applicable to the land under Town Planning Scheme No. 20.

*Item 13.5.16 Continued*

10. A landscape plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's Local Planning Policy 4.5 – Development – Landscaping, and approved by the City, prior to the issue of a building licence.
11. Landscaping and irrigation of the development site and adjoining road verges is to be installed prior to occupying the proposed development, and thereafter maintained, in accordance with the approved landscaping plan to the satisfaction of the Manager Parks and Environmental Operations.
12. The proponent is to submit a written maintenance manual for the area(s) of communal open space in accordance with the Residential Design Codes, prior to the issue of a Building Licence.
13. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
14. An enclosed lockable storage area, constructed in a design and material matching the dwelling, accessible from outside the dwelling, with a minimum dimension of 1.5 metres and an internal area of at least 4m<sup>2</sup> is to be provided to the City's satisfaction for each dwelling. The erection of an isolated structure requires the issue of a Building Licence.
15. Visitor parking bays are to be permanently marked and maintained at all times for use exclusively by visitors to the property, be clearly visible from the street or communal driveway and be located, together with the reversing area, in front of any security gates or barrier for the development.
16. Bin collection areas capable of accommodating the number of bins required for the development are to be identified and, if necessary, constructed, to the satisfaction of the City. The bin storage areas should be located such that they are screened from view from all units and the street to the satisfaction of the City.
17. A Waste Collection Management Strategy, which details the manner by which rubbish and recycling bins are to be collected from the site, is to be submitted to the satisfaction of the City. If the City is required to perform waste removal services on the subject site, a legal agreement shall be prepared at the proponent's cost prior to the issue of a building licence indemnifying the City and its appointed contractors for any potential damage that may occur within the site as a result of the City performing such services for the occupants of the subject development.
18. All air conditioning compressors and satellite dishes are to be located to the rear of the building and not be visible from the public realm in accordance with Local Planning Policy 5.2 - Gosnells Town Centre Development.

*Item 13.5.16 Continued*

19. All clothes drying facilities are to be screened from public view to the satisfaction of the City in accordance with the Residential Design Codes (2008).
20. A lighting plan is to be submitted to the satisfaction of the City prior to the issue of a building licence in accordance with Local Planning Policy 5.2 - Gosnells Town Centre Development and the Residential Design Codes (2008).
21. A noise report is to be prepared in accordance with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning, prior to the issue of a building licence, and any recommendations from this report are to be implemented to the satisfaction of the City.
22. External finishes and colour schemes are to be submitted prior to the issue of Building Licence to the satisfaction of the City.
23. Amended plans are to be submitted prior to the issue of a building licence to the satisfaction of the Manager Planning Implementation, providing further minor design refinements to the façade of the building.
24. The landowners are to enter into an arrangement with the City, prior to the issue of a building licence and to the satisfaction of the City, stipulating a lease and management arrangement for Lot 190 Wheatley Street. Alternatively, arrangements are to be made for the purchase of this land, to the satisfaction of the City.
25. The development is to comply with the Building Code of Australia in respect to fire separation. Minor design refinements that may be required in order to satisfy the Building Code of Australia may be permitted, to the satisfaction of the Manager Planning Implementation and Manager Building Services.
26. Street trees are not to be removed without having first obtained approval for the City's Parks and Environmental Operations.

Foreshadowed Motion

*During debate Cr G Dewhurst foreshadowed that he would move the following motion:*

*"That the motion for consideration be referred back to Council to seek further clarification."*

*if the motion under debate was defeated, providing the following written reason for the proposed amendment:*

*"Further clarification required."*

*At the conclusion of debate the Mayor put the staff recommendation, which reads:*

Item 13.5.16 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**6 Moved Cr R Mitchell Seconded Cr R Lawrence**

That Council approve the application for a Mixed Use Development at 69 (Lot 1) Wheatley Street, Gosnells, dated 20 August 2011, subject to the following conditions:

1. Development may only be carried out in accordance with the terms of the application as approved herein and any approved plan.
2. A geotechnical report is to be submitted in accordance with Australian Standards, certifying that the land is physically capable of development and detailing site conditions with respect to soil, groundwater and stormwater disposal. The report is to stipulate whether the site is suitable for on-site infiltration or what works are required to be implemented to provide for this capability or a suggested alternate means of disposal.
3. 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 of Gosnells.
4. Arrangements being made, to the satisfaction of the Manager Technical Services, for a contribution towards the provision of 9 on-street parking bays on Bert Street.
5. Existing vehicle crossovers that are not required as part of the development shall be removed and the verge reinstated to the satisfaction of the City.
6. All on-street car parking is to be constructed in accordance with Australian Standard AS 2890.5.
7. All cut and fill is to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
8. The site is to be connected to the reticulated sewerage system.
9. Arrangements being made to the satisfaction of the City of Gosnells, prior to the issue of a Building Licence, for the payment of the requisite developer cost contribution applicable to the land under Town Planning Scheme No. 20.

*Item 13.5.16 Continued*

10. A landscape plan for the development site and the adjoining road verge(s) is to be submitted in accordance with the City's Local Planning Policy 4.5 – Development – Landscaping, and approved by the City, prior to the issue of a building licence.
11. Landscaping and irrigation of the development site and adjoining road verges is to be installed prior to occupying the proposed development, and thereafter maintained, in accordance with the approved landscaping plan to the satisfaction of the Manager Parks and Environmental Operations.
12. The proponent is to submit a written maintenance manual for the area(s) of communal open space in accordance with the Residential Design Codes, prior to the issue of a Building Licence.
13. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
14. An enclosed lockable storage area, constructed in a design and material matching the dwelling, accessible from outside the dwelling, with a minimum dimension of 1.5 metres and an internal area of at least 4m<sup>2</sup> is to be provided to the City's satisfaction for each dwelling. The erection of an isolated structure requires the issue of a Building Licence.
15. Visitor parking bays are to be permanently marked and maintained at all times for use exclusively by visitors to the property, be clearly visible from the street or communal driveway and be located, together with the reversing area, in front of any security gates or barrier for the development.
16. Bin collection areas capable of accommodating the number of bins required for the development are to be identified and, if necessary, constructed, to the satisfaction of the City. The bin storage areas should be located such that they are screened from view from all units and the street to the satisfaction of the City.
17. A Waste Collection Management Strategy, which details the manner by which rubbish and recycling bins are to be collected from the site, is to be submitted to the satisfaction of the City. If the City is required to perform waste removal services on the subject site, a legal agreement shall be prepared at the proponent's cost prior to the issue of a building licence indemnifying the City and its appointed contractors for any potential damage that may occur within the site as a result of the City performing such services for the occupants of the subject development.
18. All air conditioning compressors and satellite dishes are to be located to the rear of the building and not be visible from the public realm in accordance with Local Planning Policy 5.2 - Gosnells Town Centre Development.



*Item 13.5.16 Continued*

19. All clothes drying facilities are to be screened from public view to the satisfaction of the City in accordance with the Residential Design Codes (2008).
20. A lighting plan is to be submitted to the satisfaction of the City prior to the issue of a building licence in accordance with Local Planning Policy 5.2 - Gosnells Town Centre Development and the Residential Design Codes (2008).
21. A noise report is to be prepared in accordance with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning, prior to the issue of a building licence, and any recommendations from this report are to be implemented to the satisfaction of the City.
22. External finishes and colour schemes are to be submitted prior to the issue of Building Licence to the satisfaction of the City.
23. Amended plans are to be submitted prior to the issue of a building licence to the satisfaction of the Manager Planning Implementation, providing further minor design refinements to the façade of the building.
24. The landowners are to enter into an arrangement with the City, prior to the issue of a building licence and to the satisfaction of the City, stipulating a lease and management arrangement for Lot 190 Wheatley Street. Alternatively, arrangements are to be made for the purchase of this land, to the satisfaction of the City.
25. The development is to comply with the Building Code of Australia in respect to fire separation. Minor design refinements that may be required in order to satisfy the Building Code of Australia may be permitted, to the satisfaction of the Manager Planning Implementation and Manager Building Services.
26. Street trees are not to be removed without having first obtained approval for the City's Parks and Environmental Operations.

**CARRIED 7/6****FOR:** *Cr D Griffiths, Cr L Griffiths, Cr R Hoffman, Cr S Iwanyk, Cr R Lawrence, and Cr R Mitchell.***AGAINST:** *Cr W Barrett, Cr J Brown, Cr T Brown, Cr G Dewhurst, Cr K Jones and Cr O Searle.***CASTING VOTE:** *As the votes were equally divided, the Mayor cast a second vote for the recommendation.***Notation**

*As Council adopted the staff recommendation the foreshadowed motion from Cr G Dewhurst was not proceeded with.*

**13.5.22 INITIATION OF LEGAL PROCEEDINGS - 470 (LOT 404) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE**

Author: N Simpecas  
Author's Declaration Nil.  
of Interest:  
Reference: 223628  
Owner: John James Liddelow  
Location: 470 (Lot 404) Bickley Road, Kenwick  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: Nil  
Area: 1.7009ha  
Previous Ref: Nil.  
Appendix: 13.5.22A Photographs

**PURPOSE OF REPORT**

For Council to authorise legal proceedings against the owner of 470 (Lot 404) Bickley Road, Kenwick in respect to non-compliance with conditions of planning approval, undertaking development without planning approval and failing to comply with a Directions Notice issued.

**Site Description and Planning Framework**

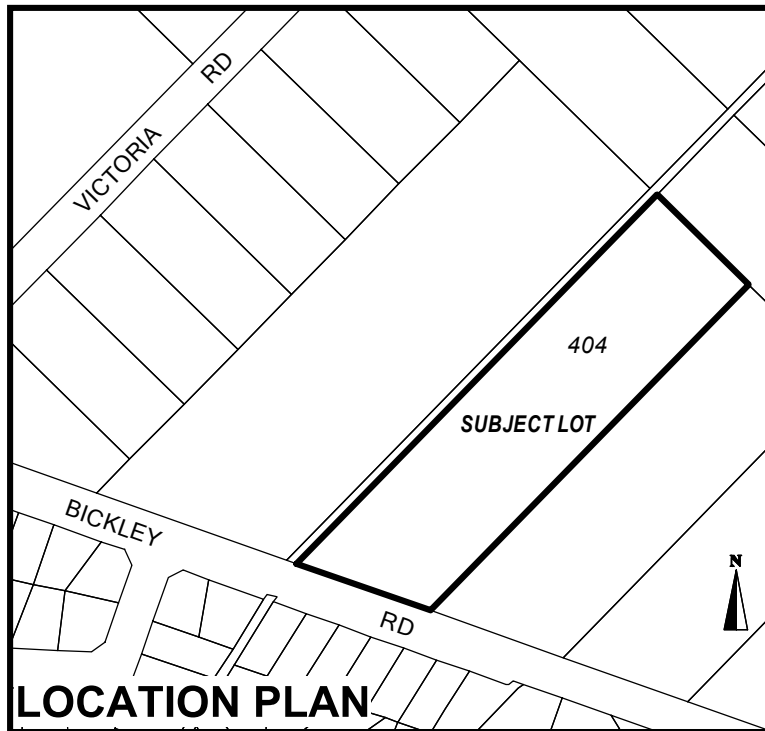
The subject site is zoned Rural in the Metropolitan Region Scheme (MRS) and General Rural under Town Planning Scheme No. 6 (TPS 6).

It lies within Precinct 1 of the Maddington Kenwick Strategic Employment Area (MKSEA), which is the subject of a proposed MRS amendment recently advertised for public comment by the Western Australian Planning Commission to rezone the area from Rural to Industrial.

The site lies opposite land zoned and development for residential purposes. The MKSEA Concept Plan, adopted by Council in July 2008, shows the subject land indicatively for potential transitional development, to provide a suitable interface between the residential area south of Bickley Road and future industrial development to the north.

The specific land use and development parameters for the transitional area are still to be defined as part of future planning needed for the MKSEA, but they could potentially permit some form of composite light industrial/residential or business development.

Item 13.5.22 Continued



## BACKGROUND

On 13 December 2006, a warning letter was sent to the owner of the subject site, Mr John Liddelow, advising that unauthorised Commercial Vehicle Parking was evident and of the need for an application for planning approval to be made in order to permit the activity.

On 12 February 2007, a second warning letter was sent to Mr Liddelow as no application had been submitted and several vehicles remained illegally parked on the property.

On 6 June 2007, Mr Liddelow submitted an application for Commercial Vehicle Parking for three Prime-Movers and four trailers.

On 12 December 2007, a Directions Notice to cease the manufacture of transportable dwellings and remove them from the site was issued to Mr Liddelow.

On 18 February 2008, Mr Liddelow was notified that his application for Commercial Vehicle Parking remained undetermined as requested additional information had not been provided. Notification was also issued confirming non-compliance with the Directions Notice in respect to the transportable dwellings.

On 20 March 2008, a final warning was issued in relation to the removal of the transportable dwellings and the prospect of prosecution.

On 25 March 2008, the commercial vehicle parking application was approved.

*Item 13.5.22 Continued*

On 20 August 2009, the City received a complaint alleging that the number of commercial vehicles being parked on the site exceeded the number permitted by the planning approval.

On 6 October 2011, the site was inspected. Five unapproved prime mover trucks, one unapproved forward control flat tray truck, unapproved stacked sea containers, unapproved transportable buildings, stored wrecked vehicles, unapproved liquid storage tank, two unapproved workshops and other unapproved stored miscellaneous equipment were observed on site.

**DISCUSSION**

It is evident that steel and concrete formed foundation slabs for transportable buildings are being constructed on site. These slabs are then transported from the site on large trailers. It is also evident that numerous vehicles are parked on the site.

Many of the current activities of concern also relate to the adjoining property at 478 (Lot 405) Bickley Road, owned by Barry and Irene Liddelow, who are parents of John Liddelow. John and Barry Liddelow are the directors of Econcrete Pty Ltd and are understood to operate "WA House Transporters". When the transportable buildings are taken from the site, they traverse through Lot 405 onto Bickley Road.

The subject land, despite it being part of an area currently under investigation for future industrial development, is zoned General Rural. The activities being carried out on the site are not consistent with the form of development permitted by TPS 6 and associated planning policies and are therefore breaching the Scheme.

It is evident that the owner has breached the Commercial Vehicle Parking approval conditions on at least six occasions since 2007 and is in breach of a Direction Notice to cease storage of and manufacture of transportable buildings, which includes building slabs.

Section 218 (a) of the *Planning and Development Act 2005* provides that it is an offence to contravene a local planning scheme. Section 218 (b) of the Act provides that it is an offence to continue to contravene a local planning scheme. 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.

It is open to Council to consider revoking the Commercial Vehicle Parking approval, due to multiple breaches and non-compliance with conditions and due to subsequent, substantiated complaints made by nearby residents.

**CONCLUSION**

The owner has been made aware of and been afforded ample opportunity to comply with requirements of the City of Gosnells TPS 6 yet has continued to carry out the illegal activity.

Revocation of the Commercial Vehicle Parking approval will not be recommended at this time. If the parking was undertaken in accordance with the approval, it would be unlikely to have a detrimental impact on the amenity of the area.

*Item 13.5.22 Continued*

The parking activity actually being undertaken is substantially greater in scale to what is permitted by the approval and is a function of the unlawful construction activity. Prosecuting for the construction activity may be a more effective measure to address the parking than simply revoking the approval. Revocation could be considered at a later time if necessary.

### **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.

### **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

#### **7 Moved Cr R Mitchell Seconded Cr W Barrett**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against John James Liddelow, being the property owner of 470 (Lot 404) Bickley Road, Kenwick for the unapproved parking of commercial vehicles, unapproved business activities, unapproved sea containers and unapproved storage on 470 (Lot 404) Bickley Road, Kenwick and for the breach of the Direction Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

**CARRIED 12/0**

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

**AGAINST:** Nil.

**13.5.23 INITIATION OF LEGAL PROCEEDINGS - 478 (LOT 405) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE**

Author: N Simpecas  
Author's Declaration Nil.  
of Interest:  
Reference: 223629  
Owner: Barry Winston Liddelow and Irene Carol Liddelow  
Location: 478 (Lot 405) Bickley Road, Kenwick  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: Nil.  
Area: 1.4927ha  
Previous Ref: Nil.  
Appendix: 13.5.23A Photographs

**PURPOSE OF REPORT**

For Council to authorise legal proceedings in respect to activities at 478 (Lot 405) Bickley Road, Kenwick against:

1. The owners of Lot 405 Bickley Road for the following
  - i) non-compliance with conditions of planning approval
  - ii) undertaking development without planning approval
  - iii) failing to comply with a Direction Notice issued.
2. Econocrete Pty Ltd for undertaking development without approval.

**Site Description and Planning Framework**

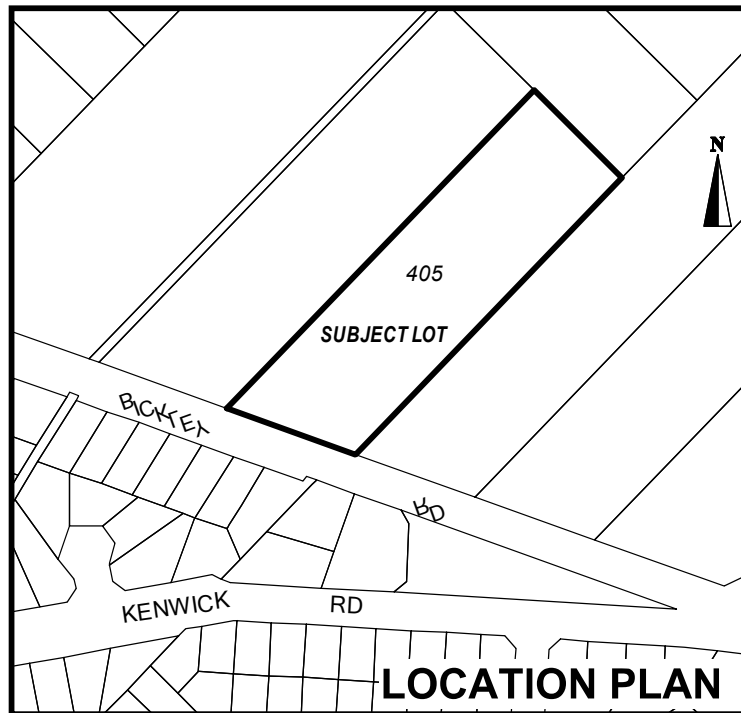
The subject site is zoned Rural in the Metropolitan Region Scheme (MRS) and General Rural under Town Planning Scheme No. 6 (TPS 6). It lies within Precinct 1 of the Maddington Kenwick Strategic Employment Area (MKSEA), which is the subject of a proposed MRS amendment recently advertised for public comment by the Western Australian Planning Commission to rezone the area from Rural to Industrial.

The site lies opposite land zoned and development for residential purposes. The MKSEA Concept Plan, adopted by Council in July 2008, shows the subject land indicatively for potential transitional development, to provide a suitable interface between the residential area south of Bickley Road and future industrial development to the north.

The specific land use and development parameters for the transitional area are still to be defined as part of future planning needed for the MKSEA, but they could potentially permit some form of composite light industrial/residential or business development.

The site accommodates a single residence located in the south west corner and there is some connection to current land use activities on the adjoining Lot 404 Bickley Road, which is the subject of a separate report on this agenda.

Item 13.5.23 Continued



## BACKGROUND

On 16 January 2008, the City received a complaint pertaining to the unauthorised storage of transportable buildings, modification to drainage and a driveway and the parking of commercial vehicles (trailers) on the subject site.

On 14 February 2008, a warning letter was sent to Barry and Irene Liddlelow citing unauthorised storage of transportable buildings and trailer parking. Mr and Mrs Liddlelow were required to lodge a development application or remove the offending items within 14 days.

On 29 February 2008, Directions Notices to stop and remove storage of transportable dwellings and low loader trailers were issued to Barry and Irene Liddlelow.

On 17 July 2008, the City instructed Lewis Blyth and Hooper to prosecute Barry and Irene Liddlelow for failure to comply with the Directions Notice. After further discussions a timeframe for removal of the offending items was agreed upon and a retrospective development application submitted for the Commercial Vehicle Parking. Legal action was then ceased.

On 3 February 2009, planning approval was granted for Commercial Vehicle Parking approval for two prime movers and four trailers on the subject site.

On 20 May 2010, a warning letter was sent to Mr and Mrs Liddlelow after finding the site was again being used to assemble transportable buildings.

On 28 May 2010, a development application for transportable home and ancillary accommodation lodged by Irene Liddlelow with City. The application was subsequently assessed as deficient of required information. The City advised and requested further information of the applicant.

*Item 13.5.23 Continued*

On 14 January 2011, the development application for the transportable dwelling was refused due to the failure of the applicant to provide the requested additional information.

On 5 May 2011, a Directions Notice was served upon Mr and Mrs Liddelow requiring the removal of a transportable home from the site. Mr and Mrs Liddelow subsequently provided the information required in relation to the now-refused development application, but then advised they had sold the subject transportable dwelling contrary to the purpose of the application.

On 6 October 2011, the site was inspected. In excess of 18 unapproved trailers, an unapproved prime mover, two cranes, completed steel and concrete formed transportable home foundation slabs, foundation slabs still under construction and other unapproved stored miscellaneous equipment were observed on the site.

**DISCUSSION**

Many of the current activities of concern also relate to the adjoining property 470 (Lot 404) Bickley Road, owned by John Liddelow who is the son of Mr and Mrs Liddelow. John and Barry Liddlelow are the directors of Econocrete Pty Ltd and are understood to operate "WA House Transporters".

It is evident that steel and concrete formed foundation slabs for transportable buildings are being constructed on site. These slabs are then transported from the site on large trailers. It is also evident that numerous vehicles are parked on the site.

The subject land, despite it being part of an area currently under investigation for future industrial development, is still zoned General Rural. The activities being carried out on the site are not consistent with the form of development permitted by TPS 6 and associated planning policies and are therefore breaching the Scheme.

Section 218 (a) of the *Planning and Development Act 2005* (Act) provides that it is an offence to contravene a local planning scheme. Section 218 (b) of the Act provides that it is an offence to continue to contravene a local planning scheme. 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.

It is also open to Council to consider revoking the Commercial Vehicle Parking approval, due to multiple breaches and non-compliance with conditions and due to subsequent, substantiated complaints made by nearby residents.

**CONCLUSION**

The land owners and directors of Econocrete Pty Ltd have been made aware of and have been afforded ample opportunity and time extensions to comply with requirements of TPS 6, yet continue to carry out the illegal activities despite two previous Directions Notices being issued. It will be recommended that Council authorise legal proceedings against the owners and company responsible.



Item 13.5.23 Continued

Revocation of the Commercial Vehicle Parking approval will not be recommended at this time. If the parking was undertaken in accordance with the approval, it would be unlikely to have a detrimental impact on the amenity of the area. The parking activity actually being undertaken is substantially greater in scale to what is permitted by the approval and is a function of the unlawful construction activity. Prosecuting for the construction activity may be a more effective measure to address the parking than simply revoking the approval. Revocation could be considered at a later time if necessary.

### 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.

### VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION
--

#### 8 Moved Cr R Hoffman Seconded Cr W Barrett

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Barry Winston Liddelow and Irene Carol Liddelow for the unapproved parking of commercial vehicles, manufacture of transportable dwellings and storage on 478 (Lot 405) Bickley Road, Kenwick, and for the breach of Direction Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

CARRIED 12/0

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

**AGAINST:** Nil.

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

#### 9 Moved Cr R Hoffman Seconded Cr W Barrett

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Econocrete Pty Ltd of 478 (Lot 405) Kenwick Road, Kenwick for the unapproved construction of steel and concrete formed foundation slabs for transportable buildings, at the said property.

CARRIED 12/0

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

**AGAINST:** Nil.

**12. MINUTES OF COMMITTEE MEETINGS**

Nil.

**13. REPORTS****13.1 CHIEF EXECUTIVE OFFICE**

Nil.

**13.2 COMMUNITY ENGAGEMENT**

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

**13.2.1 HISTORY AND HERITAGE ADVISORY GROUP MEETING - 1 DECEMBER 2011**

Author: A Cochran

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 13.2.1A Minutes including proposed Actions of the History and Heritage Advisory Group Meeting held on Thursday 1 December 2011

**PURPOSE OF REPORT**

For Council to receive the Action Sheet and Minutes of the City of Gosnells History and Heritage Advisory Group (the Group) Meeting held on 1 December 2011 and to note and endorse the staff responses to the Group's proposed Actions which are within operational parameters.

**BACKGROUND**

In accordance with Policy No. 3.3.5, the Group meets every two months to provide a community perspective on aspects of history and heritage within the care or control of the City of Gosnells. The business of the meeting as reported in the Minutes of the Group held on 1 December 2011 is attached as Appendix 13.2.1A.

**DISCUSSION**

There were no proposed Actions from the Group meeting held on Thursday 1 December 2011 which require Council consideration.

Item 13.2.1 Continued

**FINANCIAL IMPLICATIONS**

Actions can be addressed within operational budgets and resources.

**STATUTORY IMPLICATIONS**

Local Government Act 1995, Section 5.41.

City of Gosnells Policy No. 5.4.43 Advisory Groups - Establishment and Operation applies to the operations of Advisory Groups of the City.

City of Gosnells Policy No. 3.3.5 City of Gosnells History and Heritage Advisory Group - Terms of Reference.

**VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION

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

That Council receive the Minutes including proposed Actions of the City of Gosnells History and Heritage Advisory Group Meeting held on Thursday 1 December 2011 attached as Appendix 13.2.1A.

**CARRIED 12/0**

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

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION

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

That Council note the following proposed Actions from the Group's meeting held on Thursday 1 December 2011:

Proposed Action Reference Number	Advisory Group's Proposed Action	Action Taken
HHAG 1/12/2011- Proposed Action 11	That the History and Heritage Advisory Group acknowledge and thank Carol Mation for the work completed for the City and the contribution to the Group.	Acknowledged.

**CARRIED 12/0**

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

**AGAINST:** Nil.

**13.2.2 COMMUNITY SPONSORSHIP PROGRAM - REPORT ON SPONSORSHIPS PROVIDED UNDER CATEGORIES SPORTS REPRESENTATION/COMMUNITY RECOGNITION, SCHOOL BOOK PRESENTATION AND EDUCATION SCHOLARSHIPS DURING 2010/2011 FINANCIAL YEAR**

Author: A Jarvis

Author's Declaration Nil.

of Interest:

Previous Ref: OCM 13/07/2010 Resolution 316

OCM 23/08/2011 Resolution 375

Appendix: 13.2.2A Sponsorships Awarded for Sports Representation/Community Recognition, School Book Presentation and Education Scholarships under Council Policy 3.2.2 Community Sponsorship Program between July 2010 and June 2011

**PURPOSE OF REPORT**

To inform Council of the community sponsorships for Sports Representation/Community Recognition, School Book Presentation and Education Scholarships in accordance with Council Policy 3.2.2 – Community Sponsorship Program.

**BACKGROUND**

The Community Sponsorship Program is facilitated by the City to assist community organisations in the delivery of effective services within our local community and individual community members to achieve high standards in their chosen field of endeavour.

In accordance with Council Policy 3.2.2, a report of the sponsorships for the Sports Representation/Community Recognition, School Book Presentation and Education Scholarships categories awarded is to be submitted to Council for its information each year.

**DISCUSSION**

The Sports Representation/Community Recognition Sponsorships, School Book Presentations and Education Scholarships awarded by the City, provide many benefits for the community, including:

- Sports Representation and Community Recognition – a total of 98 sponsorships were awarded to enable participants to compete in a wide range of sporting and cultural pursuits, such as Ice Skating, Baseball, Soccer, Table Tennis, Rugby, Acrobatics, Trampolining, Goal ball, Rowing, Dance, Taekwondo, Irish Dancing, Hockey, Hip Hop, Softball, Gaelic Football, Cricket, Athletics, Wheelchair Sports, Basketball, Cheerleading and Swimming
- School Book Presentations – a total of 30 local schools were provided with books to assist with their educational needs
- Education Scholarships – a total of nine scholarships were awarded for local students

*Item 13.2.2 Continued*

The report containing the list of the sponsorships awarded for these categories for the period July 2010 to June 2011 inclusive is attached as Appendix 13.2.2A.

**FINANCIAL IMPLICATIONS**

The Community Sponsorship Program had a budget allocation of \$160,200 within the 2010/11 Council Budget. From that amount, the sum of \$27,200 was allocated for the categories- Sports Representation/Community Recognition, School Book Presentation and Education Scholarships, of which \$26,380 has been provided for the period from July 2010 to June 2011.

**STATUTORY IMPLICATIONS**

Council Policy 3.2.2 - Community Sponsorship Program is relevant.

**VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION****12 Moved Cr O Searle Seconded Cr R Hoffman**

That Council, in accordance with Policy 3.2.2 Community Sponsorship Program, note the report of sponsorships provided within Sports Representation/Community Recognition, School Book Presentation and Education Scholarships categories for the period 1 July 2010 to 30 June 2011, as attached as Appendix 13.2.2A.

**CARRIED 12/0**

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

**AGAINST:** *Nil.*

**13.2.3 COMMUNITY SPONSORSHIP PROGRAM - NATURAL DISASTER EMERGENCY RELIEF DONATION TO MARGARET RIVER BUSHFIRES APPEAL 2011**

Author: B Armstrong  
Author's Declaration Nil.  
of Interest:  
Previous Ref: OCM 23/08/2011 Resolution 375  
Appendix: Nil.

**PURPOSE OF REPORT**

For Council to approve a donation of \$5,000 through the City's Community Sponsorship Program towards the Lord Mayor's Distress Relief Fund to assist victims of the 2011 Margaret River Bushfires.

**BACKGROUND**

The Margaret River region was ravaged by a devastating bushfire on Wednesday 23 and Thursday 24 November 2011 that caused extensive property damage, including a total loss of 30 homes and others severely damaged. There was widespread damage to numerous properties from bush fires that swept through Prevelly, Redgate and other surrounding areas within the broader Margaret River region.

At the Ordinary Council meeting held on 23 August 2011, Council resolved to add an additional category - Natural Disaster Emergency Relief to the Community Sponsorship Program to provide funds to support communities that have been severely affected by disasters.

**DISCUSSION**

The Lord Mayor's Distress Relief Fund is a registered charitable fund that assists individuals and communities in Western Australia affected by disasters, such as the Margaret River bush fires. To date, the Margaret River Bush Fire Appeal has raised \$1,041,177, with a lot more funds required to assist residents and business owners to rebuild their homes and organisations.

Local committees in the Margaret River region have been established to provide recommendations on where the donated funds should be best allocated. The committees include representatives from local government, state government, emergency services organisations and the community.

The funds raised through the Margaret River bush fire appeal will be used to support relief, rehabilitation and recovery activities for the communities affected by this disaster.

Margaret River is a popular tourist destination for people from all over the world. With many people in the Margaret River region having lost their homes and belongings, the community is pulling together to assist those in need. A financial contribution by the City, while not overcoming the trauma experienced, will go towards assisting those affected to get their lives back to normal.

*Item 13.2.3 Continued*

### **FINANCIAL IMPLICATIONS**

There is currently \$5,000 available within the City's Community Sponsorship Program Natural Disaster Emergency Relief Category - Account 91-92319-3760-000.

### **STATUTORY IMPLICATIONS**

Council Policy 3.2.2 - Community Sponsorship Program is relevant.

### **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

### **13 Moved Cr O Searle Seconded Cr K Jones**

That Council approve the donation of \$5,000 towards the Lord Mayor's Distress Relief Fund to assist with recovery efforts for the Margaret River Bush Fire that occurred in November 2011, with such funds to be expended from Community Sponsorship Program Natural Disaster Emergency Relief Category - Account 91-92319-3760-000.

**CARRIED 12/0**

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

**AGAINST:** *Nil.*

## **13.3 CORPORATE SERVICES**

### **13.3.1 FINANCIAL ACTIVITY STATEMENTS - DECEMBER 2011**

Author: K Smith

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 13.3.1A Financial Activity Statement Report for the month of December 2011

#### **PURPOSE OF REPORT**

For Council to adopt the Financial Activity Statement Report for the month of December 2011.

#### **BACKGROUND**

In accordance with Financial Management Regulation 34 the following reports are contained in the Financial Activity Statement Report:

- Commentary and report on variances
- Operating Statement by Program
- Balance Sheet
- Statement of Financial Activity
- Reserve Movements
- Capital Expenditure Detail
- Outstanding Debtor Information
- Rates Report
- Investment Report.

#### **DISCUSSION**

The Financial Activity Statement Report for the month of December 2011 is attached as Appendix 13.3.1A.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **STATUTORY IMPLICATIONS**

Local Government (Financial Management) Regulations 1996, regulation 34.

#### **VOTING REQUIREMENTS**

Simple majority required.



Item 13.3.1 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**14 Moved Cr J Brown Seconded Cr R Lawrence**

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations, adopt the following reports, contained in the Financial Activity Statement Report for the month of December 2011, attached as Appendix 13.3.1A.

- A. Commentary and report on variances
- B. Operating Statement by Program
- C. Balance Sheet
- D. Statement of Financial Activity
- E. Reserve Movements
- F. Capital Expenditure Detail
- G. Outstanding Debtor Information
- H. Rates report
- I. Investment Report

**CARRIED 12/0**

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

**AGAINST:** Nil.

**13.3.2 PAYMENT OF ACCOUNTS - DECEMBER 2011**

Author: K Smith  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: Nil.  
 Appendix: 13.3.2A Cheque and EFT Payment Listing for the period  
 1 December 2011 to 31 December 2011

**PURPOSE OF REPORT**

To advise Council of payments made for the period 1 December 2011 to 31 December 2011.

**BACKGROUND**

Payments of \$6,202,119.90 as detailed in the cheque and EFT Payment listing for the period 1 December 2011 to 31 December 2011 attached as Appendix 13.3.2A have been approved by the Director Corporate Services under delegated authority.

**DISCUSSION**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

Local Government (Financial Management) Regulations 1996, regulation 13 (2) requires a local government to prepare a list of accounts for approval showing the payee's name; the amount of the payment; and sufficient information to identify the transaction and the date of the meeting of the Council to which the list is to be presented.

**VOTING REQUIREMENTS**

Simple majority required.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION**

**15 Moved Cr L Griffiths Seconded Cr G Dewhurst**

That Council note the payment of accounts totalling \$6,202,119.90 as shown in the cheque and EFT payment listing, attached as Appendix 13.3.2A for the period 1 December 2011 to 31 December 2011.

**CARRIED 12/0**

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

**AGAINST:** Nil.

**13.3.3 RATING - VALUATION BASE**

Author: W Adams  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: Nil.  
 Appendix: Nil.

**PURPOSE OF REPORT**

To seek the approval of Council to apply to the Minister for Local Government to change part of the City's rating boundaries from Unimproved Value (UV) to Gross Rental Value (GRV).

**BACKGROUND**

Section 6.28 (1) of the *Local Government Act 1995* provides that the Minister for Local Government is to determine the method of valuation of land to be used by a local government as the basis for a rate and publish a notice of the determination in the Government Gazette.

In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be:

- The unimproved value of the land where the land is used predominantly for rural purposes
- The gross rental value of the land where the land is used predominantly for non-rural purposes.

For the purpose of this section, the valuation used shall be the valuation in force as supplied by the Valuer General's Office in accordance with the *Valuation of Land Act 1978*.

**DISCUSSION**

As a result of a change of predominant land use it will be recommended that an application be provided to the Minister to change the method of valuation for those lots listed below from UV to GRV, as use of those lots has changed from predominantly rural to predominantly non-rural:

Prop. Number	Lot	St #	Street Name	Plan Diag.	Area m <sup>2</sup>	Use
201969	9	18	Reservoir Road	40740	10001	Residential
202046	470	45	Grant Street	3327	11787	Residential
202073	6	55	Grant Street	23607	4047	Residential
202082	2	64	Grant Street	16154	8015	Residential
205593	330	93	White Road	3327	40469	Residential
205647	9	389	Kelvin Road	13089	22951	Residential
205656	10	373	Kelvin Road	13089	23003	Residential
205665	301	11	Canter Court	47503	12996	Residential
205683	17	16	Canter Court	13089	22773	Residential
205699	19	337	Kelvin Road	13089	22807	Residential

Item 13.3.3 Continued

Prop. Number	Lot	St #	Street Name	Plan Diag.	Area m <sup>2</sup>	Use
207916	4	340	Maddington Road	15161	4047	Residential
207944	123	351	Maddington Road	17986	4138	Residential
207959	443	357	Maddington Road	3327	26594	Residential
208022	487	397	Maddington Road	3552	22637	Residential
208063	4	411	Maddington Road	95507	20215	Residential
208090	496	430	Maddington Road	3552	37661	Residential
208127	493	465	Maddington Road	3552	20007	Residential
209530	22	89	Valcan Road	62169	20235	Residential
209531	23	95	Valcan Road	62169	20238	Residential
209588	32	30	White Road	62130	38656	Residential
209589	331	26	White Road	42192	12670	Residential
210235	102	83	Hardinge Road	65242	24368	Residential
210658	30	39	Valcan Road	66083	20237	Residential
211505	107	71	Staniland Street	67847	11789	Residential
211624	27	60	Valcan Road	68461	20483	Residential
211625	28	50	Valcan Road	68461	19981	Residential
211919	121	25	Staniland Street	39370	14542	Residential
212369	448	66	Reservoir Road	3327	23219	Residential
212396	495	190	Reservoir Road	3552	16921	Residential
212753	10	246	Kelvin Road	70665	20259	Residential
212754	11	254	Kelvin Road	70665	20229	Vacant
214441	801	54	Staniland Street	37905	10134	Residential
215460	5	40	Valcan Road	4336	20234	Residential
216619	10	10	Reservoir Road	40740	30460	Residential
216754	1	39	Reservoir Road	79583	20242	Residential
217732	124	69	Valcan Road	83219	20238	Residential
219640	327	65	White Road	3327	41733	Residential
220842	3	171	Reservoir Road	88213	13094	Residential
221512	103	335	Maddington Road	90202	8772	Residential
222058	5	260	Gosnells Road East	89650	20448	Residential
222224	101	9	Staniland Street	92238	18264	Residential
222225	102	102	Staniland Street	92238	18350	Vacant
222724	11	343	Maddington Road	92437	10062	Residential
222779	104	17	Staniland Street	93585	11683	Residential
225047	305	23	Boyle Lane	3327	12180	Residential
225888	482	10	Boyle Lane	3552	27847	Residential
226169	12	31	Canter Court	13089	19437	Residential
230091	705 & 2	45	Dale Place	99763	36603	Residential
230109	11	16	Dale Place	52958	23827	Residential
230145	475	9	Dale Place	3552	24281	Residential
230819	801	115	Reservoir Road	42388	10000	Residential
230822	24	155	Reservoir Road	95926	20000	Residential
232916	706	70	Dale Place	100105	20171	Residential
233969	40	89	White Road	27840	22397	Residential
233970	41	41	White Road	27840	20234	Residential
236722	805	435	Maddington Road	34232	12116	Residential
237340	802	52	Staniland Street	37905	10110	Residential
238293	120	120	Staniland Street	39370	11728	Vacant
238587	352	23	Hardinge Road	41239	12921	Vacant

## Item 13.3.3 Continued

Prop. Number	Lot	St #	Street Name	Plan Diag.	Area m <sup>2</sup>	Use
239869	800	119	Reservoir Road	42388	10000	Residential
240128	300	300	Kelvin Road	47503	9978	Residential
240343	330	330	White Road	42192	10151	Residential
302407	126	75	Valcan Road	40655	10118	Residential
302408	127	79	Valcan Road	40655	10119	Residential
306757	717	8	Lansdowne Entrance	58202	15240	Commercial
307495	501	68	Valcan Road	62777	10000	Residential
307869	4742	31	White Road	64641	14224	Residential
307870	4741	9	White Road	64641	10020	Residential
308139	5	4	White Road	66812	4002	Residential

**FINANCIAL IMPLICATIONS**

If approved, the change to the valuation method will result in an approximate decrease to the rates levied of \$17,469.85.

**STATUTORY IMPLICATIONS**

Section 6.28 (1) of the *Local Government Act 1995*.

**VOTING REQUIREMENTS**

Simple Majority required.

## STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**16 Moved Cr J Brown Seconded Cr G Dewhurst**

That Council apply to the Minister for Local Government for approval to change part of Council's rating boundaries from Unimproved Value to Gross Rental Value in respect to the properties listed:

Prop. Number	Lot	St #	Street Name	Plan Diag.	Area m <sup>2</sup>	Use
201969	9	18	Reservoir Road	40740	10001	Residential
202046	470	45	Grant Street	3327	11787	Residential
202073	6	55	Grant Street	23607	4047	Residential
202082	2	64	Grant Street	16154	8015	Residential
205593	330	93	White Road	3327	40469	Residential
205647	9	389	Kelvin Road	13089	22951	Residential
205656	10	373	Kelvin Road	13089	23003	Residential
205665	301	11	Canter Court	47503	12996	Residential
205683	17	16	Canter Court	13089	22773	Residential
205699	19	337	Kelvin Road	13089	22807	Residential
207916	4	340	Maddington Road	15161	4047	Residential
207944	123	351	Maddington Road	17986	4138	Residential
207959	443	357	Maddington Road	3327	26594	Residential

## Item 13.3.3 Continued

208022	487	397	Maddington Road	3552	22637	Residential
208063	4	411	Maddington Road	95507	20215	Residential
208090	496	430	Maddington Road	3552	37661	Residential
208127	493	465	Maddington Road	3552	20007	Residential
209530	22	89	Valcan Road	62169	20235	Residential
209531	23	95	Valcan Road	62169	20238	Residential
209588	32	30	White Road	62130	38656	Residential
209589	331	26	White Road	42192	12670	Residential
210235	102	83	Hardinge Road	65242	24368	Residential
210658	30	39	Valcan Road	66083	20237	Residential
211505	107	71	Staniland Street	67847	11789	Residential
211624	27	60	Valcan Road	68461	20483	Residential
211625	28	50	Valcan Road	68461	19981	Residential
211919	121	25	Staniland Street	39370	14542	Residential
212369	448	66	Reservoir Road	3327	23219	Residential
212396	495	190	Reservoir Road	3552	16921	Residential
212753	10	246	Kelvin Road	70665	20259	Residential
212754	11	254	Kelvin Road	70665	20229	Vacant
214441	801	54	Staniland Street	37905	10134	Residential
215460	5	40	Valcan Road	4336	20234	Residential
216619	10	10	Reservoir Road	40740	30460	Residential
216754	1	39	Reservoir Road	79583	20242	Residential
217732	124	69	Valcan Road	83219	20238	Residential
219640	327	65	White Road	3327	41733	Residential
220842	3	171	Reservoir Road	88213	13094	Residential
221512	103	335	Maddington Road	90202	8772	Residential
222058	5	260	Gosnells Road East	89650	20448	Residential
222224	101	9	Staniland Street	92238	18264	Residential
222225	102	102	Staniland Street	92238	18350	Vacant
222724	11	343	Maddington Road	92437	10062	Residential
222779	104	17	Staniland Street	93585	11683	Residential
225047	305	23	Boyle Lane	3327	12180	Residential
225888	482	10	Boyle Lane	3552	27847	Residential
226169	12	31	Canter Court	13089	19437	Residential
230091	705 & 2	45	Dale Place	99763	36603	Residential
230109	11	16	Dale Place	52958	23827	Residential
230145	475	9	Dale Place	3552	24281	Residential
230819	801	115	Reservoir Road	42388	10000	Residential
230822	24	155	Reservoir Road	95926	20000	Residential
232916	706	70	Dale Place	10010 5	20171	Residential
233969	40	89	White Road	27840	22397	Residential
233970	41	41	White Road	27840	20234	Residential
236722	805	435	Maddington Road	34232	12116	Residential
237340	802	52	Staniland Street	37905	10110	Residential
238293	120	120	Staniland Street	39370	11728	Vacant
238587	352	23	Hardinge Road	41239	12921	Vacant
239869	800	119	Reservoir Road	42388	10000	Residential
240128	300	300	Kelvin Road	47503	9978	Residential
240343	330	330	White Road	42192	10151	Residential

Item 13.3.3 Continued

302407	126	75	Valcan Road	40655	10118	Residential
302408	127	79	Valcan Road	40655	10119	Residential
306757	717	8	Lansdowne Entrance	58202	15240	Commercial
307495	501	68	Valcan Road	62777	10000	Residential
307869	4742	31	White Road	64641	14224	Residential
307870	4741	9	White Road	64641	10020	Residential
308139	5	4	White Road	66812	4002	Residential

CARRIED 12/0

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

**AGAINST:** Nil.

**13.3.4 TENDER 42/2011 - SUPPLY OF GOODS AND SERVICES TAX (GST) ADVICE**

Author: L Solomons  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: Nil.  
 Appendix: Nil.

**PURPOSE OF REPORT**

To advise Council of submissions received in relation to Tender 42/2011 Supply of Goods and Services Tax (GST) Advice and recommend the most advantageous tender for the purpose of awarding a contract.

**BACKGROUND**

Tenders were advertised in The West Australian newspaper on Wednesday 14 December 2011 and closed at 2pm on 9 January 2012 to select a contractor to supply Goods and Services Tax (GST) advice for a period of three years commencing 15 February 2012 and concluding 14 February 2015.

Submissions were received from the following companies:

<b>Company Name</b>	<b>Address</b>
Deloitte Touche Tohmatsu Ltd	240 St George's Terrace, Perth WA 6000
Ernst & Young	11 Mounts Bay Road, Perth WA 6000
Grant Thornton Australia Ltd	Level 1, 10 Kings Park Road, West Perth WA 6005
PricewaterhouseCoopers	QV1, 250 St George's Terrace, Perth WA 6000
Somes Cooke	Level 1, 1304 Hay Street, West Perth WA 6005

**DISCUSSION**

It was brought to the City's attention that the Australian Taxation Office (ATO) recently reached an out of court settlement with the Shire of Melton in Victoria, whereby the ATO has confirmed that local governments are "State" for the purposes of Section 114 of the Commonwealth Constitution.

This out of court settlement resulted in the ATO refunding to the Shire of Melton the total of all GST paid on land sales undertaken by the Shire.

As the City has sold a significant number of land parcels on which GST has been deducted there is potentially a large GST refund opportunity for the City based on the Shire of Melton experience.

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification: relevant experience in delivering services, capacity to deliver those services, methodology in delivering services and the major criteria - price.

The following pricing schedule shows the hourly rate per job title:



## Item 13.3.4 Continued

Company Name	Hourly Rate Per Job Title		
	Partner	Manager	Senior
Deloitte Touche Tohmatsu Ltd	\$570	\$390	\$255
Ernst & Young	\$619	\$440	\$371
Grant Thornton Australia Ltd	\$500	\$425	\$240
PricewaterhouseCoopers	\$640	\$450	\$360
Somes Cooke	\$325	\$250	\$185

The following table details the assessment of each tender against the qualitative evaluation criteria as determined by the Panel.

Tenderer	Relevant Experience	Capacity to Deliver the Services	Service Delivery Plans indicating Methodology	Total Qualitative Score
Weighting	15%	30%	15%	60%
Deloitte Touche Tohmatsu Ltd	6%	30%	10.5%	46.5%
Ernst & Young	12%	30%	15%	57%
Grant Thornton Australia Ltd	3%	12%	3%	18%
PricewaterhouseCoopers	15%	30%	15%	60%
Somes Cooke	3%	12%	6%	21%

The following table details the assessment of each tender against the price submitted:

Tenderer	Price
Weighting	40%
Deloitte Touche Tohmatsu Ltd	25.02%
Ernst & Young	21.25%
Grant Thornton Australia Ltd	26.09%
PricewaterhouseCoopers	20.96%
Somes Cooke	40%

The following table details the combined assessment of each tender against both qualitative criteria and price and ranks each tender.

Tenderer	Qualitative Criteria %	Price %	Total %	Overall Ranking
Deloitte Touche Tohmatsu Ltd	46.5	25.02	71.52	3
Ernst & Young	57	21.25	78.25	2
Grant Thornton Australia Ltd	18	26.09	44.09	5
PricewaterhouseCoopers	60	20.96	80.96	1
Somes Cooke	21	40	61	4

Given the nature and scope of the work the total cost of providing the service is unable to be determined at this time. Once a company has been engaged to complete the

*Item 13.3.4 Continued*

work and the specific land transactions can be reviewed an indication of cost can be determined.

Since the total cost cannot be determined an average price based on the pricing schedule provided by each tenderer was used to determine the weighted score for the price criteria of the assessment.

The submissions received were generally professional, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services.

Following assessment of the criteria, PricewaterhouseCoopers' Tender was assessed as being the most advantageous to the City.

**FINANCIAL IMPLICATIONS**

The services associated with this contract are based on hours of work performed at the rate pricing schedule and are capped at 30% of any GST refunded to the City for any historic land sales and 20% of the GST savings for future land sales.

The cost of these services will be funded from the GST refund with a budget variation to be presented to Council at a later date.

**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 the goods or services.

**VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

**17 Moved Cr L Griffiths Seconded Cr R Lawrence**

That Council award Tender 42/2011 for a three-year period commencing 15 February 2012 to PricewaterhouseCoopers of QV1 250 St George's Terrace Perth WA 6000 for the submitted schedule of fees based on hours of work performed at the rate pricing schedule and are capped at 30% of any GST refunded to the City for any historic land sales and 20% of the GST savings for future land sales for a three-year period subject to Consumer Price Index (CPI) increase in the pricing schedule after 30 June 2013.

**CARRIED 12/0**

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

**AGAINST:** Nil.

**13.3.5 MINOR AMENDMENT COUNCIL POLICY 4.1.8 - PROCUREMENT OF GOODS OR SERVICES**

Author: R Bouwer  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: OCM 8 November 2011 (Resolution 505)  
 OCM 13 December 2011 (Resolution 603)  
 Appendix: 13.3.5A Amended Policy 4.1.8 - Procurement of Goods or Services

**PURPOSE OF REPORT**

For Council to consider the adoption of a minor amendment to Council Policy 4.1.8 - Procurement of Goods or Services.

**BACKGROUND**

A review of Policy 4.1.8 - Procurement of Goods or Services which included 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 tenders was presented to the Audit Committee on 1 November 2011.

At the Ordinary Council Meeting held 8 November 2011 Council resolved:

*"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."*

Subsequently, at the Ordinary Council Meeting held 13 December 2011 Council resolved:

*"That Council adopt amended Policy 4.1.8, Procurement of Goods or Services, attached as Appendix 13.3.6A."*

**DISCUSSION**

Following adoption of Policy 4.1.8 on 13 December 2011 it has become necessary to include information on the City's Tender Scoring process.

The information currently contained within Policy 4.1.8 is as follows:

<b>Evaluation Factor</b>	<b>Tender Submission Demonstrates:</b>
0	No evidence of addressing criteria.
1	Minimal evidence on how the criteria will be achieved. Evidence does not address all the requirements of the criteria.
2	Moderate evidence on how the criteria will be achieved. Evidence does not address all the requirements of the criteria in current form.
3	Evidence on how the criteria will be achieved. Evidence may have some minor deficiencies.
4	Clear evidence meeting all the requirements of the criteria.
5	Evidence exceeded the requirements of the criteria.

Item 13.3.5 Continued

It is recommended that the above information be expanded to include Descriptor and Definition Columns. The expanded information is shown in the following table with **bold/underline** type:

Evaluation Factor	Tender Submission Demonstrates:	Risk Analysis	
		Descriptor	Definition
0	No evidence of addressing criteria	<b><u>Severe risk</u></b>	<b><u>Fail - fails to meet minimum requirements in all respects or did not respond. Therefore, the tender submission will be rejected as a risk to the City.</u></b>
1	Minimal evidence on how the criteria will be achieved. Evidence does not address all the requirements of the criteria.	<b><u>Major risk</u></b>	<b><u>Poor - fails to meet minimum requirements in several respects: contains insufficient or unclear information. Therefore, the tender submission will be rejected as a risk to the City.</u></b>
2	Moderate evidence on how the criteria will be achieved. Evidence does not address all the requirements of the criteria in current form.	<b><u>Moderate risk</u></b>	<b><u>Marginal - some areas of concern in relation to ability to meet minimum requirements or some deficiencies. Therefore, the tender submission will be rejected as a risk to the City.</u></b>
3	Evidence on how the criteria will be achieved. Evidence may have some minor deficiencies.	<b><u>Minor risk</u></b>	<b><u>Negligible impact on the objectives of the tender.</u></b>
4	Clear evidence meeting all the requirements of the criteria.	<b><u>Negligible risk</u></b>	<b><u>Negligible impact on the objectives of the criteria.</u></b>
5	Evidence exceeded the requirements of the criteria.	<b><u>Minimal risk</u></b>	<b><u>Minimal impact on the objectives of the criteria.</u></b>

Policy 4.1.8 showing the above additional information with **bold/underline** type is attached as Appendix 13.3.5A.

Clause 3.2 of Policy 5.4.5 requires major amendment to existing policy be circulated to Councillors and senior staff seeking feedback over a minimum of 21 days prior to inclusion in the Ordinary Council Meeting agenda. However, the recommended amendment is considered minor and therefore has not been distributed.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Local Government (Functions and General) Regulations 1996

Local Government (Functions and General) Amendment Regulations 2007

*Item 13.3.5 Continued*

**VOTING REQUIREMENTS**

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 AND COUNCIL RESOLUTION**

**18 Moved Cr W Barrett Seconded Cr J Brown, Cr T Brown and Cr R Lawrence**

That Council adopt amended Policy 4.1.8 Procurement of Goods or Services, attached as Appendix 13.3.5A.

**CARRIED BY ABSOLUTE MAJORITY 12/0**

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

**AGAINST:** *Nil.*

**13.3.6 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 \$
JL14-85053-3384-441	Increase Expenditure	Bus Stop Accessibility Upgrade - Construction Contracts	30,000	
JL14-80032-3384-499	Decrease Expenditure	Bus Shelters - New - Carry Forward		30,000
<b>REASON:</b>	Phase 2 - As part of Perth Transport Authority's Bus Stop Accessibility Works program, new pathways or existing pathway links may need to be constructed in order to meet disability standards. In such circumstances, Perth Transport Authority will offer the City half the cost of constructing a fully compliant pathway.			
JL14-80208-3384-499	Increase Expenditure	Ovens Rd/Discovery Dr - Upgrade Street Lighting - Carry Forward	13,000	
JL14-80048-3384-499	Increase Expenditure	Nicholson Rd/Amherst Rd - Install Traffic Control Signal - Carry Forward	4,000	
JL14-80215-3384-499	Increase Expenditure	Bullfinch St/Balfour St - Install roundabout - Carry Forward	118,097	
JL14-80200-3384-499	Decrease Expenditure	Kenwick Rd/Belmont Rd - Upgrade Street Lighting - Carry Forward		6,000
JL14-80195-3384-499	Decrease Expenditure	Huntingdale Rd/Harpenden St - Upgrade Street Lighting - Carry		5,000

Item 13.3.6 Continued

Account Number	Type	Account Description	Debit \$	Credit \$
JL14-85053-3384-441	Increase Expenditure	Bus Stop Accessibility Upgrade - Construction Contracts	30,000	
		Forward		
JL14-80180-3384-499	Decrease Expenditure	Ranford Rd: Warton Rd Intersection Upgrade Street Light - Carry Forward		7,000
JL14-80170-3384-499	Decrease Expenditure	Berehaven Ave - Traffic Calming - Carry Forward		113,897
JL14-80171-3384-499	Decrease Expenditure	Walkingdale Prom - Separation Kerb - Carry Forward		3,200
<b>REASON:</b>	Kenwick Rd/Belmont Rd & Ranford Rd/Warton Rd projects completed and underspent, also Huntingdale Rd/Harpenden St project to be cancelled due to insufficient funds and municipal funding transferred to Job 80208 & 80048. Grant funding will be returned to State Black Spot program. Berehaven Ave traffic calming project completed and Walkingdale Prom kerbing cancelled with municipal funding transferred to Job 80215 to cover increased cost of roundabout.			
JL14-80222-3800-499	Increase Expenditure	Nicholson Rd Duplication - Ranford to Clontarf - Carry Forward	50,000	
JL76-93100-3319-000	Decrease Expenditure	Technical Services - Forward Planning		50,000
<b>REASON:</b>	To carry out preliminary work (survey, design and service investigation) in-advance for Nicholson Rd duplication project scheduled for 2012/13.			
JL12-10139-3384-225	Increase Expenditure	Agonis Air Conditioning renewal - Carry Forward	10,682	
JL12-10147-3384-225	Increase Expenditure	Maddington Community Centre furniture store - Carry Forward	20,000	
JL12-10177-3384-286	Decrease Expenditure	Thornlie Pre-School reroofing - Carry Forward		30,682
<b>REASON:</b>	Reimbursement of funds due to duplicated Budget Variation.			
JL13-30785-3800-000	Increase Expenditure	Bus - Toyota Hiace Commuter Bus - FESA - 1DQR452 - Capital Purchase	65,576	
JL13-30786-3800-000	Increase Expenditure	Bus - Toyota Landcruiser - FESA - 1DQE086 - Capital Purchase	80,256	
JL94-94022-3769-000	Increase Expenditure	FESA - Donation Expense - 1AUC251	15,219	
JL94-94022-3769-000	Increase Expenditure	FESA - Donation Expense - 1AUC252	15,219	
JL13-30785-1355-000	Increase Income	Bus - Toyota Hiace Commuter Bus - FESA - 1DQR452 - Non operating Grant		65,576
JL13-30786-1355-000	Increase Income	Bus - Toyota Landcruiser - FESA - 1DQE086 - Capital Purchase		80,256
JL13-30785-1501-000	Increase Income	Proceed sale of old FESA Vehicle - 1AUC251		15,219
JL13-30786-1501-000	Increase Income	Proceed sale of old FESA Vehicle - 1AUC252		15,219
<b>REASON:</b>	Replacement of Toyota Hiace Commuter Bus and Toyota Landcruiser by FESA as per the Emergency Services Levy capital grant process.			
JL15-60114-3384-741	Increase Expenditure	Roundabout (Corfield St) Tonkin Hwy-Faux Pave - Carry Forward	15,000	
JL15-60190-3384-741	Decrease Expenditure	Orange Grove Oval: irrigation upgrade - Carry Forward		15,000
<b>REASON:</b>	Reimbursement of funds due to duplicated Budget Variation.			

## Item 13.3.6 Continued

Account Number	Type	Account Description	Debit \$	Credit \$
JL14-85053-3384-441	Increase Expenditure	Bus Stop Accessibility Upgrade - Construction Contracts	30,000	
JL90-90607-3771-000	Increase Expenditure	Gozzy Rock - Prize Expense	7,500	
JL90-90607-1426-000	Increase Income	Gozzy Rock - Sponsorship		7,500
<b>REASON:</b>	Sponsorship received for 2012 Gozzy Rock prize categories from Holcim Australia (Quarry) and Chris Tallentire MLA Member for Gosnells.			
JL44-93200-3334-000	Increase Expenditure	Road Recycling - Recycling Area	4,091	
JL44-93200-1592-000	Increase Income	Road Recycling - Sundry Income		4,091
<b>REASON:</b>	Sale of Surplus soil from road recycling.			
JL90-90000-3504-000	Increase Expenditure	Community Capacity Building Admin - Telephones - Mobile	7,000	
JL90-90000-3503-000	Decrease Expenditure	Community Capacity Building Admin - Telephones - General		3,000
JL90-20007-3503-000	Decrease Expenditure	Addie Mills Centre - Telephone - General		4,000
<b>REASON:</b>	Mobile telephone costs allocated to incorrect job number during budget process, now rectified.			
JL30-95000-3214-000	Increase Expenditure	Planning Implementation - Consultancy	5,500	
JL30-95000-3034-000	Decrease Expenditure	Director Planning and Sustainability - Staff Training/Conferences		2,000
JL30-95000-3295-000	Decrease Expenditure	Director Planning and Sustainability - Sundry Expenses		1,000
JL32-95300-3034-000	Decrease Expenditure	Planning Implementation - Staff Training/Conferences		500
JL32-95300-3210-000	Decrease Expenditure	Planning Implementation - Advertising & Promotions		2,000
<b>REASON:</b>	To provide funds for some urgent business system remapping that will improve planning application processing times, with the funds being drawn from anticipated savings in the accounts as shown.			
JL97-94050-3034-000	Increase Expenditure	Building Control - Staff Training/Conferences	1,500	
JL97-94050-1426-000	Increase Income	Building Control - Sponsorship		1,500
<b>REASON:</b>	To account for Apprentice Commencement Incentive Sponsorship payment.			
JL14-80032-3800-499	Increase Expenditure	Bus Shelters - New - Capital Purchases	50,000	
JL14-80032-1476-498	Increase Income	Bus Shelters - New Capital Contributions - Bus Shelter		50,000
<b>REASON:</b>	Bus shelter advertising revenue not identified in the 2011/2012 Budget to be used for purchase of new bus shelters.			
JL44-93202-3034-000	Increase Expenditure	Road Construction Overheads - Staff Training/Conferences	1,500	
JL44-93203-3034-000	Increase Expenditure	Road Maintenance Overheads - Staff Training/Conferences	1,500	
JL44-93202-1426-000	Increase Income	Road Construction Overheads - Sponsorship		1,500
JL44-93203-1426-000	Increase Income	Road Maintenance Overheads - Sponsorship		1,500
<b>REASON:</b>	To account for incentive payment received for traineeships.			
JL71-93300-3034-000	Increase	Parks & Gardens Overheads - Staff	2,500	



Item 13.3.6 Continued

Account Number	Type	Account Description	Debit \$	Credit \$
JL14-85053-3384-441	Increase Expenditure	Bus Stop Accessibility Upgrade - Construction Contracts	30,000	
	Expenditure	Training/Conferences		
JL71-93300-1426-000	Increase Income	Parks & Gardens Overheads - Sponsorship		2,500
<b>REASON:</b>	To account for apprentice commencement Incentive Sponsorship payment.			

**STATUTORY IMPLICATIONS**Section 6.8 of the *Local Government Act 1995*.**VOTING REQUIREMENTS**

Absolute Majority required.

## STAFF RECOMMENDATION AND COUNCIL RESOLUTION

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

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

Account Number	Account Description	Debit \$	Credit \$
JL14-85053-3384-441	Bus Stop Accessibility Upgrade - Construction Contracts	30,000	
JL14-80032-3384-499	Bus Shelters - New - Carry Forward		30,000
JL14-80208-3384-499	Ovens Rd/Discovery Dr - Upgrade Street Lighting - Carry Forward	13,000	
JL14-80048-3384-499	Nicholson Rd/Amherst Rd - Install Traffic Control Signal - Carry Forward	4,000	
JL14-80215-3384-499	Bulfinch St/Balfour St - Install roundabout - Carry Forward	118,097	
JL14-80200-3384-499	Kenwick Rd/Belmont Rd - Upgrade Street Lighting - Carry Forward		6,000
JL14-80195-3384-499	Huntingdale Rd/Harpenden St - Upgrade Street Lighting - Carry Forward		5,000
JL14-80180-3384-499	Ranford Rd: Warton Rd Intersection Upgrade Street Light - Carry Forward		7,000
JL14-80170-3384-499	Berehaven Ave - Traffic Calming - Carry Forward		113,897
JL14-80171-3384-499	Walkingdale Prom - Separation Kerb - Carry Forward		3,200
JL14-80222-3800-499	Nicholson Rd Duplication - Ranford to Clontarf - Carry Forward	50,000	
JL76-93100-3319-000	Technical Services - Forward Planning		50,000
JL12-10139-3384-225	Agonis Air Conditioning renewal - Carry Forward	10,682	
JL12-10147-3384-225	Maddington Community Centre furniture store - Carry Forward	20,000	
JL12-10177-3384-286	Thornlie Pre-School reroofing - Carry Forward		30,682

## Item 13.3.6 Continued

JL13-30785-3800-000	Bus - Toyota Hiace Commuter Bus - FESA - 1DQR452 - Capital Purchase	65,576	
JL13-30786-3800-000	Bus - Toyota Landcruiser - FESA - 1DQE086 - Capital Purchase	80,256	
JL94-94022-3769-000	FESA - Donation Expense - 1AUC251	15,219	
JL94-94022-3769-000	FESA - Donation Expense - 1AUC252	15,219	
JL13-30785-1355-000	Bus - Toyota Hiace Commuter Bus - FESA - 1DQR452 - Non operating Grant		65,576
JL13-30786-1355-000	Bus - Toyota Landcruiser - FESA - 1DQE086 - Capital Purchase		80,256
JL13-30785-1501-000	Proceed sale of old FESA Vehicle - 1AUC251		15,219
JL13-30786-1501-000	Proceed sale of old FESA Vehicle - 1AUC252		15,219
JL15-60114-3384-741	Roundabout (Corfield St) Tonkin Hwy-Faux Pave - Carry Forward	15,000	
JL15-60190-3384-741	Orange Grove Oval: irrigation upgrade - Carry Forward		15,000
JL90-90607-3771-000	Gozzy Rock - Prize Expense	7,500	
JL90-90607-1426-000	Gozzy Rock - Sponsorship		7,500
JL44-93200-3334-000	Road Recycling - Recycling Area	4,091	
JL44-93200-1592-000	Road Recycling - Sundry Income		4,091
JL90-90000-3504-000	Community Capacity Building Admin - Telephones - Mobile	7,000	
JL90-90000-3503-000	Community Capacity Building Admin - Telephones - General		3,000
JL90-20007-3503-000	Addie Mills Centre - Telephone - General		4,000
JL30-95000-3214-000	Planning Implementation - Consultancy	5,500	
JL30-95000-3034-000	Director Planning and Sustainability - Staff Training/Conferences		2,000
JL30-95000-3295-000	Director Planning and Sustainability - Sundry Expenses		1,000
JL32-95300-3034-000	Planning Implementation - Staff Training/Conferences		500
JL32-95300-3210-000	Planning Implementation - Advertising & Promotions		2,000
JL97-94050-3034-000	Building Control - Staff Training/Conferences	1,500	
JL97-94050-1426-000	Building Control - Sponsorship		1,500
JL14-80032-3800-499	Bus Shelters - New - Capital Purchases	50,000	
JL14-80032-1476-498	Bus Shelters - New Capital Contributions - Bus Shelter		50,000
JL44-93202-3034-000	Road Construction Overheads - Staff Training/Conferences	1,500	
JL44-93203-3034-000	Road Maintenance Overheads - Staff Training/Conferences	1,500	
JL44-93202-1426-000	Road Construction Overheads - Sponsorship		1,500
JL44-93203-1426-000	Road Maintenance Overheads - Sponsorship		1,500
JL71-93300-3034-000	Parks & Gardens Overheads - Staff Training/Conferences	2,500	
JL71-93300-1426-000	Parks & Gardens Overheads - Sponsorship		2,500

CARRIED BY ABSOLUTE MAJORITY 12/0

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

**AGAINST:** Nil.

## 13.4 INFRASTRUCTURE

### 13.4.1 TENDER 05/2011 PIONEER PARK PEDESTRIAN BRIDGE

Author: A Whitwam  
 Author's Declaration Nil.  
 of Interest:  
 Previous Ref: Nil.  
 Appendix: Nil.

#### PURPOSE OF REPORT

To advise Council of submissions received in relation to Tender 05/2011 Pioneer Park Pedestrian Bridge and recommend the best course of action for the project to proceed.

#### BACKGROUND

Tenders were advertised in The West Australian newspaper on Wednesday 13 April 2011 and closed at 2pm on Thursday 5 May 2011 to select a contractor to provide detailed design, documentation, Engineer's certification, manufacture, delivery and installation of a composite materials pedestrian bridge over the Canning River at Pioneer Park.

Two design options were prepared by the consultant Capital House Australasia, the first being a 'slot' design where vertical slots in the balustrade sides offered views of the river, and the second being a 'crown' design which included a pultruded (extruded composite fibre) rod handrail. It was recommended that both design options be tendered with expectation that the cheapest option would be \$120,000, the amount of the budget allocated to the bridge structure.

Submissions were received from the following companies:

Company Name	Address
BAC Advanced Composite Technologies	9 Production Court, Toowoomba Qld 4350
Densford Civil Pty Ltd	12 Sarich Court, Osborne Park WA 6017
Industrial Composite Contractors Pty Ltd	PO Box 2679, Malaga WA 6090
Swarbrick and Swarbrick Yachts	28 Sparks Road, Henderson WA 6166

#### DISCUSSION

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification: relevant experience, capacity and project specific plans, and the major criteria - price.

The prices submitted are documented as follows, for both design options:

## Item 13.4.1 Continued

<b>Company</b>	<b>Price (ex GST) Option 1 \$</b>	<b>Price (ex GST) Option 2 \$</b>
BAC Advanced Composite Technologies	292,710	282,400
Densford Civil Pty Ltd	284,350	283,350
Industrial Composite Contractors Pty Ltd	Did not submit	398,640
Swarbrick and Swarbrick Yachts	150,536	147,056

The following table details the assessment of each tender against the qualitative evaluation criteria as determined by the Panel. The submission from Densford Civil was not assessed further as their submission was for a concrete bridge of their own design and was considered non-conforming.

<b>Tenderer</b>	<b>Relevant Experience</b>	<b>Capacity to Deliver the Services</b>	<b>Service Delivery Plans indicating Methodology</b>	<b>Referees</b>	<b>Total Qualitative Score</b>
Weighting	15%	15%	15%	5%	50%
BAC Advanced Composite Technologies	13	11	10	3.67	37.67
Industrial Composite Contractors Pty Ltd	12	11	10	2.34	35.34
Swarbrick and Swarbrick Yachts	12	11	11	3.67	37.67

The following table details the assessment of each tender against the price submitted.

<b>Tenderer</b>	<b>Price</b>
Weighting	50%
BAC Advanced Composite Technologies	26.04
Industrial Composite Contractors Pty Ltd	17.98
Swarbrick and Swarbrick Yachts	50

The following table details the combined assessment of each tender against both qualitative criteria and price and ranks each tender.

<b>Tenderer</b>	<b>Qualitative Criteria %</b>	<b>Price %</b>	<b>Total %</b>	<b>Overall Ranking</b>
BAC Advanced Composite Technologies	37.67	26.04	63.71	2
Industrial Composite Contractors Pty Ltd	35.34	17.98	53.32	3
Swarbrick and Swarbrick Yachts	37.67	50	87.67	1

*Item 13.4.1 Continued*

The three submissions assessed were generally professional, satisfied the City's Occupational Health and Safety requirements, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services.

However each tender sum was over the \$120,000 allocated to the bridge structure component in the 2010/2011 financial year. In addition, whilst an approval from the Swan River Trust has since been received in December 2011, the approval from the Department of Indigenous Affairs is still outstanding at the time of writing. Tenderers were twice asked to hold their price but the approvals process has taken longer than expected.

Unfortunately the City was not made aware of the fact that the consultant engaged to obtain approval from the Department of Indigenous Affairs had travelled overseas for some weeks to deal with urgent family business.

In terms of the bridge design the general preference is for the second 'crown' design option, which includes a handrail.

It would therefore be advantageous to the City to not award this tender but to await the approval from the Department of Indigenous Affairs, then conduct a second tender for the second design option only.

**FINANCIAL IMPLICATIONS**

The services associated with this contract were included in the 2010/2011 budget, but insufficient funds were available to complete the project.

**STATUTORY IMPLICATIONS**

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

**VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION
--

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

That Council not award Tender 05/2011 Pioneer Park Pedestrian Bridge as approval from the Department of Indigenous Affairs for the construction of the bridge remains outstanding.

CARRIED 12/0

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

**AGAINST:** Nil.

*Item 13.4.1 Continued*

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

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

That Council authorise staff, upon receipt of approval from the Department of Indigenous Affairs, to recall tenders for design option 2.

CARRIED 12/0

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

**AGAINST:** *Nil.*

Notation

8.51pm - Cr G Dewhurst left the meeting.

### 13.4.2 TENDER 31/2011 LANDSCAPE MAINTENANCE OF ESTATE AND PARKLAND AREAS

Author: J. Newton  
 Author's Declaration of Interest: Nil.  
 Previous Ref: Nil.  
 Appendix: Nil.

#### PURPOSE OF REPORT

To advise Council of submissions received in relation to Tender 31/2011 Landscape Maintenance of Estate and Parkland Areas and recommend the most advantageous tender for the purpose of awarding a contract.

#### BACKGROUND

Tenders were advertised in The West Australian newspaper on Wednesday 9 November 2011 and closed at 2pm on Thursday 24 November 2011 to select a contractor to provide estate and parkland landscape maintenance activities for a period of two years commencing 1 March 2012.

Submissions were received from the following companies:

Company Name	Address
Cobey Maintenance Services	37 Roscoe Street, Henderson WA 6165
Earthcare Landscapes	10 Whyalla Court, Bibra Lake WA 6163
Environmental Industries	2/2-6 Mallaig Way, Canning Vale WA 6155
Gecko Contracting	12 Liddell Heights, Leeming WA 6149
Green Life Group	3 Athens Entrance, Port Kennedy WA 6172
Landscape Elements	44 Edward Street Osborne Park WA 6017
LD Total	64 Mill Point Road, South Perth WA 6151
Programmed Property Services	18 Miles Road, Kewdale WA 6105

This tender expired on the 1 December 2011 with the work being undertaken by Environmental Industries at a total annual cost of \$204,253. The tender included The Reserve, Brookland Park and The Boardwalk Estate.

The new tender includes The Reserve and The Boardwalk Estate. Brookland Park has been removed from the new tender specifications as a major component of the maintenance was the extensive irrigated grassed verge areas on Warton Road which has subsequently been removed due its recent dualling.

Brookland Park will now be maintained under other contract arrangements which include other parks within Southern River and is not part of this tender.

Item 13.4.2 Continued

## DISCUSSION

The total costs of providing the service for the period of the contract for each tender are as follows:

<b>Tenderer</b>	<b>Two year contract \$</b>
Cobey Maintenance Services	264,288.00
Earthcare Landscapes	648,000.00
Environmental Industries	328,525.68
Gecko Contracting	280,800.00
Green Life Group	235,460.88
Landscape Elements	486,240.00
LD Total	410,541.84
Programmed Property Services	501,048.00

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification: Relevant Company Experience, Capacity to Deliver Services, Delivery Plans and Methodology, and the major criteria - Price.

The following table details the assessment of each tender against the qualitative evaluation criteria as determined by the Panel.

<b>Tenderer</b>	<b>Relevant Experience</b>	<b>Capacity to Deliver the Services</b>	<b>Service Delivery Plans and Methodology</b>	<b>Total Qualitative Score</b>
Weighting	15%	15%	15%	45%
Cobey Maintenance Services	12	9	9	30
Earthcare Landscapes	6	9	9	24
Environmental Industries	12	12	6	30
Gecko Contracting	9	9	9	27
Green Life Group	9	9	12	30
Landscape Elements	6	9	9	24
LD Total	12	9	9	30
Programmed Property Services	9	9	9	27

The following table details the assessment of each tender against the price submitted.

<b>Tenderer</b>	<b>Price</b>
Weighting	55%
Cobey Maintenance Services	49
Earthcare Landscapes	20
Environmental Industries	39
Gecko Contracting	46
Green Life Group	55
Landscape Elements	27



*Item 13.4.2 Continued*

<b>Tenderer</b>	<b>Price</b>
LD Total	32
Programmed Property Services	26

The following table details the combined assessment of each tender against both qualitative criteria and price and ranks each tender.

<b>Tenderer</b>	<b>Qualitative Criteria %</b>	<b>Price %</b>	<b>Total %</b>	<b>Overall Ranking</b>
Cobey Maintenance Services	30	49	79	2
Earthcare Landscapes	24	20	44	8
Environmental Industries	30	39	69	4
Gecko Contracting	27	46	73	3
Green Life Group	30	55	85	1
Landscape Elements	24	27	51	7
LD Total	30	32	62	5
Programmed Property Services	27	26	53	6

The submissions received were generally professional, satisfied the City's Occupational Health and Safety requirements, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services.

Referees were contacted for the preferred tenderer and all referees have provided a satisfactory reference.

Following the assessment of the criteria, Green Life Group was assessed as being the most advantageous to the City.

### **FINANCIAL IMPLICATIONS**

The services associated with this contract are included in the 2011/2012 budget and will be included in the relevant budgets for the life of the contract. The amount budgeted for 2011/2012 is \$262,245.

### **STATUTORY IMPLICATIONS**

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

### **VOTING REQUIREMENTS**

Simple Majority required.

*Item 13.4.2 Continued*

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**22 Moved Cr T Brown Seconded Cr J Brown**

That Council award Tender 31/2011 Landscape Maintenance of Estate and Parkland Areas for a two-year period commencing 1 March 2012 to Green Life Group of 3 Athens Entrance, Port Kennedy WA 6172 for the contracted sum of \$235,460.88.

CARRIED 11/0

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

**AGAINST:** *Nil.*

**13.4.3 TENDER 35/2011 GROUNDWATER BORES**

Author: A. Whitwam  
 Author's Declaration of Interest: Nil.  
 Previous Ref: Nil.  
 Appendix: 13.4.3A Pricing Schedule

**PURPOSE OF REPORT**

To advise Council of submissions received in relation to Tender 35/2011 Groundwater Bores and recommend the most advantageous tender for the purpose of awarding a contract and forming a panel of contractors.

**BACKGROUND**

Tenders were advertised in The West Australian newspaper on Wednesday 23 November 2011 and closed at 2pm on 8 December 2011 to select a contractor or panel of contractors to provide groundwater bore services for a period of three years commencing 28 February 2012.

Submissions were received from the following companies:

<b>Company Name</b>	<b>Address</b>
RBM Drilling	16 Arnhem Court Ballajura WA 6066
Rond Drilling	75 Station Street, Gosnells WA 6110

During the last financial year 2012/2011, the City spent in the order of \$77,000 on groundwater bore maintenance .

**DISCUSSION**

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification: relevant company experience, capacity to deliver services and delivery plans and methodology, and the major criteria - price.

The prices submitted are documented in Appendix 13.4.3A.

The following table details the assessment of each tender against the qualitative evaluation criteria as determined by the Panel.

<b>Tenderer</b>	<b>Relevant Experience</b>	<b>Capacity to Deliver Services</b>	<b>Delivery Plans and Methodology</b>	<b>Total Qualitative Score</b>
Weighting	20%	10%	10%	40%
RBM Drilling	12	6	8	26
Rond Drilling	16	8	8	32

The following table details the assessment of each tender against the price submitted.

*Item 13.4.3 Continued*

<b>Tenderer</b>	<b>Price</b>
Weighting	60%
RBM Drilling	56
Rond Drilling	60

The following table details the combined assessment of each tender against both qualitative criteria and price and ranks each tender.

<b>Tenderer</b>	<b>Qualitative Criteria %</b>	<b>Price %</b>	<b>Total %</b>	<b>Overall Ranking</b>
RBM Drilling	26	56	82	2
Rond Drilling	32	60	92	1

The total costs of providing the service for the period of the contract for each tenderer will be variable based on the rates provided and site specific conditions encountered.

The submissions received were generally professional, satisfied the City's Occupational Health and Safety requirements, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services.

Referees were contacted for the preferred tenderer and all referees have provided a satisfactory reference.

Following the assessment of the criteria, Rond Drilling was assessed as being the most advantageous to the City and is recommended to be the Primary Contractor on the groundwater bores panel. RBM Drilling will be recommended as an addition to the panel as the Secondary Contractor to add capacity and surety of service particularly during periods of high demand.

### **FINANCIAL IMPLICATIONS**

The services associated with this contract will be included in the project specific budgets within the Parks and Environmental Operations Branch capital works budget for the life 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 a contract of a prescribed kind under which another person is to supply the goods or services.

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.4.3 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**23 Moved Cr R Hoffman Seconded Cr S Iwanyk**

That Council appoint a panel of contractors for Tender 35/2011 Groundwater Bores, for a three-year period commencing 28 February 2012, comprising of Rond Drilling, 75 Station Street, Gosnells WA 6110 as Primary Contractor and RBM Drilling, 16 Arnhem Court, Ballajura WA 6066 as Secondary Contractor, in accordance with the Schedule of Rates attached as Appendix 13.4.3A.

CARRIED 11/0

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

**AGAINST:** Nil.

**13.4.4 TENDER 39/2011 GENERAL LANDSCAPE WORKS**

Author: A. Whitwam  
 Author's Declaration of Interest: Nil.  
 Previous Ref: Nil.  
 Appendix: 13.4.4A Pricing Schedule

**PURPOSE OF REPORT**

To advise Council of submissions received in relation to Tender 39/2011 - General Landscape Works and recommend the most advantageous tender for the purpose of awarding a contract and forming a panel of contractors.

**BACKGROUND**

Tenders were advertised in The West Australian newspaper on Wednesday 23 November 2011 and closed at 2pm on 8 December 2011 to select a panel of contractors to provide general landscape works for a period of three years commencing 28 February 2012.

General landscape works includes hardworks (limestone blockwork, concrete mowing kerbs, exposed aggregate concrete, bollards), softworks (site preparation, tree, shrub and tubestock planting and turfing), minor irrigation amendments, equipment and labour hire.

The City's spending on general landscape works fluctuates with each financial year across both the capital works and operational budgets of the Parks and Environmental Operations Branch. A panel of contractors is seen as the best way of accommodating the significant variety of landscape tasks.

Submissions were received from the following companies:

<b>Company Name</b>	<b>Address</b>
A Proud Landmark Pty Ltd	15 Passionfruit Way, Forrestfield WA 6058
DME Contractors	23 Furniss Road, Darch WA 6065
Environmental Industries Pty Ltd	Unit 2, 2-4 Mallaig Way, Canning Vale WA 6155
Frogmat Environmental Pty Ltd	15 Blackly Row, Cockburn Central WA 6164
Landscape Elements	44 Edward Street, Osborne Park WA 6017
LD Total	64 Mill Point Road, South Perth WA 6151
Magic Touch Landscaping	25 Ovens Road, Thornlie WA 6108
Westpark Services Pty Ltd	206 Maddington Road, Maddington WA 6109

**DISCUSSION**

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification: relevant experience, key personnel, demonstrated understanding and the major criteria - price.

Magic Touch Landscaping was omitted from the assessment as their submission was considered non-conforming as the required number of copies was not submitted.

The prices submitted are documented in Appendix 13.4.4A - Schedule of Rates.

*Item 13.4.4 Continued*

The following table details the assessment of each tender against the qualitative evaluation criteria as determined by the Panel.

<b>Tenderer</b>	<b>Relevant Experience</b>	<b>Key Personnel</b>	<b>Demonstrated Understanding</b>	<b>Total Qualitative Score</b>
Weighting	20%	10%	10%	40%
A Proud Landmark Pty Ltd	20	8	10	38
DME Contractors	16	8	6	30
Environmental Industries Pty Ltd	4	6	4	14
Frogmat Environmental Pty Ltd	8	4	0	12
Landscape Elements	16	6	6	28
LD Total	12	6	4	22
Westpark Services Pty Ltd	16	8	6	30

Based on the qualitative assessment, Frogmat Environmental and Environmental Industries were excluded from further assessment as both companies failed to meet minimum requirements in several respects, with insufficient or unclear information.

Following the assessment of the criteria, the remaining five tenderers were assessed as being the most advantageous to the City as members of a panel. This will enable the City to have multiple resources at hand in a busy industry affected by contractor availability and the seasonal demand, and to keep projects on program.

Due to the fact that tenderers did not have to supply rates for all items listed on the schedule of rates and the fact that they have responded in a selective nature based on the service that they supply it has not been possible to conduct an assessment of the prices in a logical manner.

The conforming five submissions were generally professional, satisfied the City's Occupational Health and Safety requirements, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services. The rates for landscape services provided were considered acceptable and quotes will be sought for works from the contractor with the lowest rate in that category in the first instance.

The total costs of providing landscape services for the period of the contract will be site and project specific.

### **FINANCIAL IMPLICATIONS**

The services associated with this contract are included in the Parks and Environmental Operations Branch Capital Works project budgets and will be included in the relevant budgets for the life of the contract.

Item 13.4.4 Continued

## STATUTORY IMPLICATIONS

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

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

### 24 Moved Cr R Hoffman Seconded Cr J Brown

That Council award Tender 39/2011 - General Landscape Works for a three-year period commencing 28 February 2012 to the following panel members based on the respective schedule of rates documented in Appendix 13.4.4A:

Company Name	Address
A Proud Landmark Pty Ltd	15 Passionfruit Way, Forrestfield WA 6058
DME Contractors	23 Furniss Road, Darch WA 6065
Landscape Elements	44 Edward Street, Osborne Park WA 6017
LD Total	64 Mill Point Road, South Perth WA 6151
Westpark Services Pty Ltd	206 Maddington Road, Maddington WA 6109

CARRIED 11/0

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

**AGAINST:** Nil.



**13.4.5 PROPOSED AMENDMENT TO CONTRACT WITH AGL ENERGY SERVICES LIMITED TO PROVIDE FOR REMOVAL OF POWER GENERATION PLANT AT FORMER KELVIN ROAD LANDFILL SITE, ORANGE GROVE**

Author: J Flatow  
Author's Declaration of Interest: Nil.  
Previous Ref: Nil.  
Appendix: Nil.

**PURPOSE OF REPORT**

To amend the existing contracts with AGL Energy Services Limited to provide for the removal of the Power Generation Plant from the former Kelvin Road Landfill Site.

**BACKGROUND**

In 2002 the City entered into three related Agreements with AGL Energy Services Limited (AGL) that provided for an extraction of methane gas, flare off of gas and generation of electricity into the Western Power power grid. The three Agreements are termed Landfill Gas Extraction and Power Generation in three parts:

- Development Agreement (Provides for a feasibility study and development if the project was to proceed)
- Access Licence Agreement (Provides for access to the whole Kelvin Road site to lay gas pipelines and associated works)
- Deed of Lease (Provides an area of approximately 1.5 hectares to locate plant).

**DISCUSSION**

In late 2010 AGL advised the City that there was insufficient gas from the site to economically operate the Plant and because of changes to the Australian Greenhouse Office, Emissions Reduction Scheme the company could no longer generate sufficient revenue to make the operation commercially viable.

AGL therefore seeks amendments to the Development Agreement and the Access Licence Agreement to provide for the removal of the Power Generation Plant.

Negotiations have been ongoing with AGL since receipt of the advice.

The Agreements with AGL provide for two major plant and equipment items:

- Extraction system including a flare
- Power Generation Plant.

The proposed amendments provide for the retention of the extraction system and flare and the removal of the power generation plant. The Company owns all the plant but at the end of the contract in 2017 the extraction system and flare become the property of the City. The Agreement allows for the option for AGL to remove the Power Generation Plant at the end of the contract or by agreement during the contract.

*Item 13.4.5 Continued*

Given that the Power Generation Equipment always remains the property of AGL there seemed little advantage to the City to insist on it remaining for the duration of the contract whilst it is not economically viable to generate power.

There is also a continuing obligation for AGL to operate and maintain the extraction system and flare until 2017. At the contract's end, if the City wishes to continue with operating the extraction system and flare it will need to make budget provision for this cost.

**FINANCIAL IMPLICATIONS**

Under the current agreements AGL is obliged to pay the City 5% of the net revenue for power generation (including renewable energy certificates), and 10% of the net revenue from the sale of greenhouse gas Reduction Credits.

With the inability to generate power from the diminished level of methane gas being produced on the site the City is not receiving any income from power generation.

The scheme under which energy reduction credits were created ceased on 30 June 2010 therefore no income has been received from that source since that date.

Under the Federal Governments Emissions Trading Scheme, Carbon Farming Initiative credits will be available through the implementation of landfill legacy emission avoidance projects such as the methane gas flaring at the Kelvin Road site. The level of income that the City can expect through these credits will become clearer as details become available.

**STATUTORY IMPLICATIONS**

Section 3.58 of the *Local Government Act 1995* provides for the disposition of local government property that includes amendment to leases and licenses.

**VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**25 Moved Cr T Brown Seconded Cr S Iwanyk**

That Council approve amendments to the Development Agreement and the Access Licence Agreement with AGL Energy Services Limited to provide for the removal of the Power Generation Plant from the landfill gas and extraction power generation installation at the former Kelvin Road Landfill Site, Orange Grove and for the Mayor and Chief Executive Officer to sign the Deeds of Variation.

CARRIED 11/0

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

**AGAINST:** Nil.

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

#### **13.4.6 GOSNELLS ROADWISE ADVISORY GROUP - WEDNESDAY 7 DECEMBER 2011**

Author: O Pereira  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 13.4.6A Action Sheet of the City of Gosnells RoadWise Advisory Group Meeting held on Wednesday 7 December 2011

#### **PURPOSE OF REPORT**

For Council to receive the Action Sheet of the RoadWise Advisory Group Meeting held on Wednesday 7 December 2011.

#### **BACKGROUND**

The City of Gosnells RoadWise Advisory Group meets on the first Wednesday of every month. The Group was established with the guiding principles to:

- Improve road safety in the City of Gosnells
- Raise community awareness of road safety issues and initiatives in the City of Gosnells
- Facilitate community planning, development and implementation of road safety programs and promotions
- Develop programs and initiatives which target groups and issues identified in the State Road Safety Strategy.

The Action Sheet of the meeting is attached as Appendix 13.4.6A.

#### **DISCUSSION**

##### **Proposed Actions from the Group Meeting held on Wednesday 7 December 2011**

There is no proposed action from the RoadWise Advisory Group meeting which requires Council consideration. There are three proposed actions which have been addressed within operational parameters with the status now being reported to Council.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **STATUTORY IMPLICATIONS**

City of Gosnells Policy 2.4.19 City of Gosnells RoadWise Advisory Group – Terms of Reference.

Item 13.4.6 Continued

**VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION**

**26 Moved Cr J Brown Seconded Cr W Barrett**

That Council receive the Action Sheet of the City of Gosnells RoadWise Advisory Group Meeting held on Wednesday 7 December 2011 attached as Appendix 13.4.6A.

CARRIED 11/0

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

**AGAINST:** Nil.

**STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION**

**27 Moved Cr J Brown Seconded Cr W Barrett**

That Council note and endorse the officer's response undertaken within operational parameters to address the proposed Actions from the Group's meeting held on Wednesday 7 December 2011.

Action Reference	Action	Status
RAG 7/12/2011 – Proposed Action 27	Senior Road Safety Officer requested the RAG members to consider ways of utilising the winning drawings of the school children who entered the Road Safety School Art Competition in relation to advertising road safety as hand-outs; e.g. bookmarkers, calendars, etc when the RAG meeting resumes in 2012.	The winning drawings will be displayed in the Civic Centre Front Counter foyer until the school term ends for the year and then returned to the students.
RAG 7/12/2011 – Proposed Action 28	Mr Marshall to forward the Armadale RoadWise 2012 events to the Senior Road Safety Officer for inclusion in the 2012 Gosnells RAG events.	Mr Colin Marshall, Armadale RoadWise Representative invited the Gosnells RAG members to work together as in joint venture for future RoadWise events.
RAG 7/12/2011 – Proposed Action 29	A spreadsheet consisting of information on the City's programs for 2012 is to be forwarded to the Gosnells RAG members seeking members' availability to attend.	The Minute Secretary is to email RAG members the City's programs for 2012.

CARRIED 11/0

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

**AGAINST:** Nil.

## 13.5 PLANNING AND SUSTAINABILITY

### 13.5.1 PROPOSED MODIFICATIONS TO MADDINGTON ROAD PRECINCT A OUTLINE DEVELOPMENT PLAN

Author:	L Langford
Author's Declaration of Interest:	Nil.
Reference:	Nil.
Application No:	PF09/00016
Applicant:	Burgess Design Group
Owner:	Various
Location:	Lots 2, 5-6, 103, 125-126 and 412-414 Maddington Road, Maddington
Zoning:	MRS: Urban
TPS No. 6:	Residential Development
Review Rights:	Yes. State Administrative Tribunal against any discretionary decision of Council.
Area:	16.93ha
Previous Ref:	OCM 8 November 2011 (Resolutions 524-526) OCM 8 March 2011 (Resolution 80)
Appendix:	13.5.1A Draft Maddington Road Precinct A Outline Development Plan (as approved by Council on 8 November 2011)

#### PURPOSE OF REPORT

For Council to consider a request from the Western Australian Planning Commission (WAPC) to comment on proposed modifications to the proposed Maddington Road Precinct A Outline Development Plan (ODP).

#### BACKGROUND

##### History

On 8 November 2011, Council considered the proposed Maddington Road Precinct A ODP and resolved (Resolutions 524-526) to adopt the advertised ODP (subject to modifications being made) and forward the proposal to the WAPC for determination. The ODP as adopted by Council is contained in Appendix 13.5.1A.

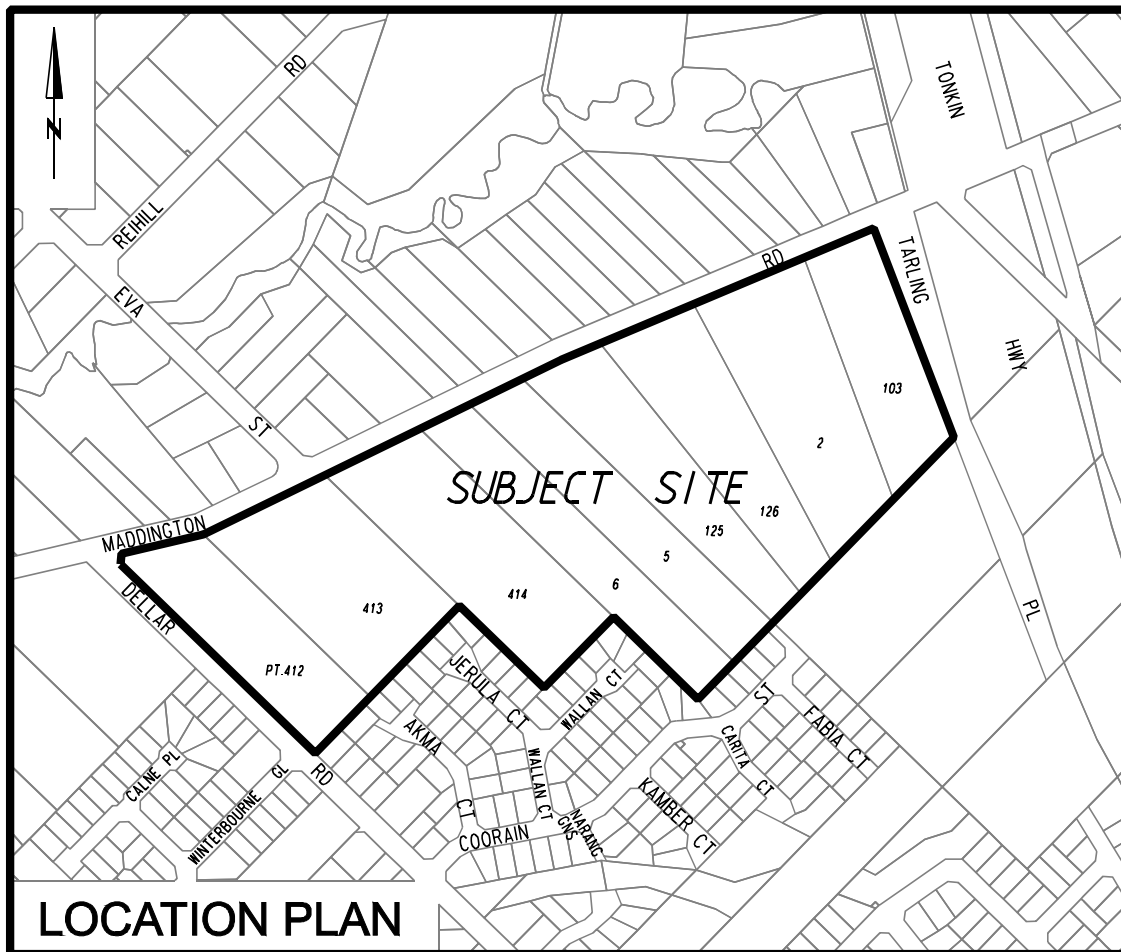
On 12 December 2011, the WAPC advised that it required modifications to be made to the ODP. Clause 7.4.13 of Town Planning Scheme No. 6 (TPS 6) requires the WAPC to consult with the City prior to approving a proposed ODP which requires modifications.

##### Site Description

The Maddington Road Precinct A ODP area encompasses approximately 16.93ha of land 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 area comprises of nine landholdings amongst eight landowners and lot sizes range from 1.5387ha to 2.3043ha.

Item 13.5.1 Continued

A plan showing the location of the ODP area follows.



**DISCUSSION**

**Details of Proposed Modifications**

The following table details the WAPC's proposed modifications, including its justification, and technical comments in response.

No.	Modification Details
1.	<p>Modify notation (d) as follows:</p> <p><i>"A transport noise assessment is to be prepared for Lot 103 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 as determined relevant by Main Roads WA and to its satisfaction."</i></p> <p><b>Justification</b> - Lot 103 is within closest proximity to Tonkin Highway, and is expected to be the lot subject to the (potential) greatest noise impact. Therefore, the remainder of the ODP area should not be withheld from progress in the absence of a transport noise assessment.</p> <p><b>Comment:</b> The modification is considered acceptable.</p>

*Item 13.5.1 Continued*

No.	Modification Details
2.	<p data-bbox="300 300 831 324">Insert an additional notation (e) to read as follows:</p> <p data-bbox="355 338 1310 394"><i>"Direct vehicular access onto Maddington Road is not permitted from the Residential R40 coded grouped housing sites on Lots 412, 413 and 414."</i></p> <p data-bbox="300 407 456 432"><b>Justification -</b></p> <ul data-bbox="355 450 1369 591" style="list-style-type: none"> <li data-bbox="355 450 1369 506">• To assist trucks/large vehicles associated with the composite lots to negotiate the new roundabout at the intersection of Eva Street and Maddington Road safely;</li> <li data-bbox="355 517 1062 542">• To reduce potential conflict between different types of traffic;</li> <li data-bbox="355 557 1339 591">• Alternative access is available to Lots 412 - 414 from secondary frontages/local roads.</li> </ul> <p data-bbox="300 602 927 627"><b>Comment: The modification is considered acceptable.</b></p>

The proposed modifications are considered to be acceptable.

### Options for Council

TPS 6 does not outline the options available to Council in responding to an invitation from the WAPC to comment on proposed modifications to a draft ODP. However it is considered open to Council to indicate that it either accepts or objects to the proposed modifications.

Clause 7.4.14 provides for Council to readvertise a draft ODP if the modifications are deemed to be substantial. Public consultation on the proposed modifications is not considered necessary as the changes are minor and do not alter the form or content of the ODP that was adopted by Council on 8 November 2011.

### CONCLUSION

It is considered that the proposed modifications to the Maddington Road Precinct A Outline Development Plan are acceptable. It will therefore be recommended that Council advise the WAPC that it has no objection to the proposed modifications to the draft ODP.

### FINANCIAL IMPLICATIONS

Nil.

### STATUTORY IMPLICATIONS

Town Planning Scheme No. 6.

### VOTING REQUIREMENTS

Simple Majority required.

Item 13.5.1 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**28 Moved Cr K Jones Seconded Cr R Lawrence**

That Council, pursuant to Clause 7.4.13 of Town Planning Scheme No. 6 advise the Western Australian Planning Commission that it has no objection to the Maddington Road Precinct A Outline Development Plan being approved with the proposed modifications set out in the Commission's letter of 12 December 2011.

CARRIED 11/0

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

**AGAINST:** Nil.



**13.5.2 DEVELOPMENT APPLICATION - ALTERATION/ADDITION TO EXISTING APPROVED PYLON SIGN - 210 (LOT 2) SPENCER ROAD, THORNLIE**

Author: E Flanagan  
Author's Declaration Nil.  
of Interest:  
Reference: 215909  
Application No: DA11/00239  
Applicant: Oldfield Knott Architects Pty Ltd  
Owner: Starscene Holdings Pty Ltd.  
Location: 210 (Lot 2) Spencer Road, Thornlie  
Zoning: MRS: Urban  
TPS No. 6: Other Regional Road, Mixed Business  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 2,689m<sup>2</sup>  
Previous Ref: OCM 22 February 2005 (Resolution 67)  
Appendix: Nil.

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for a pylon sign at 210 (Lot 2) Spencer Road, Thornlie, as the proposal is outside the authority delegated to staff.

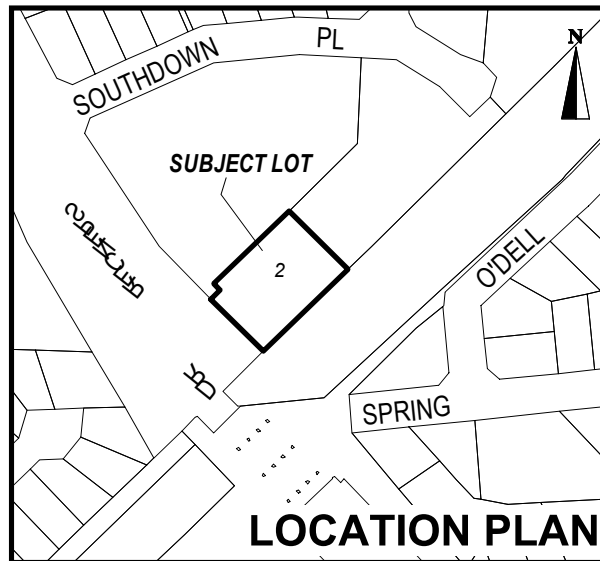
**BACKGROUND****Site Description and Planning Framework**

The subject site fronts Spencer Road next to the Spencer Road rail bridge. Spencer Village Centre adjoins the property on its north-west (side) boundary with residential development abutting the rear boundary. The subject site is currently occupied by a fast food outlet (Hungry jacks).

The property is zoned Mixed Business under TPS 6.

A map identifying the location of the property follows.

Item 13.5.2 Continued



**Site History**

On 22 February 2005, Council resolved (Resolution 67) to approve a 12.5m high illuminated pylon sign at the subject property to replace an existing sign. The sign was determined by Council due to its size being larger than what was permitted under the City's Local Law relating to Signs, Hoardings and Bill Posting (Signage Local Laws). The increased height was being sought as the (then) current sign was no longer visible to traffic with the introduction of the new rail bridge adjacent the site. Council approved the sign. The specifications of the approved sign follow.

Pylon Sign Approved 22 February 2005	
Height of the sign	12.5m
Dimension across the face	3.6m
Superficial Area	15m <sup>2</sup>
Boundary Setback	0.56m

It is noted that the current sign contains advertising banners in excess of this approval. These two unapproved additions reading "Open 24 Hours" and "\$4.95 Brekky" will be assessed as part of the current proposal.

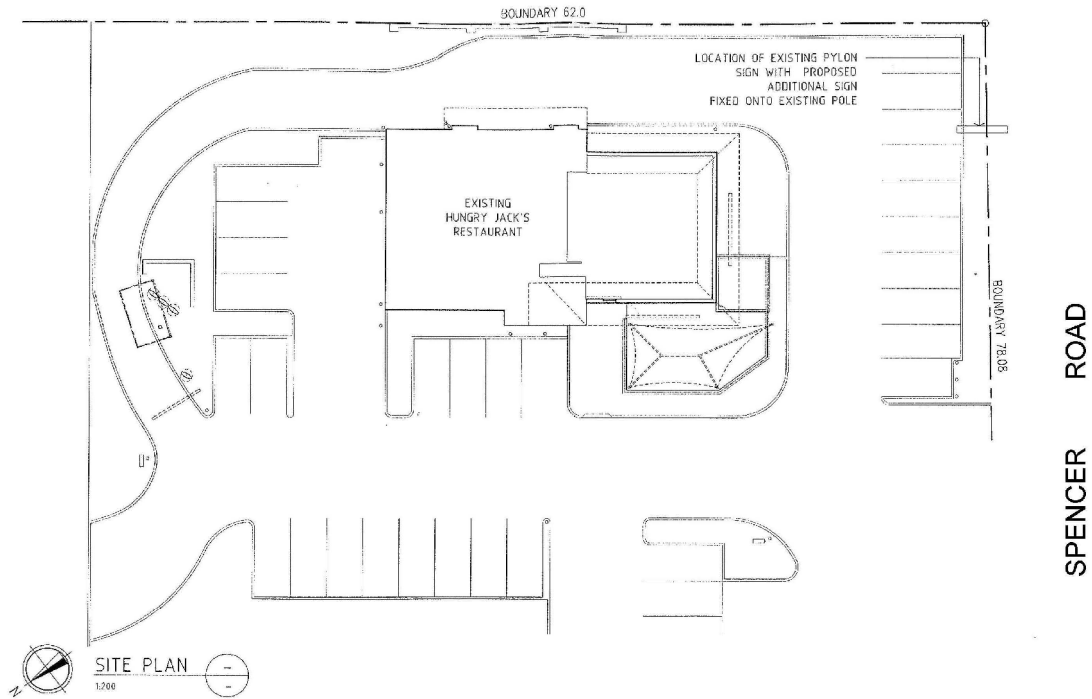
**Proposal**

The proposal seeks to provide additional faces to the existing "Hungry Jacks" pylon sign. The existing pylon sign is to remain in its current location and the faces of the signage panels are not proposed to be altered in any way. The overall height and width of the sign is to remain the same. Details of the proposed additions are as follows:

- Retrospective approval for two additional signage panels, one reading "Open 24 Hours" and "\$4.95 Brekky" with a total sign area of 6.168m<sup>2</sup>
- One additional signage panel reading "Brekky 5am" with a surface area of 2.268m<sup>2</sup>.

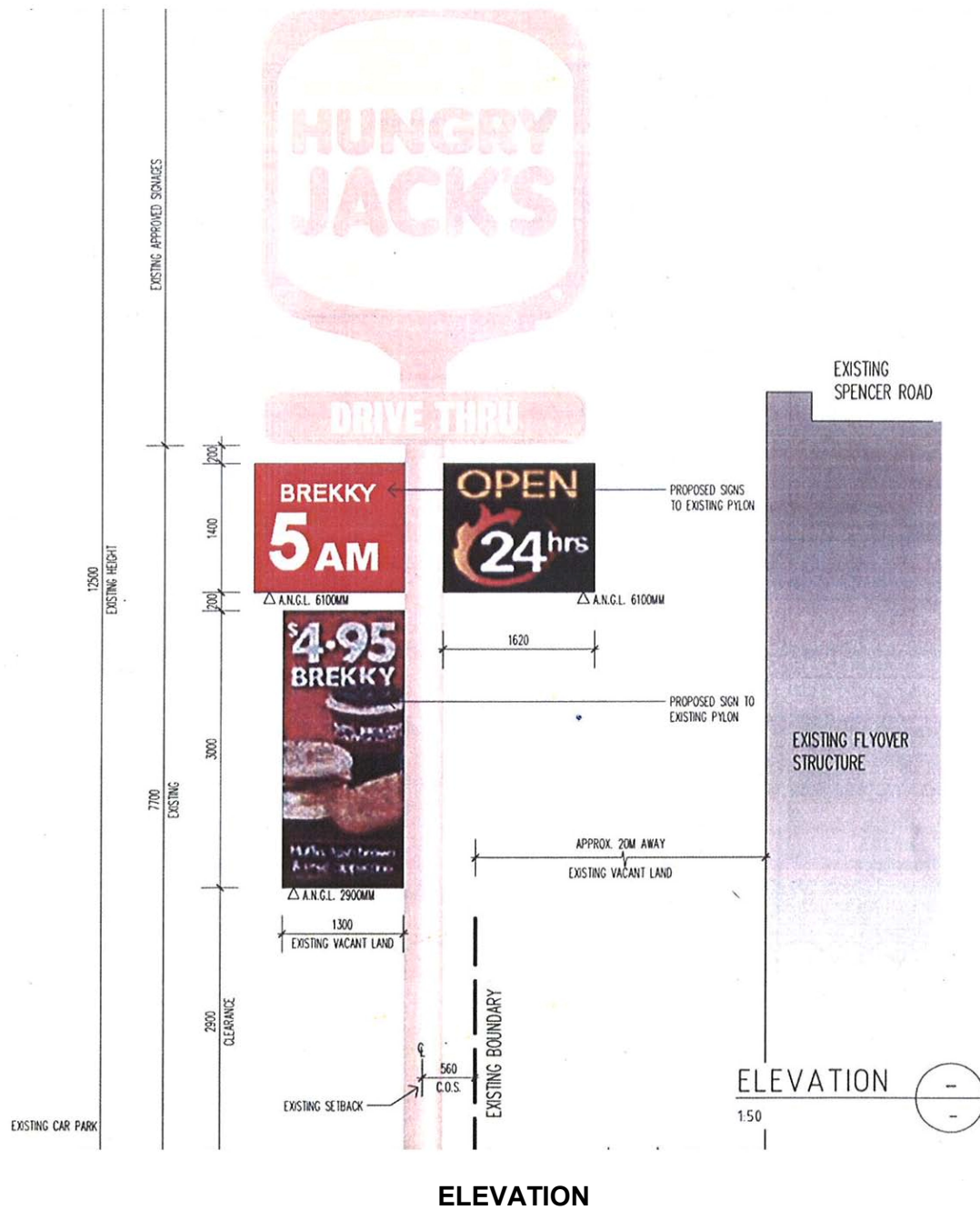
Item 13.5.2 Continued

A site plan and elevation plan follow.



**SITE PLAN**

Item 13.5.2 Continued



Item 13.5.2 Continued

**Consultation**

The proposal was not required to be advertised for public comment.

**DISCUSSION**

The erection of a pylon signs is defined as development under TPS 6 and therefore requires planning approval.

The proposal is required to be assessed under both the City's Signage Local Laws and the Draft Signage and Flags policy. The draft policy is utilised as an assessment tool.

**Local Laws Relating to Signs, Hoardings and Bill Postings**

The City's Signage Local Laws provides specific standards relating to visual and structural integrity, but does not provide any guidelines or reasoning on how to deal with non-compliant signage. The proposed signage additions have been assessed against and comply with all the relevant provisions of the Signage Local Laws with the exception of the provisions outlined in the following table.

Signage Local Law Requirements		Assessment/Comment
1.	5.12.1 A pylon sign shall:  a) Not have any part thereof less than 2.7m or more than 6m above the level of the ground immediately below it;  b) not exceed 2.6m measured in any direction across the face of the sign or have a greater superficial area than 4m <sup>2</sup> ;	The existing sign has been approved by Council, inclusive of variations to allow a height of 12m, width of 3.6m and area of 23.44m <sup>2</sup> .

As the pylon sign does not meet the above requirements, approval may only be granted by a resolution of the Council.

The existing pylon sign was approved by Council on 22 February 2005 with a variation to the height, width, area and boundary setback requirements of the Signage Local Law. The proposed height of 12.5m was considered appropriate at this location as the existing compliant sign with a height of 6m would no longer be visible to traffic driving across the new road bridge immediately adjacent the site.

**Signage and Flags Local Planning Policy**

The draft Signage and Flags Local Planning Policy seeks to formalise the City's position on signage applications. At its meeting of 23 August 2011, Council resolved (Resolution 392) to endorse this draft Local Planning Policy for public consultation. This draft document will provide a tool for the assessment and determination of future applications for signage and therefore should be used in the assessment of the current proposal.

The current application has been assessed against the provisions of this draft policy and complies with all but the following provisions.

*Item 13.5.2 Continued*

Draft Signage Policy Requirements		Assessment/Comments
1.	Maximum height of 7m.	The height and width of the sign have previously been approved by the Council (12m and 3.6m respectively).
2.	Maximum width of 3m.	
3.	Maximum signage area of 4m <sup>2</sup> .	Total proposed signage area is 23.44m <sup>2</sup> .
4.	Minimum 2m setback from all side and rear boundaries.	Setback 0.56m from side boundary approved previously by Council.

It is considered that the proposed superficial area of the sign is excessive. The proposed signage contains two banners with information relating to opening hours and one banner relating to prices which contains photos. This is considered to contribute to excessive visual clutter and has a detrimental impact on the amenity of the area.

### Planning Assessment

Council is to have regard to a range of matters under Clause 11.2 of the Scheme - Matters to be considered by Local Government. The following are seen as relevant:

- "(n) the preservation of the amenity of the locality.*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.*

The existing sign, together with the proposed additions, will result in a total superficial area of 23.44m<sup>2</sup>. Council has already approved signage on the subject site with a superficial area of 15m<sup>2</sup>. This represented an extension of flexibility in relation to changing circumstances. Further, significant increases in the superficial area is considered excessive. It is considerably larger than the requirements outlined in the Signage Local Law and the draft Signage and Flags Local Planning Policy. The signage is also considered to contain too much information. While the sign will be visible to traffic passing over the Spencer Road Bridge, much of the information will be lost due to the proliferation of images. It is therefore considered that the proposed sign will have an adverse impact on the amenity of the locality.

The subject site is adjacent to a range of retail and commercial land uses. The proposed sign is located in close proximity to a number of other fast food signs, including a KFC pylon sign. It is considered that the proliferation of individual signs will fail to complement one another and will create an undesirable precedent for other such signs to be erected.

### CONCLUSION

The proposal is not supported for the following reasons:

- The proposed signage is considered to be excessive due to the amount of information shown on the sign and is therefore considered to contribute to excessive visual clutter and has a detrimental impact on the amenity of the area

*Item 13.5.2 Continued*

- The total superficial area of the proposed signage is considerably greater than that allowed under both the Signage Local Laws and the Draft Signage and Flags Local Planning Policy
- The proposed signage will create an undesirable precedent for the erection of other such signs.

It is therefore recommended that the proposal be refused for the reasons listed in the staff recommendation.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- Signs, Hoardings and Bill Postings Local Law
- City of Gosnells Local Planning Policy Signage and Flags.

**VOTING REQUIREMENTS**

Simple Majority required.

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

**29 Moved Cr R Hoffman Seconded Cr J Brown**

That Council refuse an application for a pylon sign at 210 (Lot 2) Spencer Road, Thornlie, for the following reasons:

1. The total superficial area of the proposed signage greatly exceeds that allowed under the City's Signage Local Law.
2. The proposed signage is considered to be excessive due to the amount of information shown on the sign.
3. The proposed signage will create an undesirable precedent for the erection of other such signs.

**CARRIED 10/1**

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

**AGAINST:** Cr K Jones.

Item 13.5.2 Continued

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

**30 Moved Cr R Hoffman Seconded Cr J Brown**

That Council inform the applicant that the unauthorised signage additions, attached to the existing pylon sign at 210 (Lot 2) Spencer Road, Thornlie, are to be removed within 30 days of the date of notification of Council's determination of the development application.

CARRIED 10/1

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

**AGAINST:** *Cr K Jones.*

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

**31 Moved Cr R Hoffman Seconded Cr J Brown**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against the operator of the fast food outlet (Hungry Jacks) and registered owner of 210 (Lot 2) Spencer Road, Thornlie should the unauthorised signage additions, attached to the existing pylon sign, not be removed within 30 days of the date of notification of Council's determination of the development application.

CARRIED 10/1

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

**AGAINST:** *Cr K Jones.*



**13.5.3 DEVELOPMENT APPLICATION - ANCILLARY ACCOMMODATION - 75  
(LOT 31) RIMMER LANE, KENWICK**

Author: J O'Keefe  
Author's Declaration Nil.  
of Interest:  
Reference: 225670  
Application No: DA10/00001  
Applicant: Rini Sukrewati  
Owner: Rini Sukrewati  
Location: 75 (Lot 31) Rimmer Lane, Kenwick,  
Zoning: MRS: Urban  
TPS No. 6: Residential Development and Rural (small portion)  
Review Rights: Yes. State Administrative Tribunal against any discretionary  
decision of Council.  
Area: 1,691m<sup>2</sup>  
Previous Ref: OCM 9 March 2010 (Resolutions 95 and 96)  
Appendices: 13.5.3A Aerial Photograph - Lot 31  
13.5.3B Site Plans, Floor Plan and Elevations  
13.5.3C Department of Water Floodplain Map

**PURPOSE OF REPORT**

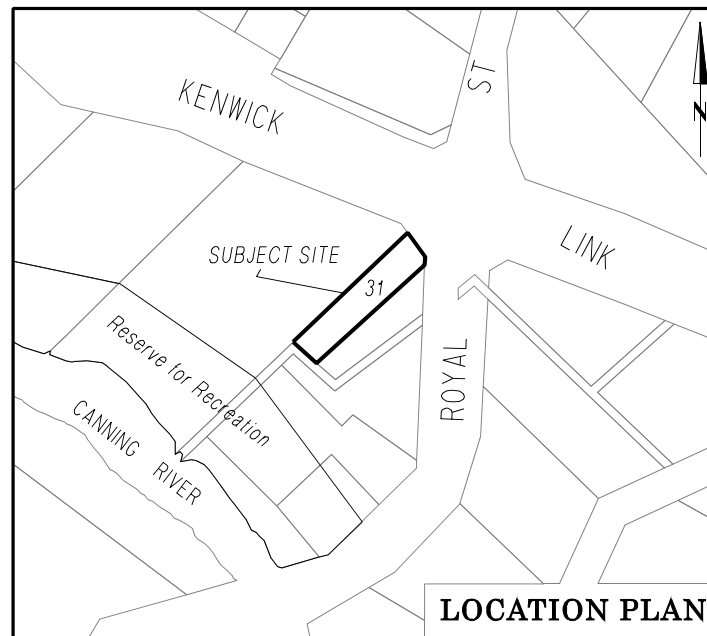
For Council to consider an application to amend the planning approval it granted on 9 March 2010 (Resolution 95 and 96) for ancillary accommodation at 75 (Lot 31) Rimmer Lane, Kenwick.

**BACKGROUND**

Council's March 2010 approval permitted development of an outbuilding (since constructed) and a 60m<sup>2</sup> transportable residential building for use as ancillary accommodation on the subject site.

An aerial photograph of the site is contained in Appendix 13.5.3A and a location plan of the property follows.

## Item 13.5.3 Continued

**Proposal**

The proposed floor area of the ancillary accommodation is to be increased from 60m<sup>2</sup> to 99m<sup>2</sup>. Verandahs are to be added to the southern side and northern side of the building and it is now proposed to face south, with major openings to the north and south, instead of facing west, with major openings to both east and west as approved.

Submitted site plans and elevation drawings are contained in Appendix 13.5.3B.

The applicant has provided the following information in support of the amended plans:

*"Please be advised that we would like to amend our planning approval regarding ancillary accommodation. Our mother (intended resident) requires walking aids so we would like to increase the size from 60 square metres to 99 square metres to allow for wheelchair access and changing room etc. The new design is still transportable."*

**Site Description**

The subject lot varies in length from 83.88m to 100.68m and is approximately 18m in width. It lies within the flood fringe of the Canning River, being within the 5m contour line, which has implications for building floor levels and effluent disposal. Department of Water mapping of the extent of the flood fringe in relation to Lot 31 is depicted on the plan contained in Appendix 13.5.3C.

The existing dwelling has a floor area of 148m<sup>2</sup> and is setback approximately 28m from the front boundary and connected to the reticulated sewerage system. The new 90m<sup>2</sup> outbuilding is situated directly behind the dwelling.

*Item 13.5.3 Continued*

The sole access to the site is from Rimmer Lane, which runs parallel to Royal Street and the Kenwick Link. The internal driveway, from Rimmer Lane to the proposed location of the ancillary accommodation, is approximately 80m in length and 4m in width. Accessibility is therefore limited to one exit.

**Planning Framework**Residential Development zone

Lot 31 is zoned Residential Development under Town Planning Scheme No. 6 (TPS 6). TPS 6's objective for 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 in pursuant to clause 7.4."*

No Outline Development Plan (ODP) has been prepared for the subject site and other adjacent similarly zoned properties and therefore there is no defined residential density code applicable.

Council, in resolving to grant approval to an outbuilding and ancillary accommodation on the subject lot in March 2010, determined that the proposed development would not prejudice the future planning of this Residential Development zone.

Guidance for Ancillary Accommodation Proposals

Ancillary Accommodation is defined in the following manner in TPS 6 and the Residential Design Codes (R Codes):

*"Self-contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling."*

Ancillary Accommodation is categorised as a D use in TPS 6, meaning it is not permitted unless the local government has exercised its discretion by granting planning approval.

Notwithstanding that the subject site presently has no residential density coding, relevant Acceptable Development standards of the R-Codes provide a basis for assessment of the subject proposal. These standards include limitations on the floor area of ancillary accommodation of 60m<sup>2</sup> (though Council has discretion to approve an increased floor area) and site cover.

**Fire Risk**

The subject site lies within an area rated as having a low to moderate fire risk, by virtue of its close proximity to the Canning River and the extent of vegetation contained along its foreshores. Building requirements apply for any new development in an area with a fire rating of moderate and above under State Planning Policy 3.4 (Natural Hazards and Disasters guidelines - Planning for Bush Fire Protection - May 2010). These requirements were not in place when the existing approval for ancillary accommodation was granted.

*Item 13.5.3 Continued*

Council's Fire Break Order (made under the *Bush Fire Act 1954*) does not require fire breaks on individual lots in this area, which would otherwise necessitate setbacks from lot boundaries. Council's Fire Break Order does however stipulate that all lots in the vicinity must remain slashed. Planning for Bush Fire Protection states that "where possible, battleaxe lots should be avoided in areas that are subject to a bush fire hazard level of moderate to extreme."

**DISCUSSION****Assessment**

Key aspects of the assessment of the proposal are discussed in turn.

Floor area

It is open to Council to approve a proposal for ancillary accommodation involving a floor area of greater than 60m<sup>2</sup>, where it considered to be consistent with the aims and objectives of TPS 6 and would meet the test of the new dwelling being ancillary to the primary dwelling (as opposed to be similar to or greater in size and scale).

The applicant's rationale for the proposed amended plans is consistent with the following aim of TPS 6, which is "to provide for a range of housing in neighbourhoods with a community identity and high levels of amenity."

Providing for wheelchair accessibility appears to be a key reason for increasing the floor area and would be consistent with the Scheme's aim to cater for a range of housing needs.

Bearing in mind that the existing dwelling is 148m<sup>2</sup> and the ancillary dwelling is to be 99m<sup>2</sup>, the new dwelling is considered to be ancillary to the main dwelling and therefore acceptable.

Orientation

Reorienting the ancillary accommodation in the manner proposed is consistent with the R-Codes design for climate and related TPS 6 objectives. Verandahs are supported as a means of achieving design for these objectives.

Site Cover

The proposed ancillary accommodation, with a floorspace of 99m<sup>2</sup>, in addition to its verandahs and the constructed dwelling and outbuilding, will increase the extent of building site coverage to approximately 382m<sup>2</sup>, which would be 22.6% of the area of the subject lot. The R-Codes have varying Acceptable Development site coverage requirements, depending on the applicable residential density coding. The requirements range from a maximum of 20% for low density coded areas of R2 and R2.5 to 55% for high density areas of R60 and greater.

Site cover of 22.6% would comply with the requirements of all but the R2 and R2.5 codes. It could reasonably be expected that a density coding of at least R20 will later be applied to the subject land, which has a site cover maximum of 50%. On this basis the extent of site cover that would result from approval of the proposal is considered acceptable.

*Item 13.5.3 Continued*

### Flood Fringe

The Department of Water has advised that it does not object to the proposal, subject to the minimum habitable floor level being 4.65m AHD to help ensure adequate flood protection. This will be recommended as a condition of development approval.

On-site effluent disposal would be environmentally unacceptable, given the riverside location of the subject lot. The cost of connecting to the Water Corporation's reticulated sewerage network has been discussed with the applicant. The distance involved, and slope of the land, may necessitate a pump. The applicant is aware of this issue, and will negotiate the outcome directly with the Water Corporation.

### Fire Risk

The subject lot's fire risk rating warrants the proposed ancillary accommodation being required to comply with Australian Standard 3959, consistent with State Planning Policy 3.4 and related guidelines. This will be recommended as a condition of development approval.

Similarly, a condition requiring maintenance of the 4m wide access way to provide for emergency vehicle access, together with a formed turning circle to allow light duty fire trucks to turn will also be recommended in view of the property's fire risk and its long driveway and single point of access. The applicant has agreed to comply with this safety requirement, which is consistent with the guidelines.

## **CONCLUSION**

The proposal is supported for the following reasons:

- Council resolved to grant approval to an outbuilding and ancillary accommodation on this lot in March, 2010 as the development would not prejudice the future planning of this Residential Development zone
- The proposed amended plan is generally consistent with TPS 6 and R-Codes provisions.

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

## **FINANCIAL IMPLICATIONS**

Nil.

## **STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6.

## **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.3 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**32 Moved Cr T Brown Seconded Cr W Barrett**

That Council approve the application for a revised plan for ancillary accommodation on 75 (Lot 31) Rimmer Lane, Kenwick, dated 7 November 2011, with this development approval being valid for a period of two years, subject to the following conditions:

1. The use of the ancillary accommodation shall be restricted to members of the family of the occupier of the main dwelling on the property. A Notification under Section 70A of the Transfer of Land Act is to be placed on the Title of Lot 31, at the expense of the applicant, to Council satisfaction. A copy of the receipt from Landgate of the Notification having been registered on the title of Lot 31, shall be submitted to the City with the application for a building licence.
2. The proposed ancillary accommodation is to be connected to the Water Corporation's reticulated sewerage system.
3. Provision of an additional parking space for the use of occupant(s) of the proposed Ancillary Accommodation, the location which is to be shown on a site plan submitted in respect of a building licence.
4. The submission of a drainage plan, to the satisfaction of the Manager Technical Services, indicating the manner by which stormwater drainage from the proposed building and paved areas is to be contained on the lot.
5. The minimum habitable floor level of 4.65m AHD is required to minimise flood damage risk. Development is required to achieve a minimum fill level equal to 500mm above the 1 in 100 year flood plain levels set by the Department of Water, to the satisfaction of the Manager Building Services. Any associated earthworks are to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
6. The proposed ancillary accommodation is to be upgraded to comply with AS 3959, as stipulated in the Western Australian Planning Commission's State Planning Policy 3.4 - Natural Hazards and Disasters guidelines - Planning for Bush Fire Protection (May 2010).
7. To ensure accessibility of the proposed ancillary accommodation for emergency service vehicles, the internal access way is to be maintained at a minimum width of 4 metres, with a suitable turning area for emergency vehicles at the southern end adjacent to the ancillary accommodation.

CARRIED 11/0

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

**AGAINST:** Nil.

**13.5.4 DEVELOPMENT APPLICATION - FAMILY DAY CARE - 9 (LOT 602)  
WETLANDS WAY, SOUTHERN RIVER**

Author: B Fantela  
Author's Declaration Nil.  
of Interest:  
Reference: 307298  
Application No: DA11/00351  
Applicant: R K Chhina  
Owner: R K Chhina and A S Aulakh  
Location: 9 (Lot 602) Wetlands Way, Southern River  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 582m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: Nil.

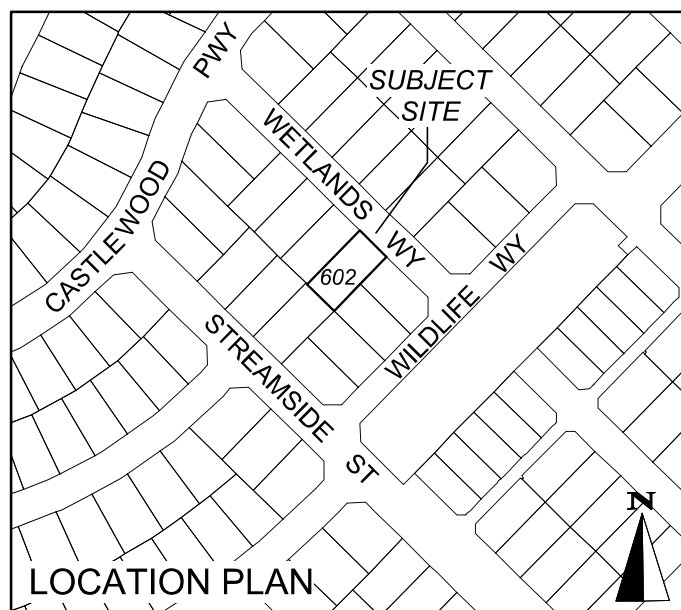
**PURPOSE OF REPORT**

For Council to consider an application for planning approval for Family Day Care at 9 (Lot 602) Wetlands Way, Southern River, as the proposal is outside the authority delegated to staff due to objections received during the advertising period.

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

The subject land is zoned Residential Development under Town Planning Scheme No. 6 (TPS 6) and contains a single dwelling.

A plan showing the location of the subject site follows.



Item 13.5.4 Continued

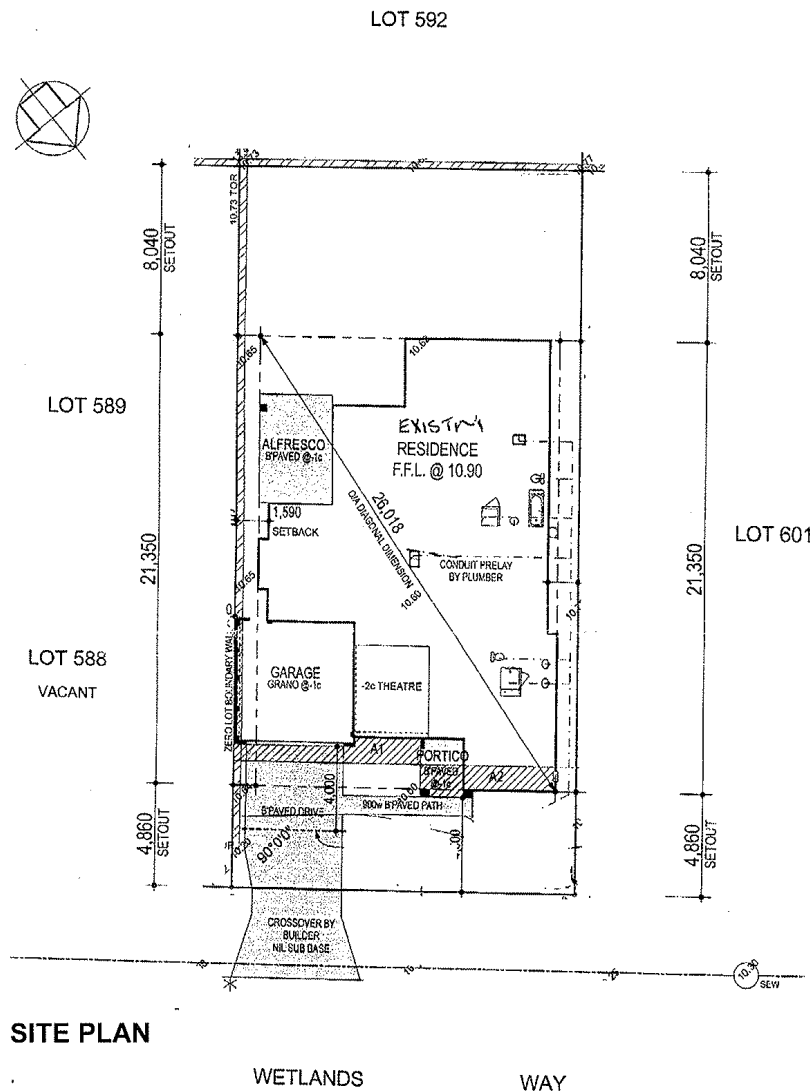
**Proposal**

An application has been submitted for planning approval to operate a Family Day Care at the subject property.

The applicant has indicated that the Family Day Care will involve the following operational details:

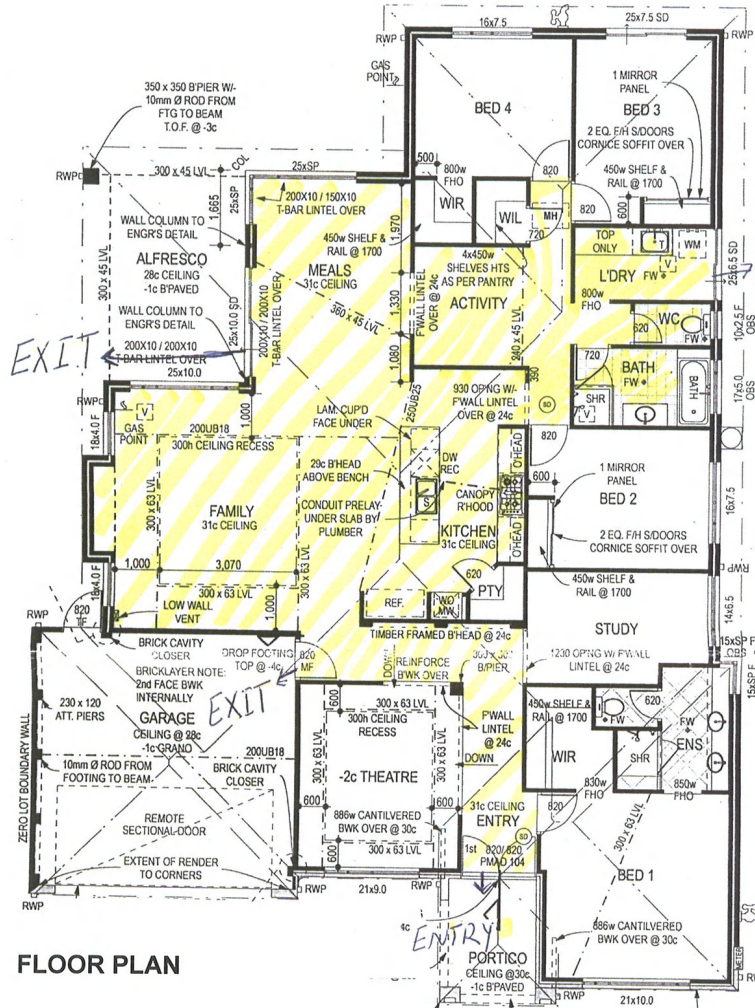
- The Family Day Care is to accommodate a maximum of seven children, including the applicant's child
- The hours of operation will be from 7:30am to 5pm, Monday to Friday
- Two car parking bays are located on the driveway in front of double garage
- The children will occupy the main living areas of the house shaded yellow on the floor plan that follows on the next page.

A site plan and floor plan follow.





Item 13.5.4 Continued



FLOOR PLAN

Consultation

The proposal was advertised to adjoining landowners for public comment for 14 days in accordance with TPS 6 and Home Base Activities Policy (LPP 2.5) requirements, during which time four submissions were received, two objecting to the proposal and two raising no-objection. A summary of these submissions and comments thereon follow:

1.	<b>Affected Property:</b> Name and Address withheld	<b>Postal Address:</b> Name and Address withheld
<b>Summary of Submission</b>		<b>Comment</b>
Objection to proposal. 1.1 Concerned about traffic 1.2 Concerned about parking and reversing onto street.		See Discussion section. See Discussion section.
2.	<b>Affected Property:</b> 8 (Lot 588) Wildlife Way Southern River	<b>Postal Address:</b> 24 Scribblygum Square Willetton WA 6155

Item 13.5.4 Continued

Summary of Submission	Comment
Objection to proposal 2.1 The family day care should operate in community hall or near school, not in residential area.  2.2 Concerned about drop off and pick up parking availability and safety for children.	Family day care operations are common place in residential zones. They provide for necessary social infrastructure. Schools are also located within residential areas. See Discussion section.

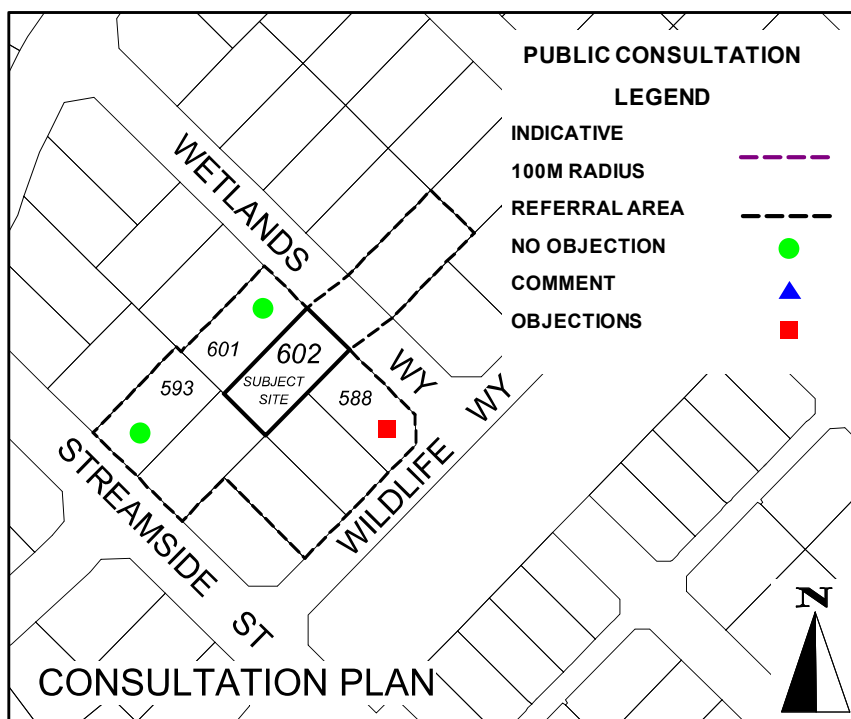
3.	<b>Affected Property:</b> 7 (Lot 601) Wetlands Way Southern River	<b>Postal Address:</b> 7 Wetlands Way Southern River WA 6110
----	---	--

Summary of Submission	Comment
No objection to proposal, subject to minimal impact of noise and traffic.	Noted. See Discussion section.

4.	<b>Affected Property:</b> 6 (Lot 593) Streamside Street Southern River	<b>Postal Address:</b> 6 Streamside Street Southern River WA 6110
----	--	---

Summary of Submission	Comment
No objection to proposal.	Noted.

A Consultation Plan showing the extent of the consultation area and the origin of the submissions follows.



*Item 13.5.4 Continued*

The main issues raised in the submissions are as follows:

- Traffic and parking
- Location

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

**DISCUSSION**

**Assessment**

Town Planning Scheme No. 6

In accordance with Table 1 of TPS 6, Family Day Care is a "P" use in the Residential Development zone which means that the use is permitted providing it complies with the relevant development standards and the requirements of the Scheme. 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 define Family Day Care as a *"child care service provided to a child in a private dwelling in a family or domestic environment."*

Home Based Activities Policy

The Home Based Activities 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 Policy is contained in the following table:

Ref	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 582m <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 applicant's child)
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 the existing driveway 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 has applied to operate between 7:30am and 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	No play area is shown on the submitted plans, however, a condition could be imposed if the proposal is to be approved requiring any play area to be setback 1.0m from lot boundaries.
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.

*Item 13.5.4 Continued*

As demonstrated above, the application complies with the requirements of the Policy, with the exception of the outdoor play area, which is not shown on submitted plan. As detailed above, the 1.0m setback could be imposed as condition of planning approval.

Traffic and parking

Concern has been raised about the possible increase in traffic generated from the Family Day Care operation. Given that the proposal involves the care of six children in addition to the applicant's child, it would be expected that there would be up to twelve vehicle movements per day associated with the Family Day Care. An increase of twelve vehicles per day would not be excessive in terms of what could be reasonably expected in an established residential area, nor would it have any material impact on the prevailing residential amenity of the area. Two additional car bays located on the driveway in front of garage is sufficient for visitors to park their vehicles.

Location

Family Day Care operations are typically located in residential zones and it is recognised that they assist in providing an essential service to the local community.

**CONCLUSION**

The proposal is supported for the following reasons:

- Family Day Care is typical in residential zones and it is recognised that they assist in providing an essential service to the local community
- The proposed Family Day Care 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, subject to appropriate conditions.

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
- Local Planning Policy - Home Based Activities.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.4 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**33 Moved Cr R Lawrence Seconded Cr R Hoffman**

That Council approve the application for Family Day Care at 9 (Lot 602) Wetlands Way, dated 20 October 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 7:30am and 5pm, Monday to Friday.
3. Employment of persons in the Family Day Care 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 or otherwise physically separated a minimum of 1.0m from the subject site's lot boundaries.

CARRIED 11/0

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

**AGAINST:** Nil.

**13.5.5 DEVELOPMENT APPLICATION - SCHEDULE 9A AMENDMENT FOR RECREATION - PRIVATE (GYMNASIUM) - UNIT 6, 5 (LOT 102 STRATA LOT 7) HUGHES STREET, CANNING VALE**

Author: A Thompson  
Author's Declaration Nil.  
of Interest:  
Reference: 310091  
Application No: DA11/00210  
Applicant: Chin Yong Koh  
Owner: Masterfield Pty Ltd (ATF Gecco Property Trust)  
Location: Unit 6, 5 (Lot 102 Strata Lot 7) Hughes Street, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Light Industry  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 3,396m<sup>2</sup>  
Previous Ref: OCM 13 September 2011 (Resolution 415)  
Appendix: 13.5.5A Site and Floor Plans

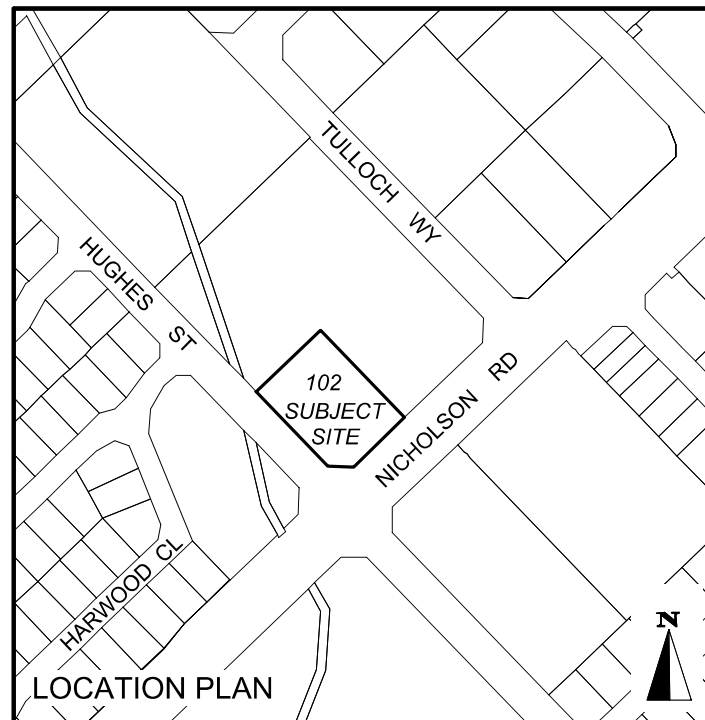
**PURPOSE OF REPORT**

For Council to consider an amendment to a planning approval for a gymnasium at Unit 6, 5 (Lot 102 Strata Lot 7) Hughes Street, Canning Vale as the application was previously determined by Council at its meeting of 13 September 2011.

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

The subject site is 3,396m<sup>2</sup> in area and contains five industrial units which were approved in 2008 for Showroom and Warehouse land uses. Unit 6 was originally approved as a Showroom, and on 13 September 2011 was approved for use as a Recreation - Private (Gymnasium). The property is zoned Light Industry under Town Planning Scheme No. 6 (TPS 6) and is located at the intersection of Nicholson Road and Hughes Street. The surrounding land uses include Industrial zoned land to the north and Residential zoned land to the south over Nicholson Road. A Public Open Space reserve is located to the west of the site over Hughes Road.

A map identifying the location of the property follows.

*Item 13.5.5 Continued***Site History**

On 13 September 2011, Council resolved (Resolution 415) to approve an application for Recreation - Private (Gymnasium) on the subject site. One of the conditions of approval required the applicant to secure reciprocal parking arrangements with the adjoining Lot 111 Tulloch Way, Canning Vale. Despite attempts by the applicant to secure this arrangement, the owner of Lot 111 (the Last Drop Tavern site) will not consent to a formal arrangement (ie legal agreement), however there is no objection to clients of the gymnasium parking on the tavern site in an informal arrangement.

It is important to note that the previous planning approval refers to the subject site as Unit 1A (Strata Lot 1), this has since changed following formal renumbering arrangements which caused the subject unit to become Unit 6, 5 (Lot 102 Strata Lot 7) Hughes Street, Canning Vale.

**Proposal**

The applicant has requested an amended application be considered on the grounds that a condition of a previous planning approval (relating to formal arrangements for reciprocal parking between the subject site and adjoining Lot 111) cannot be met. The proposal has therefore been modified, as follows:

- The operation of the proposed gymnasium is to remain the same as previously approved
- The provision of 11 carparking bays on site for the exclusive use of Unit 6, without the formal sharing of bays on adjoining Lot 111.

*Item 13.5.5 Continued*

The site plan and floor plan of the proposal remains unchanged, and are included as Appendix 13.5.5A.

**Consultation**

The application was not required to be advertised under TPS 6.

**DISCUSSION**

**Town Planning Scheme No. 6**

Land Use

In accordance with Table 1 of TPS 6, a Recreation - Private is a "D" use in the Light Industry zone, meaning that it is not permitted unless the local government has exercised its discretion by granting planning approval.

Car Parking

The reconsideration relates to a condition of planning approval imposed by the Council on 13 September 2011. Condition 1 of that Planning Approval states:

*"Satisfactory arrangements are to be made to ensure the provision of reciprocal parking between Lots 111 Tulloch Way and Lot 102 (Strata Lot 1) in order to facilitate reciprocal parking arrangements prior to the occupation of the buildings."*

The landowners have since advised that they are unable to attain formal reciprocal parking arrangements with the adjoining Lots 111. The adjoining Lot 111 landowner owner has advised that they are prepared to allow an informal reciprocal parking arrangement, however not involve the use of an easement and legal agreement to secure this. The applicant has therefore requested that Council reconsider the application with Condition 1 of the planning approval being removed.

The following table details the TPS 6 parking requirements and the parking available to Unit 6.

Use Class	TPS 6 Car Parking Standards	TPS 6 Car Parking Requirements	Car Parking Bays Provided
Recreation - Private			
Gym/Health Studio	1 space for every 10m <sup>2</sup> net floor area.	The application proposes 349m <sup>2</sup> of net floor area, therefore 35 car parking bays are required.	
Staff	1 space for every staff member present during peak operation.	Two staff will be present during peak operation, therefore two parking bays are required.	
TOTAL		A total of 37 parking bays are required by TPS 6.	A total of 11 bays have been provided on site for the exclusive use of Unit 6, however there is a total of 39 bays available on Lot 102.



*Item 13.5.5 Continued*

The parking allocated for the proposal is 26 bays short of the number of bays required by TPS 6. That said, while the Scheme required 37 bays for gym users based on floor area, the gymnasium's capacity has been limited to 30 people at any one time. Condition 3 of the Planning Approval dated 13 September 2011 stated:

*"The use of the gymnasium is to be limited to a maximum of 30 people at any one time. Group exercise classes are specifically not permitted under the terms of this approval."*

There are a total of 39 parking bays on the subject site, with 22 parking bays allocated to former Unit 1, now shared between Units 5A and 6, with 11 allocated for the exclusive use of Lot 6. There are six common parking bays for the site, providing a total of 17 parking bays which are able to be shared by Unit 6.

Clause 5.3.14 of TPS 6 states:

*"Where there are two separate and different developments with different hours of peak operation, but being located on the same lot or adjoining lots, the Council may permit a reduction of the required number of car parking bays on either or both lots, provided it is satisfied there would be no resultant lowering of safety, convenience and amenity standards and there is agreement to reciprocal use of some or all adjoining car parking bays."*

The applicant has provided correspondence from other landowners, namely Unit 6 and Unit 2, within the development confirming that an informal shared parking arrangement is supported. For Unit 2, this is considered appropriate given the peak hours of operation are different and will not materially affect each others use of the parking available. Peak usage for the gym is expected to be between 6am and 8am, and from 5pm to 7pm. Unit 2 is used as an office and peak hours are between 9am to 5pm and are therefore considered compatible. Unit 6 is used as an indoor simulated golf centre with opening hours of 7am to 10pm Monday to Saturday and 10am to 5pm Sunday. Peak operation for Unit 6 is between 4pm to 10pm Monday to Friday, which is similar to that of the proposed gymnasium. Whilst this is a similar peak period to that of the gymnasium, the bays from the office at Unit 2 become available after 5pm. Additionally, the other units on the site have all been approved as Showrooms, which generally operate during the day from Monday to Saturday, and occasionally on Sundays. For weekdays, the peak period is outside the general operating hours of a typical showroom.

Additionally the nature of the 24 hour use means that parking demand will be spread out more evenly than might normally occur with a conventional gym or fitness centre. The operation and content of the gymnasium is to be different to a standard gymnasium. The gymnasium has no child minding facilities, no group fitness classes, swimming pools, steam rooms and saunas which are typically associated with the larger gyms or fitness centres where group orientated activities are commonplace. The gymnasium consists of exercise equipment only. This results in limited numbers of people at the gym at any one time who attend as individuals, and at times to suit their personal schedules. In view of this a more dispersed attendance pattern than that at a conventional gymnasium can be reasonably expected.

It is important to note that whilst there is no formal arrangement in place for reciprocal parking at adjoining Lot 111 (currently a restaurant/brewery), the owner of the subject lot has agreed to an informal shared parking arrangement and it is expected that

*Item 13.5.5 Continued*

people visiting the premises would park wherever it is deemed most convenient regardless of the lack of any arrangement.

**CONCLUSION**

The modified proposal is supported for the following reasons:

- The nature of the gymnasium operation is such that a dispersed attendance pattern can be anticipated
- The proposed car parking provision is considered capable of accommodating the proposed use on site, with the existence of an informal parking arrangement with adjoining Lot 111.

It is therefore recommended that the proposal be approved subject to the existing conditions imposed under the planning approval dated 13 September 2011 subject to appropriate changes as discussed.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6.

**VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION</b>
-----------------------------

**Moved Cr R Mitchell Seconded Cr R Lawrence**

That Council approve the modified application dated 24 November 2011 for Recreation - Private at Unit 5B, 5 (Lot 102 Strata Lot 5) Hughes Street, Canning Vale, subject to the following conditions:

1. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
2. The use of the gymnasium is to be limited to a maximum of 30 people at any one time. Group exercise classes are specifically not permitted under the terms of this approval.

*Item 13.5.5 Continued*

Amendment

*During debate Cr O Searle moved the following amendment to the staff recommendation:*

*"That Council amend the staff recommendation and the report titled "13.5.5 - Development Application - Schedule 9a Amendment For Recreation - Private (Gymnasium) Unit 5B, 5 (Lot 102 Strata Lot 5) Hughes Street, Canning Vale" by deleting the words "Unit 5B, 5 (Lot 102 Strata Lot 5)" where they appear on the second line of the recommendation and throughout the report and substitute them with the words "Unit 6, 5 (Lot 102, Strata Lot 7)"."*

*Cr O Searle provided the following written reason for the proposed amendment:*

*"The property address has recently changed as the property has been re-subdivided".*

*Cr S Iwanyk Seconded Cr O Searle's proposed amendment.*

*At the conclusion of debate the Mayor put Cr O Searle's proposed amendment, which reads:*

**Moved Cr O Searle Seconded Cr S Iwanyk**

That Council amend the staff recommendation and the report titled "13.5.5 - Development Application - Schedule 9a Amendment For Recreation - Private (Gymnasium) Unit 5B, 5 (Lot 102 Strata Lot 5) Hughes Street, Canning Vale" by deleting the words "Unit 5B, 5 (Lot 102 Strata Lot 5)" where they appear on the second line of the recommendation and throughout the report and substitute them with the words "Unit 6, 5 (Lot 102, Strata Lot 7)".

with the amended recommendation to read;

"That Council approve the modified application dated 24 November 2011 for Recreation - Private at Unit 6, 5 (Lot 102 Strata Lot 7) Hughes Street, Canning Vale, subject to the following conditions:

1. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
2. The use of the gymnasium is to be limited to a maximum of 30 people at any one time. Group exercise classes are specifically not permitted under the terms of this approval."

CARRIED 11/0

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

**AGAINST:** *Nil.*

*Item 13.5.5 Continued*

*The amendment was put and carried with the amendment becoming the substantive motion. The Mayor then put the substantive motion, which reads:*

COUNCIL RESOLUTION
--------------------

**34 Moved Cr O Searle Seconded Cr S Iwanyk**

That Council approve the modified application dated 24 November 2011 for Recreation - Private at Unit 6, 5 (Lot 102 Strata Lot 7) Hughes Street, Canning Vale, subject to the following conditions:

1. A signage strategy being prepared for the proposal that indicates the location and type of signage to be used, to the satisfaction of the Director Planning and Sustainability, prior to the issue of a building licence.
2. The use of the gymnasium is to be limited to a maximum of 30 people at any one time. Group exercise classes are specifically not permitted under the terms of this approval.

CARRIED 11/0

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

**AGAINST:** *Nil.*

**13.5.6 INITIATION OF LEGAL PROCEEDINGS - RESERVE R36894 (LOT 3280)  
MADDINGTON ROAD, MADDINGTON - NON COMPLIANCE WITH TOWN  
PLANNING SCHEME NO. 6**

Author: J McDermott  
Author's Declaration Nil.  
of Interest:  
Reference: 235348  
Offender: Ian Gordan Stevens and Advanced Transportable Services  
Pty Ltd  
Address 218 (Lot 21) Maddington Road, Maddington  
Reference: 209331  
Previous Ref: Nil.  
Appendix: 13.5.6A Photographs

**PURPOSE OF REPORT**

For Council to authorise legal proceedings against Ian Gordan Stevens, the property owner of 218 (Lot 21) Maddington Road, Maddington and Advanced Transportable Services Pty Ltd for the unapproved development and use of abutting Local Open Space, being Reserve R36894 (Lot 3280) Maddington Road Maddington

**BACKGROUND**

R36894 is reserved as Local Open Space under the City's Town Planning Scheme No. 6 (TPS 6) and is owned by the State of Western Australia, with the care and control vested to the City. The reserve contains a section of Bickley Brook.

TPS 6 sub-clause 3.4.1 states:

*"A person must not:*

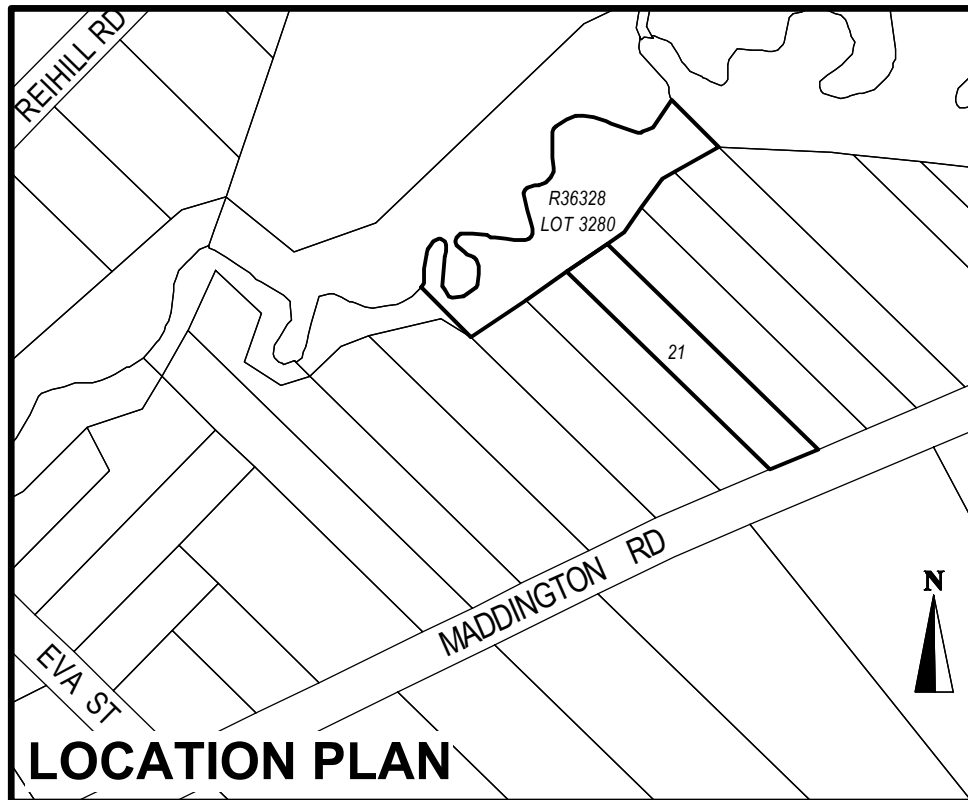
*(a) use a Local Reserve; or*

*(b) commence or carry out development on a Local Reserve,*

*without first having obtained planning approval under Part 9 of the Scheme."*

A location plan follows.

Item 13.5.6 Continued



### Site History

R36328 has been the subject of numerous complaints, due to its use by abutting properties for unauthorised activities without appropriate Council approval.

A site survey was conducted of the Bickley Brook in 2009, the outcome being that the concerns about storage on the reserve were confirmed.

In the ensuing period, there have been a series of exchanges with the owner of abutting Lot 21, during which time the City's requirements were clearly explained. The owner did respond by removing his vehicles from the reserve and digging an indentation across the boundary to prevent vehicle access, but most recently the problem has re-emerged.

### DISCUSSION

The City has made repeated efforts to have Mr Stevens comply with its requests not to use the reserve associated with the Bickley Brook.

Mr Stevens has been made fully aware of the need to not utilise the reserve for commercial purposes.

The affected site has now had fill placed on it to level the indentation initially made in the ground, to prevent vehicular access. The recent works have re-established that access.

*Item 13.5.6 Continued*

It is clear that Mr Stevens is using the reserve to store vehicles relating to his business, Advanced Transportable Services Pty Ltd, and is ignoring the Directions Notice, that was previously issued on 2 June 2011.

A further Direction Notice has been served on Mr Stevens, dated 7 February 2012, requesting rehabilitation of the reserve land, with specific requirements to allow for stormwater infiltration. The requirements are to be fulfilled by 12 April 2012.

Section 218(a) of the *Planning and Development Act 2005* (Act) provides that it is an offence to contravene a local planning scheme. Section 218(b) of the Act provides that it is an offence to continue to contravene a local planning scheme. Section 223 of the Act provides for a maximum penalty of \$200,000 for an offence and \$25,000 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 \$1,000,000 and \$125,000 respectively.

**CONCLUSION**

The owner of 218 Maddington Road Maddington and Advanced Transportable Services Pty Ltd, Mr Ian Gordan Stevens, has been made fully aware of the City's concern about unauthorised activities on the reserve land. He has been afforded generous and extended opportunities to comply with the requirements of City of Gosnells TPS 6. In light of this it is recommended that legal proceedings be initiated.

**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 TPS 6
- Planning and Development Act 2005
- Sentencing Act 2005.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.6 Continued

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION

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

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Mr Ian Gordan Stevens of 218 (Lot 21) Maddington Road Maddington for breach of Direction Notice issued under Section 214(2) and 214(3)(a)&(b) of the Planning and Development Act 2005.

CARRIED 11/0

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

**AGAINST:** Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION

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

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Advanced Transportable Services Pty Ltd of 218 (Lot 21) Maddington Road, Maddington, for unauthorised Commercial Vehicle Parking on Reserve R36894 (Lot 3280) Maddington Road Maddington.

CARRIED 11/0

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

**AGAINST:** Nil.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

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

That should the landowner of 218 (lot 21) Maddington Road, Maddington, not reinstate the subject site so as to be compliant with the Direction Notice (issued 7 February 2012) by 12 April 2012, the Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Ian Gordan Stevens, being the property owners of 218 (lot 21) Maddington Road, Maddington for the breach of the Direction Notice issued under Section 214(2) and 214(3)(a) & (b) Planning and Development Act 2005.

CARRIED 11/0

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

**AGAINST:** Nil.



**13.5.7 INITIATION OF LEGAL PROCEEDINGS - NON COMPLIANCE WITH SECTION 214 DIRECTIONS NOTICE - 101 (LOT 73) BROOK ROAD, KENWICK**

Author: N Simpecas  
Author's Declaration Nil.  
of Interest:  
Reference: 223817  
Owner: Graham Clive Palmer and Sandra Maxine Palmer  
Location: 101 (Lot 73) Brook Road, Kenwick  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: Nil.  
Area: 4.047ha  
Previous Ref: OCM 15 December 2010 (Resolution 634)  
Appendix: 13.5.7A Photographs

**PURPOSE OF REPORT**

For Council to authorise legal proceedings against the property owners of 101 (Lot 73) Brook Road, Kenwick for the following: unapproved developments, unapproved storage and failing to comply with a Direction Notice issued for unauthorised activities conducted on 101 (Lot 73) Brook Road, Kenwick.

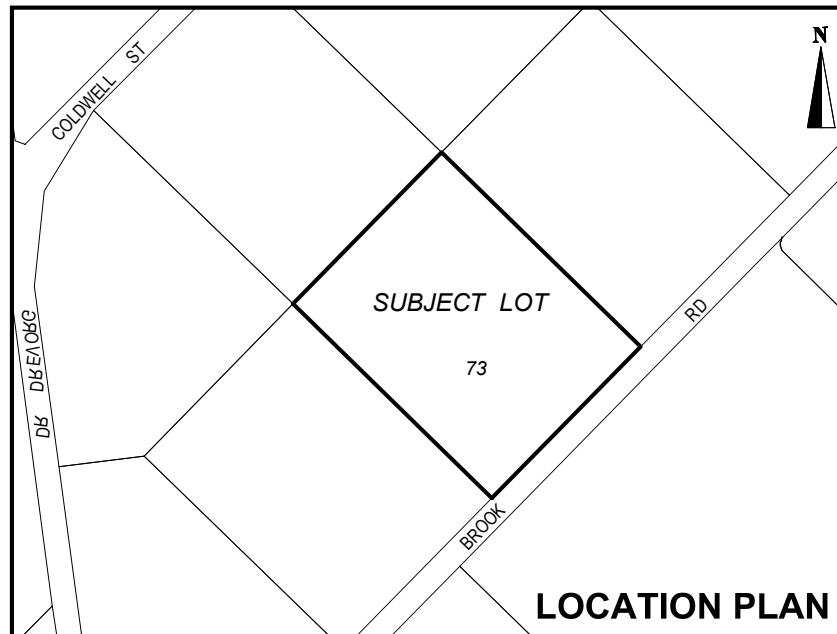
**Site Description and Planning Framework**

The subject site is zoned Rural in the Metropolitan Region Scheme (MRS) and General Rural under Town Planning Scheme No. 6 (TPS 6).

The property is located within the Maddington Kenwick Strategic Employment Area (MKSEA) Precinct 3B. Precinct 3B is the section bounded by Coldwell Road, Railway Reserve Lot 502 Edward Street, Bickley Road, Brook Road, and the City's boundary with the Shire of Kalamunda and is the third precinct in the MKSEA to be considered for potential Town Planning Scheme No. 6 (TPS 6) rezoning.

Yule Brook runs diagonally through the middle of the property and due to the topography of the area, the Yule Brook Flood Plain extends to over 75% of the subject property in accordance with Water Corporation Mapping. Therefore most of the property would be subject to significant constraints when considered for any future Industrial rezoning. The land owners are aware of the flood plain status of the property.

Item 13.5.7 Continued



## BACKGROUND

### Site History

On 23 December 2010 the City was made aware of an unauthorised, 75m long, soil bund which had been constructed adjacent to and parallel with the north west boundary of 101 (Lot 73) Brook Road, Kenwick. Large quantities of broken section ex-road bitumen, broken masonry building site type rubble, discarded paving, broken concrete slabs, broken pallets and piles of tyres were stored in the area behind the bund.

On 18 January 2011 following a number of attempts by the City's Planning Compliance Officer to discuss the matters, Mr Palmer advised that the detritus type materials on the property were intended for use in the construction of extensive hard stand. Mr Palmer was advised that any processing of the materials for the construction of the hard-stand should not occur on the subject property and should be removed from the property and processed at an authorised Industrial zoned property. Also Mr Palmer was informed that no further materials should be brought onto the property.

Mr Palmer was made aware of the requirement for development approval in respect of stored sea containers and of the intended hard stand and also that construction should not occur prior to any approval. A warning letter dated 24 January 2011 advising of the above matters, was issued to Graham and Sandra Palmer.

On 1 February 2011 from an adjoining property, three unauthorised trucks and a prime mover were observed parked on 101 Brook Road.

On 2 March 2011 Planning Compliance Officers observed evidence of more piles of rubble and large piles of processed bitumen and building rubble on the property.

*Item 13.5.7 Continued*

On 11 March 2011 three sea containers were observed on the property. A 'Nissen' hut roof type structure had been erected between two of the sea containers. Three unauthorised trucks were observed on the property.

On 15 March 2011 the City received a complaint regarding large quantities of dust emanating from 101 Brook Road and drifting onto a property in Grove Road, Kenwick. The dust issue was attended to by the City's Environmental Health Officer.

Despite assurances by Mr Palmer that he would submit a development application for the aforementioned activities by 8 April 2011, no such application was lodged. Subsequently a second warning letter was sent to Graham and Sandra Palmer.

On 18 May 2011 the City's Planning Compliance Officer observed piles of processed and unprocessed rubble and the above mentioned unauthorised activities still occurring on the property. A 1,800m<sup>2</sup> bituminised hard stand and a 7,100m<sup>2</sup> blue metal hard stand had been constructed on the property. It was evident that no drainage management plan had been implemented in the construction. This is despite Yule Brook running through the middle of the property and the potential effects of water run-off from the hardstand into the Brook. A development application has not been lodged with the City. The unauthorised sea containers were also observed still on the property.

On 17 June and 18 August 2011 the City's Planning Compliance Officer observed sand blasting activity emanating from within the 'Nissen' hut/sea container structure. This activity resulted in significant dust and noise emissions.

On 18 August the following was observed on the property: heavy duty mobile industrial screening equipment machines, other plant and equipment; fork lifts, and excavator, other unapproved sea containers, unapproved soil bund, unapproved hard stand, piles of mulch in excess of domestic requirements, mulch processing machine and piles of tyres, an unauthorised prime mover with semi trailer attached, one unattached semi trailer and four other unauthorised trucks.

On 31 August 2011 Direction Notices were issued to the owners of the property, requiring cessation of any unapproved storage and other unauthorised activities including the sand blasting. The Direction Notices also required the removal of unauthorised storage, plant and equipment. The unauthorised commercial vehicles are the subject of separate prosecution action pursuant to a previous Council resolution (OCM 15 December 2010, Resolution 634) that is presently before the Court.

On 9 September 2011 the City received a signed letter from Graham and Sandra Palmer advising that they had been renting out the hardstand for commercial use.

On 26 September, 7 October, 26 October and 4 November 2011 further evidence observed of sand blasting activities on site.

On 3 November 2011 The City's solicitors Lewis, Blyth and Hooper, initiated a prosecution against Graham Clive Palmer and Sandra Maxine Palmer for unauthorised commercial vehicle parking. The matter has been adjourned to trial, to be held on 11 April 2012.

*Item 13.5.7 Continued*

It should be noted that a number of the Direction Notice offences, including the sand blasting, are related to the unauthorised commercial vehicle parking (noting the sand blasting equipment is mounted on one of the unauthorised commercial vehicles).

On 4 November 2011, the City's Planning Compliance Officer observed further unauthorised commercial vehicle activities and non-compliance with Direction Notice activities, as described above, occurring on the property.

On 9 November 2011 due to Mr Palmer previously denying access to the subject property, the City's Planning Compliance Officer attended 101 Brook Road, Kenwick with Police assistance to gather more evidence for the aforementioned non-compliance and contraventions of the Scheme.

On 18 November 2011, the City's Planning Compliance Officers observed further unauthorised commercial vehicle activities and non-compliance with Direction Notice activities, as described above, occurring on the property.

On 18 January 2012, the City's Planning Compliance Officers observed further unauthorised commercial vehicle activities and non-compliance with Direction Notice activities, as described above, occurring on the property.

**DISCUSSION**

Graham and Sandra Palmer have either been directly involved in or have allowed the aforementioned activities to occur on the subject property. These are associated with relatively intensive industrial/commercial type activities on the site which are not permitted in the General Rural zone ("X" use).

Mr Palmer has been advised of the requirements under the TPS 6 respective to commercial vehicle parking and the storage of unauthorised materials and sea containers. Mr Palmer was also advised that no processing of the materials should occur on the subject property. However Mr Palmer allowed the unauthorised activities to continue contrary to the advice of the City.

Extensive areas of unapproved hardstand have been constructed. Subsequent illegal storage of heavy duty, mobile industrial screening equipment machines, other plant and equipment and further unauthorised commercial vehicle parking has occurred. Furthermore, storage of fork lifts, an excavator, industrial sandblasting equipment, including the unauthorised use of the equipment, are activities Mr Palmer has allowed to occur on the property, contrary to TPS 6.

The future outcomes of the MKSEA project and associated timeframes are not known at this time. Precinct 3B has significant environmental constraints including the Yule Brook floodplain issue. A report to Council is to be presented in the near future. The report will detail these environmental constraints and will provide options for Council consideration. In the meantime though the status-quo, as reflected in the General Rural zoning, remains.

Section 218 (a) of the *Planning and Development Act 2005* (Act) provides that it is an offence to contravene a local planning scheme. Section 218 (b) of the Act provides that it is an offence to continue to contravene a local planning scheme. Section 223 of the Act provides for a maximum penalty of \$200,000 for an offence and \$25,000 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

*Item 13.5.7 Continued*

offending party, that is, the maximum penalties increase to \$1,000,000 and \$125,000 respectively.

## **CONCLUSION**

Graham Palmer's defence for the aforementioned breaches of TPS 6 is based on his statement that the City is "not constitutional".

Graham Clive Palmer and Sandra Maxine Palmer are the registered owners of 101 (Lot 73) Brook Road, Kenwick. Mr and Mrs Palmer have been made aware of their responsibilities to fulfil the requirements of the Scheme and are not ignorant of those requirements.

## **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.

## **VOTING REQUIREMENTS**

Simple Majority required.

### **STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION**

#### **38 Moved Cr S Iwanyk Seconded Cr L Griffiths**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Graham Clive Palmer and Sandra Maxine Palmer for unauthorised developments, on 101 (Lot 73) Brook Road, Kenwick.

**CARRIED 11/0**

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

**AGAINST:** *Nil.*

### **STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION**

#### **39 Moved Cr S Iwanyk Seconded Cr L Griffiths**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Graham Clive Palmer and Sandra Maxine Palmer, being the owners of 101 (Lot 73) Brook Road, Kenwick, for failing to comply with a Direction Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

**CARRIED 11/0**

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

**AGAINST:** *Nil.*

**13.5.8 INITIATION OF LEGAL PROCEEDINGS - 13 (LOT 3) JADE STREET, MADDINGTON AND SUBURBAN SCRAP METALS PTY LTD - NON COMPLIANCE WITH TOWN PLANNING SCHEME NO. 6**

Author: D Charles  
Author's Declaration Nil.  
of Interest:  
Reference: 217848  
Owner: Garry J Farquhar and Jeanette T Farquhar  
Location: 13 (Lot 3) Jade Street, Maddington  
Zoning: MRS: Industrial  
TPS No. 6: General Industry  
Review Rights: Nil.  
Area: 3,263m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: 13.5.8A Photographs

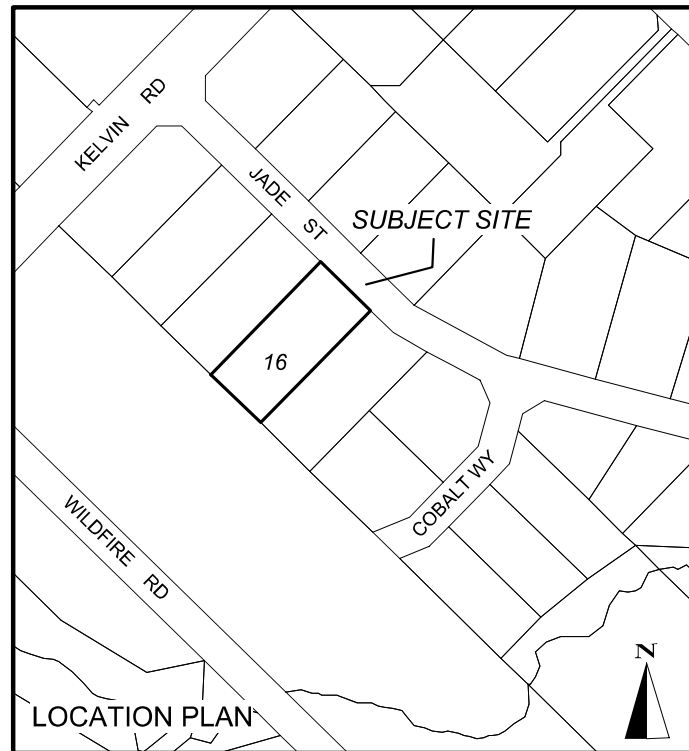
**PURPOSE OF REPORT**

For Council to authorise legal proceedings against the property owners of 13 (Lot 3) Jade Street, Maddington and Emmanuel Recyclers Pty Ltd trading as Suburban Scrap Metals, being Garry J Farquhar and Jeanette T Farquhar, for breaches of the *Planning and Development Act 2005* and the City of Gosnells Town Planning Scheme No. 6.

**BACKGROUND**

The subject property is zoned General Industry under the City of Gosnells Town Planning Scheme No. 6 (TPS 6). It accommodates a business, Emmanuel Recyclers Pty Ltd trading as Suburban Scrap Metals. The site has been the subject of several complaints from neighbouring businesses as well as multiple, similarly themed compliance actions regarding the unauthorised use of common property areas and breaches of conditions of approval.

A location plan follows.

*Item 13.5.8 Continued***Site History**

On 15 January 2009 the City received a complaint from the tenants of Units 1 and 2, 13 Jade Street Maddington stating they were unable to access their properties due to scrap metal and wrecked vehicles being left in the common access ways.

On 1 April 2009 the City sent a letter informing Mr Farquhar he was in breach of several of his development conditions pertaining to the storage of scrap metal and parking. The breaches included the front set back area being used to store metal bins, stacked vehicles and various other materials. Also, the amount of stored scrap metal was not contained within the defined scrap metal storage area and covered the areas set aside for truck and car parking, bin storage, sea container storage and for general scrap yard activities. Furthermore, the scrap metal stock piles were in excess of the approved 2 metre maximum height. A period of 28 days for rectification was allowed.

On 8 July 2009 a letter was sent again requiring metal bins and other unapproved items to be removed from the front setback and access ways and to reduce the size of the stockpiled scrap metal to the rear of the property.

On 15 September 2009 a letter requesting removal of plant and materials from the front setback of the property within 14 days was sent.

On 10 November 2009 a letter advising that Development Approval Conditions 6, 7 and 8 - being parking requirements, maximum stockpile sizes and front setback provisions - were again not being met. A period of 14 days was given to rectify these breaches.

*Item 13.5.8 Continued*

On 19 March 2010 the City again received a complaint from a neighbouring business citing scrap metal, bins and objects were being stored in the common access ways and the front setback hindering access to the complainants business.

During 2010, the City made several attempts to have the matter rectified with the cooperation of the landowner.

On 26 August 2011 a Section 214(2) and Section 214(3)(a) and (b) Directions Notice was sent requiring the clearing of the front setback, to achieve compliance with all development approval conditions set forth by the development approval dated 6 July 2010 and to not resume the illegal activity.

On 6 January 2012 multiple vehicle wrecks and scrap metal were stored in the front setback, miscellaneous items were stored in the common property as well as a flatbed truck laden with four vehicle wrecks and another flatbed truck parked upon the thoroughfare. The proprietor was informed he was in breach of the Directions Notice. The proprietor was advised that if all materials, machinery and equipment was removed by close of business 9 January 2012 that no further action would be taken in this particular instance.

On 10 January 2012 photographic evidence was obtained that plant and materials were again being stored within the front setback area and common access ways.

**DISCUSSION**

Most of the compliance based actions have centred on breaches of the same three conditions of approval, being the front setback provision, parking and stockpiling of scrap in excess of the maximum approved volume. Despite multiple contacts and negotiations the proprietors continue to breach their conditions and TPS 6.

Section 218(a) of the *Planning and Development Act 2005* (Act) provides that it is an offence to contravene a local planning scheme. Section 218(b) of the Act provides that it is an offence to continue to contravene a local planning scheme. Section 223 of the Act provides for a maximum penalty of \$200,000 for an offence and \$25,000 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 \$1,000,000 and \$125,000 respectively.

**CONCLUSION**

The owners of 3/13 (Lot 3 ) Jade Street Maddington, Garry J Farquhar and Jeanette T Farquhar, have been fully informed of the illegality of their breaches. They have been advised on numerous occasions, including the issuing of a directions notice, of their breaches and afforded multiple opportunities and time extensions to comply with the requirements of City of Gosnells Town Planning Scheme No. 6 and the Planning and Development Act 2005.

**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.



*Item 13.5.8 Continued*

## **STATUTORY IMPLICATIONS**

- City of Gosnells Town Planning Scheme No. 6
- Planning and Development Act 2005
- Sentencing Act 2005.

## **VOTING REQUIREMENTS**

Simple majority required.

STAFF RECOMMENDATION (1 OF 2)
-------------------------------

**Moved Cr R Hoffman Seconded Cr W Barrett**

That Council authorise the Director Planning and Sustainability to initiate legal proceedings against Garry J Farquhar and Jeanette T Farquhar, being the owner of 13 (Lot 3) Jade Street, Maddington, for breach of a Directions Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

STAFF RECOMMENDATION (2 OF 2)
-------------------------------

**Moved Cr R Hoffman Seconded Cr W Barrett**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Garry J Farquhar and Jeanette T Farquhar, being the owners of 13 (Lot 3) Jade Street, Maddington, for breaching Section 218(c) of the Planning and Development Act 2005 by using land for storage purposes contrary to conditions of planning approval and the provisions of Town Planning Scheme No. 6.

### Foreshadowed Motion

*During debate Cr R Mitchell foreshadowed that he would move the following motion:*

*"That Council defers consideration of initiating legal action against the owners of Lot 13 (3) Jade Street, Maddington, being Suburban Scrap Metals and G and JT Farquhar, to allow further time for the activities being undertaken on site to be brought into compliance with Town Planning Scheme 6."*

*if the motion under debate was defeated, providing the following written reason for the proposed amendment:*

*"The Owners have contacted the City with the aim of resolving the issues. If the matter was held in abeyance it would provide the opportunity for a mediated outcome to be implemented."*

Item 13.5.8 Continued

At the conclusion of debate the Mayor put the staff recommendations, which read:

STAFF RECOMMENDATION (1 OF 2)
-------------------------------

LOST
------

**Moved Cr R Hoffman Seconded Cr W Barrett**

That Council authorise the Director Planning and Sustainability to initiate legal proceedings against Garry J Farquhar and Jeanette T Farquhar, being the owner of 13 (Lot 3) Jade Street, Maddington, for breach of a Directions Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

LOST 1/10

**FOR:** Cr W Barrett

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

STAFF RECOMMENDATION (2 OF 2)
-------------------------------

LOST
------

**Moved Cr R Hoffman Seconded Cr W Barrett**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Garry J Farquhar and Jeanette T Farquhar, being the owners of 13 (Lot 3) Jade Street, Maddington, for breaching Section 218(c) of the Planning and Development Act 2005 by using land for storage purposes contrary to conditions of planning approval and the provisions of Town Planning Scheme No. 6.

LOST1/10

**FOR:** Cr W Barrett

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

Notation

As the staff recommendations were lost the Mayor invited Cr R Mitchell to put his foreshadowed motion, which Cr R Hoffman seconded.

COUNCIL RESOLUTION
--------------------

**40 Moved Cr R Mitchell Seconded Cr R Hoffman**

That Council defers consideration of initiating legal action against the owners of Lot 13 (3) Jade Street, Maddington, being Suburban Scrap Metals and G and JT Farquhar, to allow further time for the activities being undertaken on site to be brought into compliance with Town Planning Scheme 6.

CARRIED 10/1

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

**AGAINST:** Cr W Barrett.

**13.5.9 AMENDMENT NO. 132 TO TOWN PLANNING SCHEME NO. 6 -  
REZONING OF 1537 (LOT 50) AND 1539 (LOT 51) ALBANY HIGHWAY,  
BECKENHAM FROM RESIDENTIAL R17.5 TO OFFICE (RESTRICTED  
USE)**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 221347, 221356  
Application No: PF11/00040  
Applicant: The Land Division  
Owner: The Cam Superannuation Fund & A F and F Bempasciuto  
Location: 1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham  
Zoning: MRS: Urban  
TPS No. 6: Residential R17.5  
Review Rights: Initiation - none, however consent to advertise is subject to approval by the Western Australian Planning Commission.  
Area: 2,156m<sup>2</sup> (Combined)  
Previous Ref: Nil.  
Appendices: 13.5.9A Draft Town Planning Scheme No. 6 Amendment Map  
13.5.9B Indicative Development Concept Plan

**PURPOSE OF REPORT**

For Council to consider initiating an amendment to Town Planning Scheme No. 6 (TPS 6) for the purpose of rezoning 1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham from Residential R17.5 to Office.

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

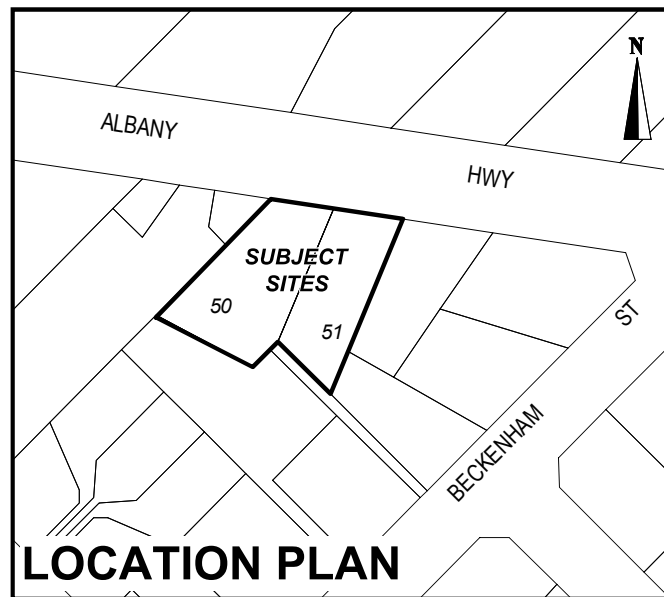
The subject lots have a combined land area of 2,156m<sup>2</sup> and front on to Albany Highway. They are irregular in shape and each contain an existing dwelling and associated structures.

The subject lot and abutting properties to the south and east are zoned Residential R17.5 under TPS 6 and contain single dwellings on lots ranging in size from 771m<sup>2</sup> to 1,500m<sup>2</sup>. The abutting lot to the north has an Office zoning under TPS 6 and has been developed for grouped dwellings at the Residential R60 density. A 25 metre high telecommunications tower is located on the neighbouring lot.

Light Industrial zoned land is located approximately 35 metres to the north and west of the site and commercial zoned land (Mixed Business and Local Centre) is located approximately 450m west of the site (along Albany Highway). Land on the opposite side of Albany Highway is zoned Special Use under TPS 6 which permits various commercial and residential uses.

A plan identifying the location of the site follows.

Item 13.5.9 Continued



**Proposal**

The proposed Scheme Amendment involves rezoning 1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham from Residential R17.5 to Office and inserting the following in to Schedule 3 - Restricted Uses of the Scheme Text:

No.	Description of Land	Restricted Use	Conditions
8	1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham	1. "P", "D" and "A" uses in the Office zone, excluding the following uses: Betting Agency, Cinema/Theatre, Club Premises, Convenience Store, Nightclub, Place of Worship, Home Store, Tavern, Recreation - Private, Reception Centre and Restaurant.	1. Any residential development must be undertaken in association with a non-residential use.

A copy of the draft TPS 6 amendment map is attached as Appendix 13.5.9A.

The applicant has provided a development concept plan for the subject land. While it is only indicative and would not be binding, it shows the development of a two-storey mixed use development including offices and a medical centre, and eight multiple dwellings. The concept plan is contained in Appendix 13.5.9B.

*Item 13.5.9 Continued*

## **DISCUSSION**

### **Appropriateness of the Zoning**

In terms of the appropriateness of the proposed zoning for the subject site, Council should have regard to the following characteristics of nearby land:

- The adjoining lot was developed into grouped dwellings, with no commercial element, at the Residential R60 zoning, as is permitted under the Office zoning. It was apparently approved on the basis that it would provide a suitable buffer between existing residences and the adjacent Light Industry development to the west, and that any amenity impacts associated with the existence of the telecommunication tower would be clearly obvious to any prospective purchasers of the dwelling.
- The land abutting pt lot 50 is zoned Office and has the same Restricted Uses under Schedule 3 of TPS 6 as what is proposed in the subject amendment. This site has been developed into grouped dwellings, with no commercial element, at the Residential R60 zoning, as is permitted under the Office zoning. However the development contains no commercial element.
- Land to the north and west of the site is zoned Light Industry under TPS 6
- Land on the opposite side of Albany Highway is zoned Special Use under TPS 6 which permits various commercial uses on the portion of the site which abuts Light Industrial zoned land to the north-west, and residential uses on the part which abuts residential zoned land to the south-east.
- Commercial zoned land (Mixed Business and Local Centre) is located approximately 450m west of the site (along Albany Highway)
- Land further north-east of the site has a medium residential density zoning (Residential R30 - R60)
- A 25m high telecommunications tower is located on the neighbouring lot
- The subject land fronts Albany Highway, which is classified as a Primary Distributor Road under the Perth Metropolitan Functional Road Hierarchy, which is controlled by Main Roads WA
- The property is located within one kilometre of the Beckenham Train Station.

Based on the characteristics of the land and surrounding area, it is considered that the proposed amendment is appropriate to initiate for the following reasons:

- The proposed zoning will act as a transition zone between the Beckenham Light Industrial area to the north and west, and residential zoned land to the south and east
- The uses which are permitted in the Office zone and the proposed Restricted Uses under Schedule 3 of TPS 6 can provide for low-impact non-retail commercial uses
- The proposed condition under Schedule 3 of TPS 6 which requires that residential development must be undertaken in association with a non-residential use. This will mean that the site will not be developed into

*Item 13.5.9 Continued*

purely residential dwellings, similar to what has occurred on the adjoining Office zoned lot

- The proposed zoning is consistent with the zoning of the adjoining property on the north-western boundary
- The proposed zoning will be complementary to the existing commercial and light industrial uses to the north and west of the site
- The subject site currently has a low level of amenity due to the presence of a 25 metre high telecommunications tower on the adjoining lot to the west, the nearby Light Industrial land uses and Albany Highway being a major road
- Land to the north of the site has a medium residential density zoning (R30-R60) therefore aiding the viability of commercial land uses on the subject site.

**Traffic**

It is not anticipated that the proposed scheme amendment will generate traffic that is outside the capacity of the existing road network (Albany Highway). It should be noted that any development will require planning approval and is likely to be accompanied by a traffic statement addressing any potential traffic issues.

**CONCLUSION**

It will be recommended that the proposed Scheme Amendment be initiated for the following reasons:

- The proposed zoning will provide for low-impact non-retail commercial uses and act as a transition zone between the Beckenham Light Industrial area and residential zoned land
- The site currently possesses a low level of amenity for the purposes of residential uses due to the presence of a 25m high telecommunications tower on an adjoining lot and the existence of light industrial and commercial land uses in the area
- The rezoning will not lead to an increase in traffic that is outside the capacity of the existing road network.

**FINANCIAL IMPLICATIONS**

All costs associated with the Scheme Amendment will be borne by the applicant.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- Town Planning Regulations 1967.

**VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.9 Continued

**STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION**

**41 Moved Cr T Brown Seconded Cr R Mitchell**

That Council pursuant to Section 75 of the Planning and Development Act 2005, initiate Amendment No. 132 to Town Planning Scheme No. 6 by rezoning 1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham from Residential R17.5 to Office, and including the following text in Schedule 3 - Restricted Uses:

No.	Description of Land	Restricted Use	Conditions
8	1537 (Lot 50) and 1539 (Lot 51) Albany Highway, Beckenham	1. "P", "D" and "A" uses in the Office zone, excluding the following uses: Betting Agency, Cinema/Theatre, Club Premises, Convenience Store, Nightclub, Place of Worship, Home Store, Tavern, Recreation - Private, Reception Centre and Restaurant.	1. Any residential development must be undertaken in association with a non-residential use.

**CARRIED 11/0**

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

**AGAINST:** Nil.

**STAFF RECOMMENDATION (2 OF 2) AND COUNCIL RESOLUTION**

**42 Moved Cr T Brown Seconded Cr R Mitchell**

That Council forward Amendment No. 132 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 information.

and subject to no objection being received from the Environmental Protection Authority, advertise the amendment for public comment for a period of 42 days to the satisfaction of the Director Planning and Sustainability.

**CARRIED 11/0**

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

**AGAINST:** Nil.

**13.5.10 DEVELOPMENT APPLICATION - NINE MULTIPLE DWELLINGS -  
25 (LOT 20) CAMBERWELL STREET, BECKENHAM (*ITEM BROUGHT  
FORWARD - REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 "Items Brought Forward for the Convenience of those in the Public Gallery" as the first report in these Minutes.



**13.5.11 MINOR MODIFICATIONS TO SOUTHERN RIVER PRECINCT 2 PHASE 2  
OUTLINE DEVELOPMENT PLAN - LOT 9014 FURLEY ROAD,  
SOUTHERN RIVER**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 304516  
Application No: PF11/00041  
Applicant: Roberts Day Town Planning and Design  
Owner: Emanuel Exports Pty Ltd  
Location: Lot 9014 Furley Road, Southern River  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 4.3905ha  
Previous Ref: OCM 14 July 2009 (Resolution 329)  
Appendices: 13.5.11A Current Southern River Precinct 2 Phase 2 Outline Development Plan  
13.5.11B Approved Subdivision Layout  
13.5.11C Proposed Southern River Precinct 2 Phase 2 Outline Development Plan

**PURPOSE OF REPORT**

For Council to consider a minor modification to the Southern River Precinct 2 Phase 2 Outline Development Plan (ODP) which relates to Lot 9014 Furley Road, Southern River, as the proposal is outside the authority delegated to staff.

**BACKGROUND**

On 14 July 2009 Council considered a proposed ODP for the Southern River Precinct 2 Phase 2 area and resolved (Resolution 329) to adopt it pursuant to Clause 7.4.7(a) of Town Planning Scheme No. 6 (TPS 6) and refer it to the Western Australian Planning Commission (WAPC) for approval. The WAPC subsequently approved the ODP on 1 December 2009. A copy of the approved ODP is contained as Appendix 13.5.11A.

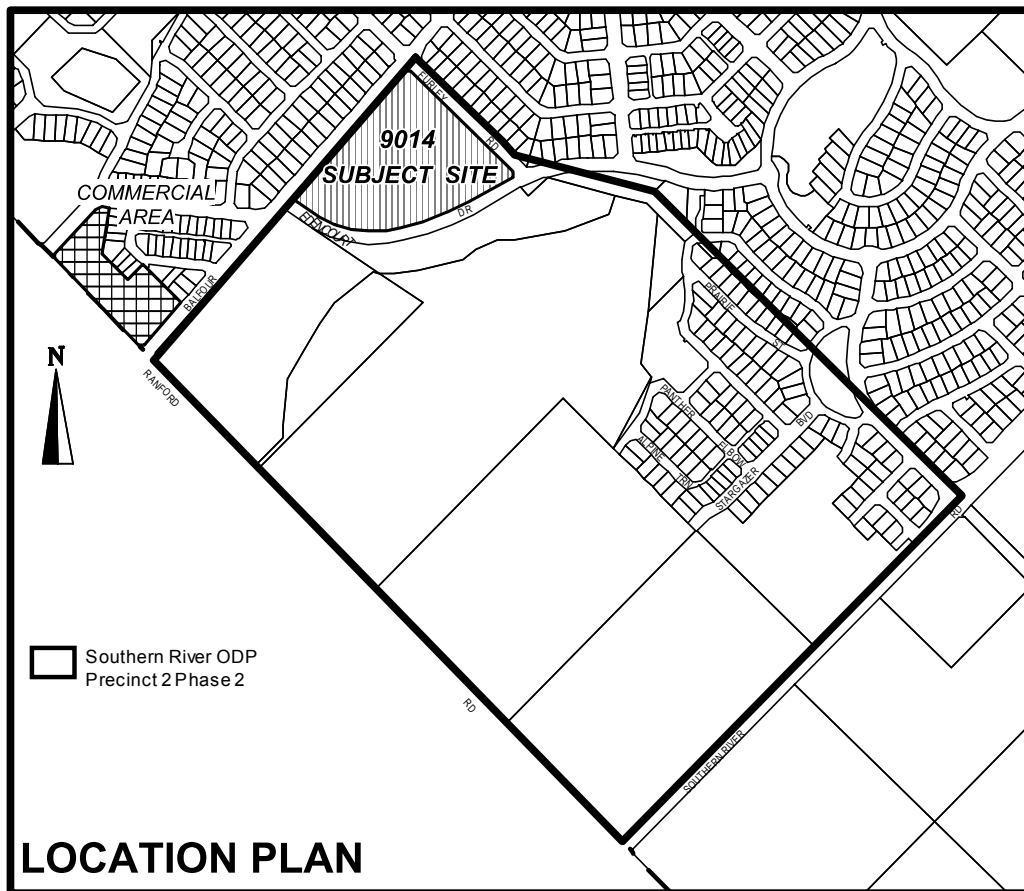
The Southern River Precinct 2 Phase 2 ODP covers the 71.2058ha area bound by Balfour Street to the north-west, Furley Road to the north-east, Southern River Road to the south-east and Ranford Road to the south-west.

The proposed ODP modification relates to Lot 9014 Furley Road, Southern River which is 4.3905ha in area and bound by Edencourt Drive to the south, Balfour Street to the north-west and Furley Road to the north-east. The lot is designated with a Residential R20 zoning under the ODP.

On 29 August 2011 the WAPC approved a subdivision application on Lot 9014 which involved the creation of 63 single dwelling lots ranging in size from 439m<sup>2</sup> to 729m<sup>2</sup> and one 'grouped dwelling' lot of 4,144m<sup>2</sup>. A plan showing the approved subdivision layout is contained as Appendix 13.5.11B.

Item 13.5.11 Continued

A map showing the location of the property follows.



**Proposal**

The proposed modification to the Precinct 2 Phase 2 ODP involves recoding of the grouped dwelling lot from R20 to R40. The proposed modification to the ODP is reflected on the plan contained in Appendix 13.5.11C.

**Consultation**

The proposal was not required to be advertised for public comment as it is considered to be a minor amendment that is unlikely to materially impact on adjoining or nearby properties.

**DISCUSSION**

**Residential Density**

The proposed modification to the ODP involves a change from Residential R20 to Residential R40. The subject site is approximately 350m from a commercial centre and is also located within close proximity to public open space and public transport. Locating areas of higher residential density near such facilities and services is consistent with the principles of the City's Local Housing Strategy and other medium density sites in the ODP area.

*Item 13.5.11 Continued*

The proposed modification will provide for a more compact urban form and housing diversity. The modification will not have any adverse impacts on other properties in the ODP and is therefore supported.

**CONCLUSION**

The proposed modification to the ODP does not materially alter the intent of the ODP and provides for a more appropriate and easily achievable development outcome. It will therefore be recommended that the proposed modification be approved.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

A proposal for a change or departure from an ODP is administered and assessed through Clause 7.5 of TPS 6 and Part 1 of Local Planning Policy 3.1 - Minor Changes to Outline Development Plans.

**VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION
--

**43 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, in accordance with Clause 7.5.1 of Town Planning Scheme No. 6, adopt the proposed modification to the Southern River Precinct 2 Phase 2 Outline Development Plan dated 14 October 2011 with respect to Lot 9014 Furley Road, Southern River as contained in Appendix 13.5.11C.

CARRIED 11/0

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

**AGAINST:** *Nil.*

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

**44 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, in accordance with Clause 7.5.2(a) of Town Planning Scheme No. 6, refer the modified Southern River Precinct 2 Phase 2 Outline Development Plan to the Western Australian Planning Commission for approval.

CARRIED 11/0

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

**AGAINST:** *Nil.*

**13.5.12 DEVELOPMENT APPLICATION - WIND TURBINE - 67 (LOT 5025)  
CONNELL AVENUE, MARTIN**

Author: B Fantela  
Author's Declaration Nil.  
of Interest:  
Reference: 203749  
Application No: DA11/00308  
Applicant: A George  
Owner: A George  
Location: 67 (Lot 5025) Connell Avenue, Martin  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 2.2ha  
Previous Ref: Nil.  
Appendices: 13.5.12A Location on Aerial Photograph  
13.5.12B Elevation and Detailed Site Plan  
13.5.12C Wind Turbine Technical Details

**PURPOSE OF REPORT**

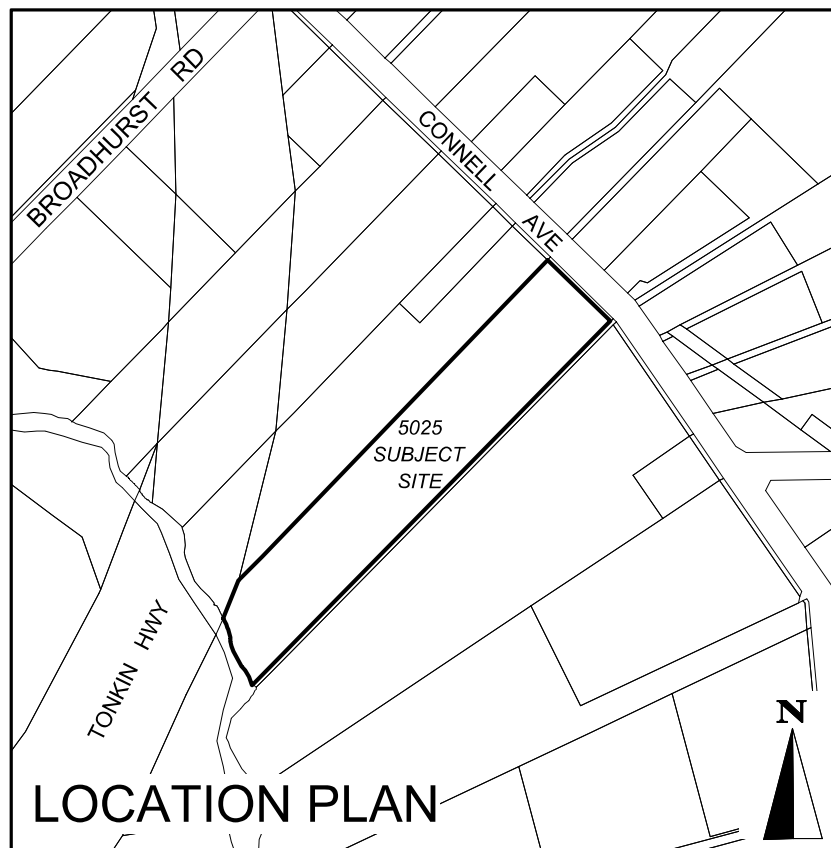
For Council to consider an application for planning approval for a Wind Turbine at 67 (Lot 5025) Connell Avenue, Martin. Determination by Council is seen as appropriate as the proposal is the first of its type within the City and is likely to be a precursor for other similar applications.

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

The subject site is 2.2ha in area and accommodates a single residence and two outbuildings. The site is bounded by Connell Avenue to the northeast and Tonkin Highway and Canning River to the southwest. The land falls from Connell Avenue to the Canning River.

The property is zoned General Rural under TPS 6. Surrounding land is characterised by large rural lots to the south western side of Connell Avenue and smaller rural lots on the northeast side of the street.

A map identifying the location of the subject site follows.

*Item 13.5.12 Continued***Proposal**

The application involves the following:

- The applicant seeks planning approval for a wind turbine of 2kW.
- The wind turbine is located behind the residence and is setback 60m from the Connell Avenue front boundary.
- The proposed wind turbine is 13m high with a blade diameter of 3.2m.
- Noise emissions are advised as being in the range 30dB to 60dB.
- The wind turbine will provide an energy source for the dwelling on the property.

A location on aerial photograph, elevation and detailed specification of proposed wind turbine are contained in Appendices 13.5.12A, 13.5.12B and 13.5.12C.

A site plan follows.

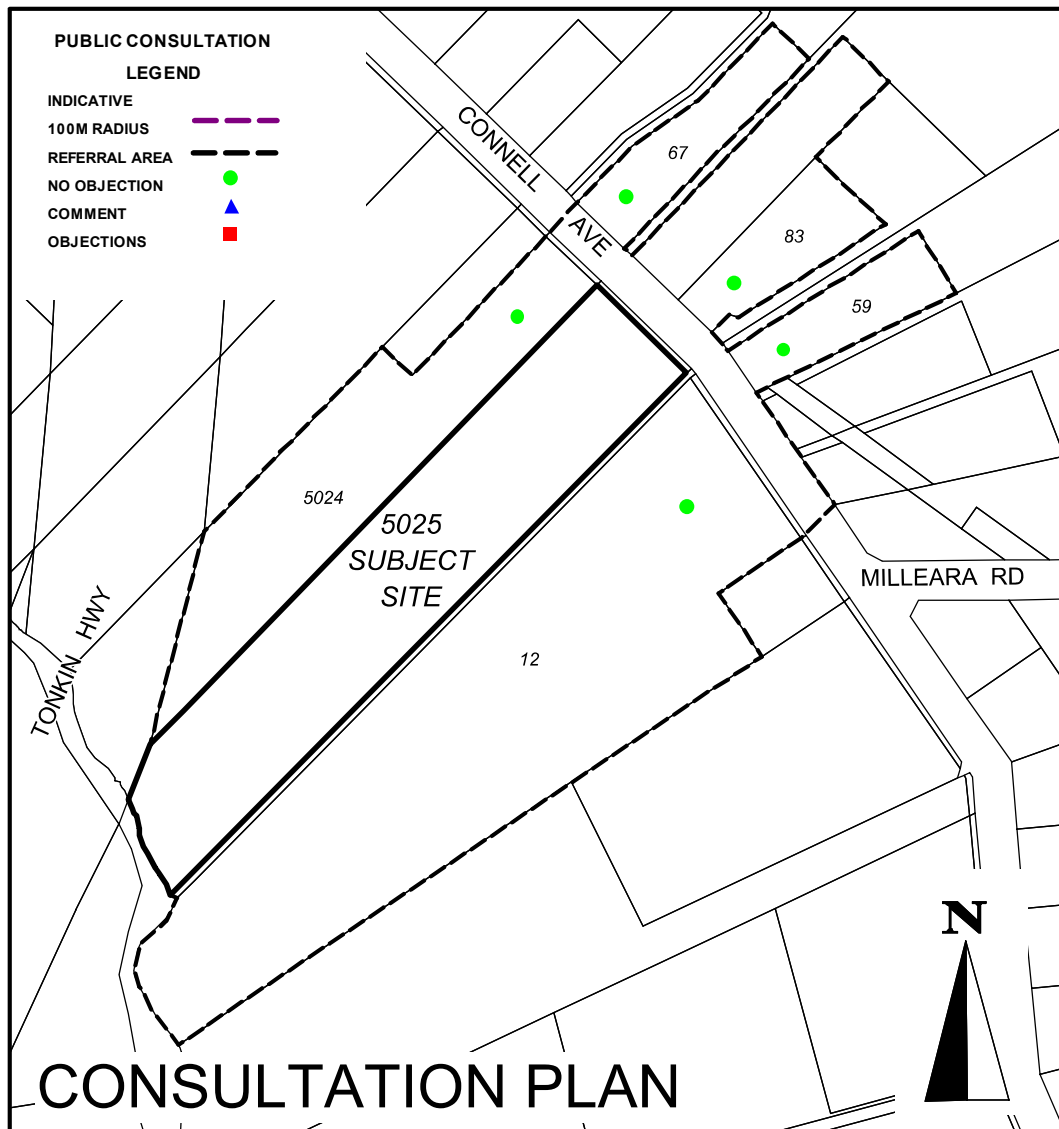


Item 13.5.12 Continued

**Consultation**

The applicant has submitted letters of non objections from five nearby property owners. The proposal was also advertised for 14 days in accordance with TPS 6 and policy requirements to the owner of a vacant site on Connell Avenue directly opposite the subject site.

A map identifying location of each submission follows.



*Item 13.5.12 Continued*

## **DISCUSSION**

### **Noise Emissions**

The proposed wind turbine is rated at 2kW (kilowatts) and is considered a relatively small type of its kind. Advised noise emissions are anticipated as being minor and within the range of ordinary conversation levels at close distances to the source and may be characterised as being low level emissions that are not problematic in terms of adverse amenity impacts for nearby properties. If Council approves the application, compliance with the Environmental Protection (Noise) Regulations 1997 will be required as a matter of course.

### **Visual Impacts**

The visual impact of a wind turbine is similar to a windmill which commonly occurs on a rural property, used mainly to pump water. The wind turbine is a modern version of windmill, but taller and designed to generate energy. The proposed wind turbine will be located 60m from Connell Avenue to the rear of the existing dwelling. The fall from Connell Avenue to the turbine tower site is approximately 4m. The dwelling and the fall of the land will significantly screen the turbine from view of the road. Existing trees/vegetation on abutting lots will screen the turbine from view of nearby dwellings. The proposal is not therefore anticipated to generate any significant detrimental visual impacts and therefore is not considered to detract from the rural character and amenity of the locality.

### **Other Considerations**

The wind turbine is unlikely to pose a significant risk to bird life as it is located within an existing cleared area on the subject land.

This development could be considered an example for more wind turbines in the City of Gosnells. As a general principle such technology is seen as desirable in terms of sustainable energy production. It does need to be acknowledged though that wind turbines also have the potential for negative impacts on local amenity, dependent on scale and location. It is anticipated that such proposals will become more common in the future as a consequence of rising energy costs and changing public attitudes. The City is currently preparing a policy on this type of development for future reference.

## **CONCLUSION**

The proposal is supported for the following reasons:

- The proposed wind turbine will not cause detrimental visual or noise impacts on the amenity of the locality
- It is consistent with the objectives of the General Rural zoned land.

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



*Item 13.5.12 Continued*

## FINANCIAL IMPLICATIONS

Nil.

## STATUTORY IMPLICATIONS

Town Planning Scheme No. 6.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION
--

### 45 Moved Cr R Lawrence Seconded Cr T Brown

That Council approve the application for a Wind Turbine at 67 (Lot 5025) Connell Avenue, Southern River, dated 8 November 2012 subject to the following condition:

1. The wind turbine shall be maintained at all times in good operating order to minimise the generation of noise.

CARRIED 11/0

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

**AGAINST:** *Nil.*

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

### 46 Moved Cr R Lawrence Seconded Cr T Brown

That a draft policy on Wind Turbines be prepared for the future consideration of the Council.

CARRIED 11/0

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

**AGAINST:** *Nil.*

**13.5.13 DEVELOPMENT APPLICATION - PLACE OF WORSHIP, MULTI-PURPOSE BUILDING, CAFÉ (RESTAURANT), SHOPS AND OFFICES - 225 (LOT 282) CAMPBELL ROAD, CANNING VALE (*ITEM BROUGHT FORWARD - REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 "Items Brought Forward for the Convenience of those in the Public Gallery" as the second report in these Minutes.

**13.5.14 DEVELOPMENT APPLICATION - HOME OCCUPATION - CAKE BAKING AND COOKING CLASSES - 44 (LOT 450) BROOKSIDE SQUARE, CANNING VALE**

Author: J Carmody  
Author's Declaration Nil.  
of Interest:  
Reference: 220167  
Application No: DA11/00398  
Applicant: Kathleen Melling  
Owner: Paul and Kathleen Melling  
Location: 44 (Lot 450) Brookside Square, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: 17.5  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 801m<sup>2</sup>  
Appendices: 13.5.14A Floor Plan  
13.5.14B Site Plan

**PURPOSE OF REPORT**

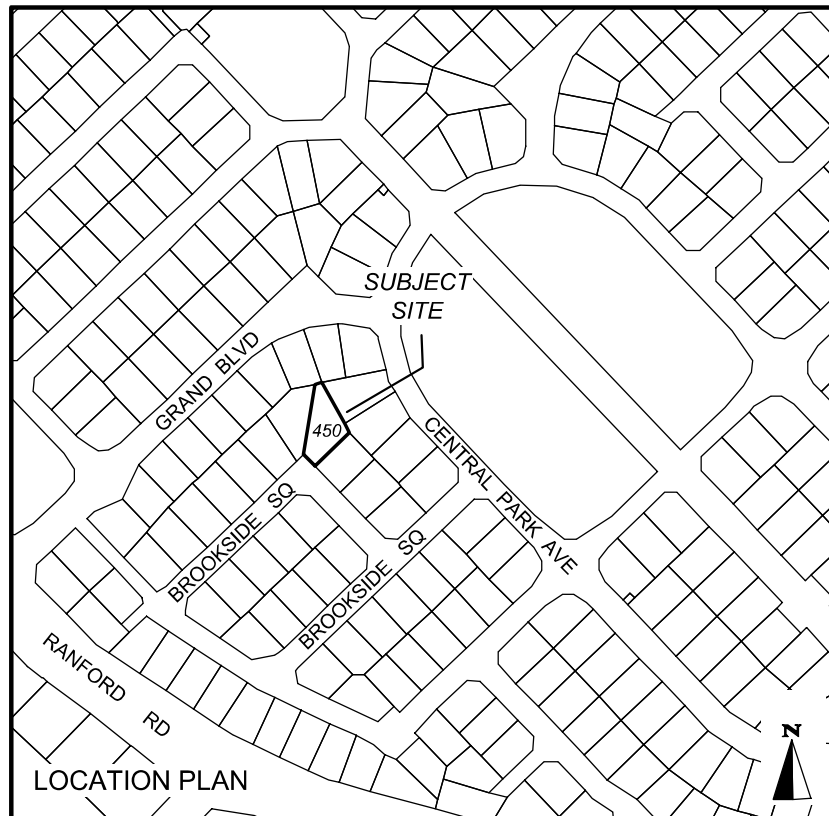
For Council to consider an application a Home Business involving cake baking and cooking classes at 44 (Lot 450) Brookside Square, Canning Vale, as the proposal is outside the authority delegated to staff due to an objection received during the advertising period.

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

The subject property is 801m<sup>2</sup> in area, and contains a single dwelling. The property is zoned Residential R30 under the Town Planning Scheme No. 6 (TPS 6) and Urban under the Metropolitan Region Scheme (MRS).

A map identifying the location of the property follows.

## Item 13.5.14 Continued

**Proposal**

The applicant is seeking approval for a proposed Home Business involving cake baking and cooking classes, the details of which are as follows:

- Cooking lessons conducted from the applicant's home for friends and work colleagues, no more than twice a month for a maximum of 6 people
- Cakes, biscuits and muffin baking and decorating for online orders, working about 14 hours per fortnight, with all cakes delivered by the applicant
- An occupation area of 34.5m<sup>2</sup>
- Hours of operation for cooking classes from 5pm till 9pm weeknights, and 8am - 3pm for cake baking.

A site and floor plan are contained in Appendix 13.5.14A and 13.5.14B.

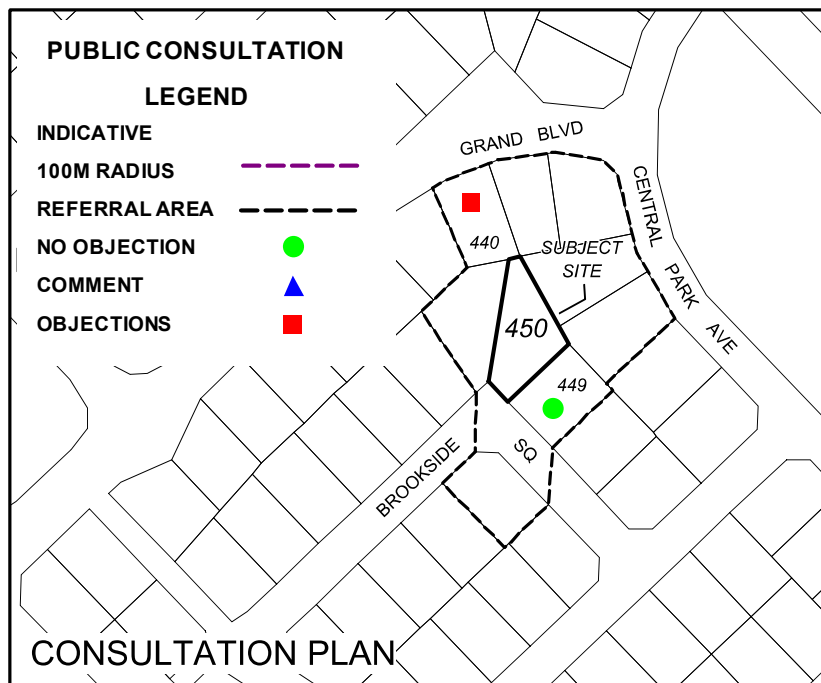
**Consultation**

The proposal was advertised for public comment for 28 days in accordance with the Home Based Activities policy requirements, during which time two submissions were received including one objection to the proposal. A summary of the submissions and comments thereon follows.

Item 13.5.14 Continued

1	<b>Affected Property:</b> 44 (Lot 450) Brookside Square Canning Vale	<b>Postal Address:</b> 44 Brookside Square CANNING VALE, WA, 6155
<b>Summary of Submission</b>		<b>Comment</b>
Objection to proposal. Possibility of abuse of operating hours and noise generation and heavy traffic through Grand Boulevard and Central Avenue which is already bad.		See comments under Traffic, Hours of Operation and Amenity sections of this report.
2	<b>Affected Property:</b> 46 (Lot 449) Brookside Square Canning Vale	<b>Postal Address:</b> 46 Brookside Square CANNING VALE, WA, 6155
<b>Summary of Submission</b>		<b>Comment</b>
No objection to proposal.		Noted.

A map identifying the origin of the submissions follows:



**DISCUSSION**

**Town Planning Scheme No. 6**

The proposed development involves the use class of Home Business in TPS 6. A Home Business is defined under TPS 6 as follows:

*“home business” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:*

- a) *does not employ more than 2 people not members of the occupier’s household;*

Item 13.5.14 Continued

- b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*
- c) *does not occupy an area greater than 50 square metres;*
- d) *does not involve the retail sale, display or hire of goods of any nature;*
- e) *in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
- f) *does not involve the use of an essential service of greater capacity than normally required in the zone.*

In accordance with Table 1 of TPS 6, a Home Business is a "D" use in a Residential zone which means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

**Policy – LPP 2.5 – Home Based Activities**

An assessment of the proposal has been made against the Home Based Activity policy as follows:

Policy Clause/Requirement		Assessment/Comment
4.3	<ul style="list-style-type: none"> <li>a. The subject site shall be located on an Other Regional Road, District Distributor Road or Local Distributor Road</li> <li>b. Car Parking is to be provided so as to adequately cater for the expected number of visitors attending the site at any one time and any employees, in addition to the bays required in association with the dwelling on site</li> <li>c. A Home Business shall only operate between 8am and 6pm, Monday to Saturday.</li> <li>d. A Home Business may incorporate one advertising sign, no greater than 0.2m<sup>2</sup> in area.</li> </ul>	<p>The subject site is located on Brookside Square, a Local Distributor and therefore complies.</p> <p>The applicant's property has sufficient space for up to six cars to be parked on the driveway in addition to the spaces required for the occupants of the dwelling.</p> <p>The applicant has advised that the Occupation may operate later than 6pm weeknights and a variation to the policy is requested.</p> <p>No advertising sign is required.</p>

**Traffic and Parking**

One submission expressed concern that the proposal would create heavy traffic flows through Grand Avenue and Central Boulevard. The applicant has advised that the proposed cooking classes are for a maximum of six people, twice a month. The applicant has also advised that it would be unlikely that the people attending the classes would all travel individually and therefore, the number of cars visiting and parking at her house may be less than the maximum that could be accommodated. It is therefore considered that the proposed Home Business will not unreasonably increase traffic volume in the neighbourhood.

*Item 13.5.14 Continued*

### **Hours of Operation**

The application for the subject site involves a variation to the Operating Hours requirements, which the City may consider on its own merit.

The cooking classes will be held on a weekday evening, twice a month. They are small classes for a maximum of 6 people, and are considered unlikely to generate any noise greater than the activities associated with a normal residential dwelling. A variation to the operating hours requirement to allow classes to run until 9pm at night is considered reasonable, and unlikely to adversely affect the amenity of the neighbourhood.

For the cake baking component of the proposal, the applicant has advised that her intention is to bake only and when she gets orders, from 8am-3pm, about 14 hours per fortnight.

One submission raised concerns about the possibility of abuse of operating hours but did not provide adequate information to determine the exact nature of the objection. If it is a potential breach of the conditions of planning approval that are a concern to the submitter, then the City has mechanisms to deal with these as they arise.

### **Amenity**

One submitter raised concerns about the potential for the development to have an impact on the amenity of the area due to increased noise. Based on an assessment of the proposal, this cannot be upheld. The proposal is not expected to generate any noise impacts for the surrounding area beyond what would be reasonably expected of a residential area.

### **Health**

With respect to the cooking class component of the proposal, food is prepared in association with the cooking classes and is not for sale; therefore the requirements of the *Food Act 2008* are not applicable for the cooking lessons component of the application.

### **CONCLUSION**

The proposal is supported for the following reasons:

- Home Businesses are typical in residential zones and it is recognized that they assist in providing essential services to the local community
- The proposed occupation is not expected to generate additional traffic that would detrimentally impact on the traffic and safety of the local area
- A variation to the hours of operation will not result in the use having an adverse impact on the amenity of the local area.

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

*Item 13.5.14 Continued*

## FINANCIAL IMPLICATIONS

Nil.

## STATUTORY IMPLICATIONS

- Town Planning Scheme No. 6
- Local Planning Policy 2.5 - Home Based Activities.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

### 47 Moved Cr R Lawrence Seconded Cr W Barrett

That Council approve the application for a Home Business involving Cake Baking and Cooking Lessons at 44 (Lot 405) Brookside Square, Canning Vale, dated 2 December 2011 subject to the following conditions:

1. Employment of persons not part of the immediate family of the occupier is not permitted.
2. The Home Business is limited to the area shown on the approved plan.
3. The hours of operation for cooking classes are limited to between 5pm and 9pm, Monday to Friday, no more than twice a month.
4. Cooking classes are limited to a maximum of 6 persons.
5. Cakes and food baked to order will be for delivery only.
6. The approval may be revoked, or amended on the basis of a substantiated and justifiable traffic, parking and noise complaint.

CARRIED 11/0

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

**AGAINST:** Nil.



**13.5.15 DEVELOPMENT APPLICATION - STORAGE - 206 (LOT 10)  
MADDINGTON ROAD, MADDINGTON**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 207740  
Application No: DA11/00159  
Applicant: Dykstra Planning  
Owner: MC Godfrey, J Townson, G Townson  
Location: 206 (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: 4,434m<sup>2</sup>  
Previous Ref: OCM 8 February 2011 (Resolutions 26-28)  
Appendices: 13.5.15A Site Plan  
13.5.15B Wetland Mapping

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for Storage at 206 (Lot 10) Maddington Road, Maddington. The application is being presented to Council for determination as it has implications for Local Open Space within the district and Council has previously determined a proposal for the subject site.

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

The subject property is 4,434m<sup>2</sup> in area, and contains an existing dwelling and two workshops. 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).

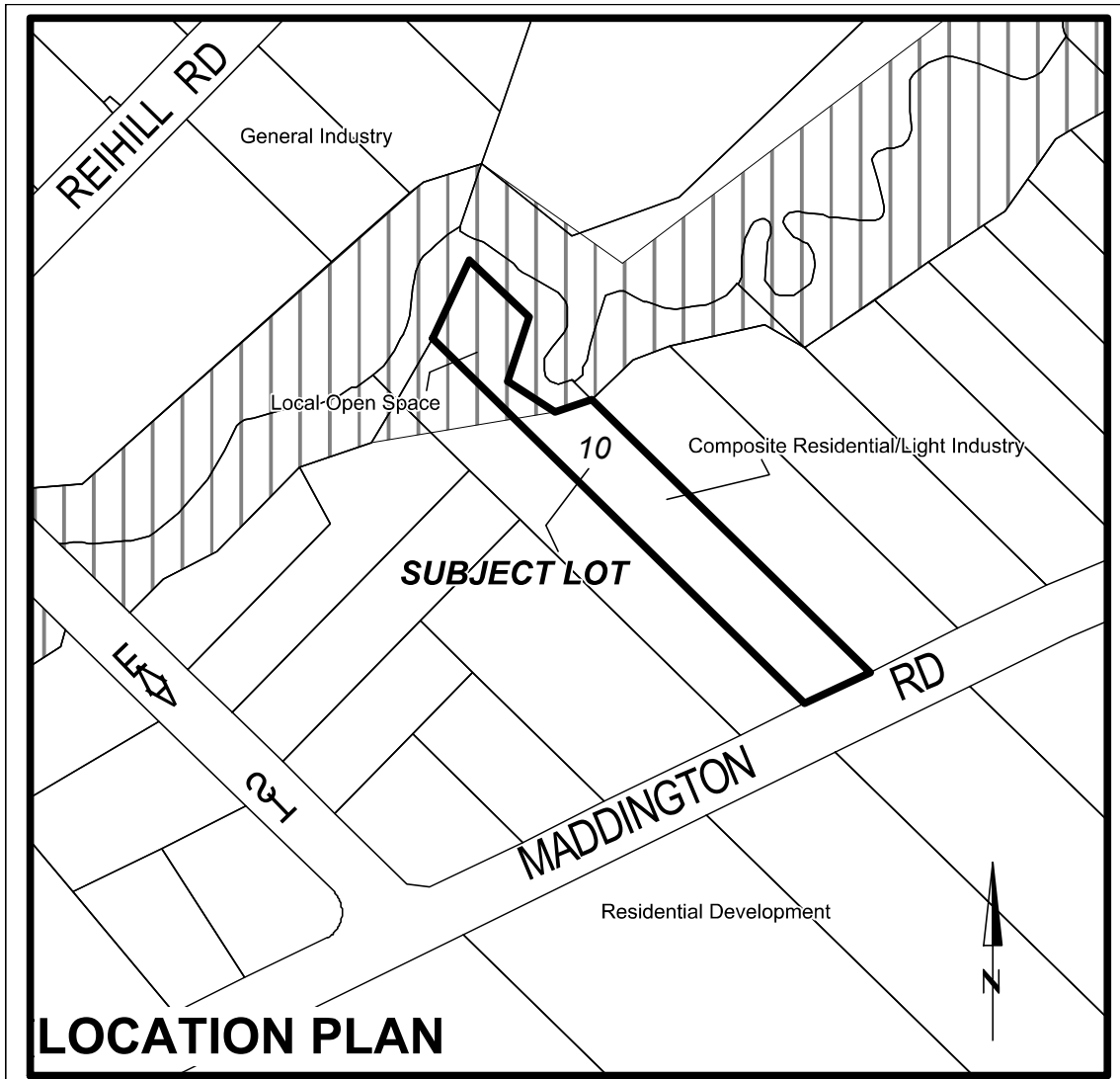
The rear portion of the property, approximately 1,030m<sup>2</sup>, is reserved as Local Open Space (LOS) under TPS 6 although it is in private ownership. The land abuts Bickley Brook which is mapped in the Department of Environment and Conservation's (DEC) Geomorphic Wetlands (Swan Coastal Plain) Dataset as a Conservation Category Wetland (CCW). Bickley Brook is under the control of the Water Corporation and Department of Water.

The subject property is located on Bickley Brook between Eva Street and Tonkin Highway, an area identified through the Maddington Kenwick Sustainable Communities Partnership (MKSCP) as requiring close scrutiny due to evidence that many properties abutting Bickley Brook were undertaking a range of unauthorised activities within the LOS area. This indicated that a considered and coordinated compliance strategy was needed. For this reason compliance action relating to the subject site was held in abeyance.

Item 13.5.15 Continued

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.

A map identifying the location of the property follows.



**History**

In late 2006, a 450m<sup>2</sup> LOS portion of the property that was cleared and then used for storage was the subject of a complaint with regard to fill and vegetative materials being placed in Bickley Brook. A site inspection was conducted on 21 December 2006 and it was evident that a considerable quantity of unidentified fill had been pushed into Bickley Brook and that a number of native trees growing on the embankment of Bickley Brook had been felled and pushed into the watercourse. A large pine tree stump was evident on the subject property.

*Item 13.5.15 Continued*

The owner was advised that the works constituted unauthorised development, that such activity must cease, and that a retrospective Development Application would be required.

In January 2007, the owner verbally agreed to remove the dumped tree and other vegetative material from the Brook. To date, this has not occurred.

Since 2007, the City, in conjunction with the DEC and other state government agencies, through the MKSCP, has been investigating properties abutting the Bickley Brook for unapproved land uses, and for any environmental impacts that existing land uses are having on the Brook. In March 2009, following detailed examination and analysis of unauthorised land use activities in the focus area, the City issued formal notification to relevant business owners including this owner.

On 8 February 2011 Council considered a retrospective application for Storage on the subject site and resolved (Resolution 26) to approve the application subject to conditions. Two of the conditions required the submission of an amended plan, generally in accordance with the submitted plans, but modified to remove reference to any storage within the portion of the site reserved Local Open Space, and that any storage within the Crown reserve and portion reserved as Local Open Space is prohibited.

Council (Resolution 27 and 28) also required the landowners to remove all material, plant, equipment and/or machinery from both the Local Open Space portion of the site and the Crown reserve. To date, this has not occurred and after discussions with the City, the landowners have lodged a revised application which is the subject of this report.

**Proposal**

The application involves the following:

- An open storage yard at the rear of the property, within a portion of area reserved Local Open Space
- Materials that are stored will include materials typically used in parks, including limestone blocks, clean builders sand, treated pine posts and logs and play equipment
- A 3m buffer from the lot boundary adjacent to the Bickley Brook is proposed.

The storage relates to the operation of a business involving the installation of playground equipment and fencing for local governments, as well as the removal and disposal of old playgrounds and materials such as pine logs. An overall site plan is contained as Appendix 13.5.15A.

**Consultation**

The application was referred to the DEC, the Water Corporation and the Department of Water (DoW), as the site abuts the Bickley Brook, which is under the care and control of both water authorities and has been classified as a CCW. All of these agencies have raised no objections to the proposal, based on the City's recommendation that

*Item 13.5.15 Continued*

storage should not occur within the mapped CCW area. This is discussed further in a later section of the report.

## **DISCUSSION**

### **Town Planning Scheme No. 6**

#### Use Class Assessment

The objective of the Composite Residential/Light Industrial zone is to provide for development to meet the needs of businesses which require a residential component and to provide a suitable interface between land zoned General Industry north of Bickley Brook and land zoned Residential Development south of Maddington Road.

The site is predominantly used for the storage of materials required for the business operations with most of the operations taking place off site. The use of the site therefore falls under the use class Storage in TPS 6 which is defined as:

*“premises used for the storage of goods, equipment, plant or materials.”*

In accordance with Table 1 of TPS 6, Storage is a “D” 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.

Part 3 of TPS 6 provides requirements for the use and development of land reserved under TPS 6. Clause 3.4.2 of TPS 6 states that in determining an application for planning approval the local government is to have due regard to the matters set out in clause 11.2 of TPS 6. The relevant matters to be considered under clause 11.2 are as follows:

- “(g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- (i) the compatibility of a use or development with its setting;*
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or mitigate impacts on the natural environment;*
- (n) the preservation of the amenity of the locality;*
- (w) whether the proposal is likely to cause soil erosion or land degradation;*
- (z) the comments or submissions received from any authority consulted with under clause 11.1.1.”*

The Storage use is consistent with the objectives of the Composite Residential/Light Industrial zone and is considered a suitable land use for the property as required under (i) above, however, the storage of materials within the Local Reserve area does not conform to the ultimate purpose intended for the reserve as required under (g) above and raises various environmental considerations as referred to at (l), (w) and (z) above.

*Item 13.5.15 Continued*

## **Environment**

The key impact of the proposal is the use of the LOS reserve for storage purposes. Significant impacts have already occurred through the unauthorised filling of Bickley Brook and clearing of fringing vegetation in 2006. The loss of the opportunity to revegetate the LOS area, and the erosion and transport to the brook of soil from rainfall runoff, will continue to contribute to the poor quality of water in Bickley Brook.

The ultimate purpose of the LOS reserve is the protection of Bickley Brook and to provide a vegetated buffer between the brook and the adjoining land uses. The LOS 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 MKSCP-initiated, federally funded, Urban Waterways Renewal program.

It has long been recognised that the current configuration of the Bickley Brook LOS reserve is based on imprecise past information regarding the alignment of the watercourse and the environmental 'protection' it requires (in terms of a vegetated buffer). Also, over time the alignment of the watercourse has changed significantly.

On the advice of the DoW, the City has taken the position that the application of the DoW's Foreshore Policy No. 1 - Identifying the Foreshore Area, which provides guidance for undertaking Biophysical Assessments, be applied to determine appropriate buffers between land uses and the 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 concluded that the subject site's existing cadastral boundary (i.e. encompassing both the zoned and reserved portions) allows for a suitable buffer between industrial uses and the water course.

The City has reviewed the proponent's Biophysical Assessment and considers, however, that the reserve area should coincide with the canopy of the Brook's remnant vegetation, which in turn coincides with the CCW area, as mapped by the DEC. A plan illustrating the CCW area is contained as Appendix 13.5.15B. Advice received from the DEC, Water Corporation and DoW are consistent with this position.

This CCW area is approximately 250m<sup>2</sup> and is located around the perimeter of the northern portion of the site. The Local Open Space boundary, which currently encompasses approximately 1,030m<sup>2</sup> of the site, should ultimately be realigned to coincide with the CCW boundary.

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

## **CONCLUSION**

The proposal is supported for the following reasons:

- The use of the land as Storage is not unsuitable in this portion of the Local Open Space reserve

*Item 13.5.15 Continued*

- There is environmental justification, using approved methodology, for future reduction in the required LOS area which is supportive of the proposed land use
- The approval can be made subject to appropriate conditions, in accordance with the Biophysical Assessment recommendations and the Conservation Category Wetland mapping, to ensure the development does not have a detrimental impact on the Bickley Brook.

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.

**VOTING REQUIREMENTS**

Simple Majority required.

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

**48 Moved Cr T Brown Seconded Cr R Mitchell**

That Council approve the application for Storage at 206 (Lot 10) Maddington Road, Maddington, dated 6 May 2011 subject to the following conditions:

1. The storage of materials is not permitted in the mapped Conservation Category Wetland area.
2. A Foreshore Management Plan, detailing the restoration of the CCW area of the Bickley Brook adjacent to and within the subject site, is to be prepared and implemented, to the satisfaction of the City and the Department of Water, in accordance with the Biophysical Assessment dated 18 October 2011.
3. Fencing shall be constructed along the boundary of the Conservation Category Wetland mapping as contained in Appendix 13.5.15B and as recommended by the submitted Biophysical Assessment (realigned to correctly reflect cadastral boundaries) dated 18 October 2011. The fencing is to have a maximum height of 1.8 metres and shall be visually permeable, to the satisfaction of the City.
4. A drainage management plan is to be prepared and implemented to the satisfaction of the City.

*Item 13.5.15 Continued*

5. The existing trees located within the Local Open Space reserve are not to be removed as recommended by the submitted Biophysical Assessment dated 18 October 2011.
6. No structures are to be erected, or storage of materials undertaken in a manner which will interrupt the movement of flood water from Bickley brook, during major storm events.
7. The submission of an amended site plan, generally in accordance with the submitted plan but modified to reflect the mapped Conservation Category Wetland area.

CARRIED 11/0

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

**AGAINST:** Nil.

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

**49 Moved Cr T Brown Seconded Cr R Mitchell**

That Council direct the landowner(s) of 206 (Lot 10) Maddington Road, Maddington, to undertake the following work to the City's satisfaction and within 60 days from the date of Council's resolution.

1. Remove all materials from the portion of the site within the mapped Conservation Category Wetland area.
2. Revegetate the portion of the site within the mapped Conservation Category Wetland area and any other area recommended in the Biophysical Assessment dated 18 October 2011.
3. Removal all wood debris from the Bickley Brook which resulted from the felling of a pine tree on the property which was subsequently dumped into the Brook in December 2006.

CARRIED 11/0

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

**AGAINST:** Nil.

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

**50 Moved Cr T Brown Seconded Cr R Mitchell**

That should the conditions of planning approval (for the storage application dated 6 May 2011) and/or the forthcoming 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 11/0

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

**AGAINST:** Nil.

**13.5.16 DEVELOPMENT APPLICATION - MIXED USE DEVELOPMENT (TWO COMMERCIAL TENANCIES AND 26 MULTIPLE DWELLINGS) - 69 (LOT 1) WHEATLEY STREET, GOSNELLS (*ITEM BROUGHT FORWARD - REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 "Items Brought Forward for the Convenience of those in the Public Gallery" as the third report in these Minutes.



**13.5.17 DEVELOPMENT APPLICATION - GROUPED DWELLING - 21 (LOT 23)  
LENA STREET, BECKENHAM**

Author: E Flanagan  
Author's Declaration Nil.  
of Interest:  
Reference: 225169  
Application No: DA11/00323  
Applicant: Domestic Drafting Service  
Owner: Kathleen M Baptist  
Location: 21 (lot 23) Lena Street, Beckenham  
Zoning: MRS: Urban  
TPS No. 6: Residential R20/R60  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 1,063m<sup>2</sup>  
Previous Ref: Nil.  
Appendices: 13.5.17A Site  
13.5.17B Elevations and Floor Plans

**PURPOSE OF REPORT**

For Council to consider an application for planning approval for a grouped dwelling development at 21 (Lot 23) Lena Street, Beckenham, as the proposal is outside the authority delegated to staff.

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

The subject site is 1,062m<sup>2</sup> in area and contains a single dwelling, patio and outbuilding. Surrounding land uses comprise predominantly low-density residential lots.

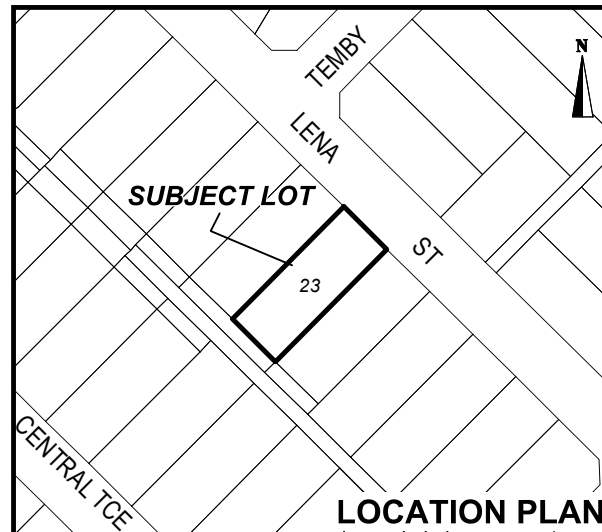
The property is zoned Residential R20/R60 under Town Planning Scheme No. 6 (TPS 6) and is located within the Central Beckenham A Local Housing Strategy sub-precinct area which has a requirement for an Outline Development Plan (ODP) prior to any development or subdivision.

**Site History**

On 15 December 2010, the City recommended refusal of a two-lot survey strata subdivision application on the subject site. This recommendation was based on the requirement for an ODP. It was considered that approval of the subdivision in the absence of the ODP would prejudice the orderly and proper future planning and development of the surrounding area. Despite the City's recommendation, the Western Australian Planning Commission (WAPC) approved the subdivision on 20 January 2011.

A plan showing the location of the subject site follows.

Item 13.5.17 Continued



### Proposal

The application proposes first floor extensions to the existing dwelling on the site and the construction of a new three bedroom, two bathroom single dwelling in a battleaxe configuration. The new dwelling will be accessed via the common property driveway to be constructed along the southern boundary of the site. Lot boundaries shown on the submitted site plan corresponds with the approved subdivision plan.

Site, floor and elevation plans are contained as Appendices 13.5.17A and 13.5.17B.

### Consultation

The proposal was not required to be advertised for public comment.

### DISCUSSION

#### Town Planning Scheme No. 6

##### Use Class Assessment

Under the Zoning table of TPS 6, the use class of Grouped Dwelling is a Discretionary "D" use in the Residential Development Zone, meaning that the use is not permitted unless Council has exercised its discretion by granting planning approval.

##### Requirement for an Outline Development Plan

The subject site is zoned Residential R20/R60 under TPS 6. The site forms part of an area which Council has determined requires an Outline Development Plan (ODP), under Clause 7.2.2 of the Scheme, prior to recommending subdivision or issuing planning approval. The City's Outline Development Plan Requirements Policy (LPP 3.2) establishes Council's position on the appropriateness of development proposals for land in zones other than Residential Development in the absence of an ODP. It is significant though that there is an approved subdivision application on the site. This approval can be enacted and lots created subject to satisfaction of

Item 13.5.17 Continued

conditions. The approved subdivision has now set the lot boundaries in place, and has facilitated the creation of two lots from the parent landholding. As such any concerns about the development application on the basis of there being no adopted ODP has in effect been superseded by the WAPC's subdivisional approval.

**Residential Design Codes**

The proposal complies with all relevant Acceptable Development provisions of the R-Codes, with the exception of those detailed in the table below.

<b>R-Code and Policy Provision</b>	<b>Assessment/Comment</b>
<p><b>1. 6.3.1 Buildings setback from the boundary</b></p> <p>A1 Buildings which are setback in accordance with the following provisions, subject to any additional measures in other elements of the codes:</p> <p>i) Buildings setback from boundaries other than street boundaries in accordance with table 1, tables 2a and 2b (for wall heights 10m and less), figures 2a - 2e, and figure 3 (for wall heights in excess of 10m).</p>	<p>A wall on the existing dwelling abuts the common property boundary. The wall contains a bedroom window and an ensuite window, both of which are proposed to be removed and replaced with skylights as part of the proposal so as to comply with the R-Codes.</p>
<p><b>2. 6.8.1 Visual Privacy</b></p> <p>A1 Major openings and unenclosed outdoor active habitable spaces (balconies, verandahs, terraces or other outdoor living areas) which have a floor level more than 0.5m above natural ground level and which overlook any part of any other residential property behind its street setback line, to comply with the following:</p> <p>i) Are setback, in direct line of sight within the cone of vision, from the boundary a minimum of:</p> <ul style="list-style-type: none"> <li>• 4.5m in the case of bedrooms and studies;</li> <li>• 6m in the case of habitable rooms other than bedrooms and studies; and</li> <li>• 7.5m in the case of unenclosed outdoor active habitable spaces; or</li> </ul> <p>ii) Are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space; or</p> <p>iii) Are provided with permanent vertical screening or equivalent, preventing direct line of sight within the cone of vision to ground level of the adjoining property if closer than 25m to the opening or equivalent.</p>	<p>The proposed balcony to the existing dwelling is overlooking the outdoor living area to the proposed new dwelling. A permanent vertical screening wall on half of the balcony is proposed to restrict views within the cone of vision. However the outdoor living areas are still within the cone of vision measured from the balcony.</p> <p>The applicant has agreed to extend the screening the full length of the balcony.</p> <p>There is a balcony to the proposed new dwelling which is 2m from the southern boundary of the site. This balcony is not considered to pose any overlooking issues as the site abuts an area of land constituting a laneway and water course.</p>

*Item 13.5.17 Continued*

Following discussion with the applicant, the above non-compliances with the R-Codes have been resolved subject to conditions requiring amendments prior to the issue of a building licence.

## **CONCLUSION**

The proposal is supported for the following reasons:

- Approval of the subdivision on the site by the WAPC has established future development form on the site
- The type of development is considered appropriate given the Residential R20/R60 coding and the subject site's proximity to Beckenham train station
- The proposal is not considered to prejudice the future planning and development of the surrounding area.

## **FINANCIAL IMPLICATIONS**

Nil.

## **STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- Residential Design Codes
- Local Planning Policy 1.1.1 - Residential Development
- Local Planning Policy 1.1.2 - Subdivision and Development of Land with a Split Residential Density Code
- Local Planning Policy 3.2 - Outline Development Plan Requirements.

## **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.17 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**51 Moved Cr R Hoffman Seconded Cr R Lawrence**

That Council approve the application for a grouped dwelling development at 21 (Lot 23) Lena Street, Beckenham, received 27 September 2011, subject to the following conditions:

1. The existing dwelling is to comply with the requirements of the Residential Design Codes pertaining to the development of grouped dwellings to the satisfaction of the Western Australian Planning Commission, including:
  - i) Windows to Bedroom 3 and the Ensuite on the ground floor of the existing dwelling (referred to on the plans as Block 1), are to be altered so as to comply with the Residential Design Codes.
  - ii) The screening wall of the Balcony on the first floor of the existing dwelling (Block 1) is to be extended to the full length of the balcony.
2. All cut and fill is to be retained within the property boundaries by structural engineer designed retaining walls of masonry or similar approved material, and are required to provide support to the boundary and any structure reliant on its integrity.
3. The site is to be connected to the reticulated sewerage system.
4. A geotechnical report is to be submitted in accordance with Australian Standards, detailing site conditions with respect to soil, groundwater and stormwater disposal. The report is to stipulate whether the site is suitable for on-site infiltration or what works are required to be implemented to provide for this capability or a suggested alternate means of disposal.
5. 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 of Gosnells.
6. The common property accessway being constructed and drained at the subdivider's cost to the specifications and satisfaction of the City.

CARRIED 11/0

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

**AGAINST:** *Nil.*

**13.5.18 MODIFICATION TO CENTRAL MADDINGTON OUTLINE DEVELOPMENT PLAN - 30 (LOT 26) RIVER AVENUE AND 1993 (LOT 808) ALBANY HIGHWAY, MADDINGTON**

Author: C Windass  
Author's Declaration Nil.  
of Interest:  
Reference: 212792, 236328  
Application No: PF11/00030  
Applicant: Dynamic Planning and Developments  
Owner: Claymont Land Pty Ltd  
Location: 30 (Lot 26) River Avenue and 1993 (Lot 808) Albany Highway, Maddington  
Zoning: MRS: Urban  
TPS No. 6: Residential R20 and Local Open Space  
Review Rights: Yes. State Administrative Tribunal or Western Australian Planning Commission against any discretionary decision of Council.  
Area: 14,807m<sup>2</sup>, 55,043m<sup>2</sup>  
Previous Ref: OCM 13 December 2011 (Resolutions 582,583)  
OCM 28 July 2009 (Resolutions 338-345)  
Appendices: 13.5.18A Adopted Central Maddington Outline Development Plan  
13.5.18B Modified Central Maddington Outline Development Plan  
13.5.18C Indicative Concept Plan

**PURPOSE OF REPORT**

For Council to consider whether a proposed modification to the Central Maddington Outline Development Plan (ODP) is satisfactory for advertising pursuant to Town Planning Scheme No. 6 (TPS 6).

**BACKGROUND**

On 16 December 2011, the Western Australian Planning Commission (WAPC) approved the draft ODP for Central Maddington subject to minor modifications being made. This involved modifying the operative section of the ODP text, and showing notations on the ODP map, to require the preparation of a Traffic and Access Management Strategy for those lots fronting Kelvin and Olga Road and Albany Highway.

The Traffic and Access Management Strategy is intended to rationalise the number of existing crossovers to these roads and will need to be approved by the WAPC prior to considering applications for subdivision and development.

The approved Central Maddington ODP is attached as Appendix 13.5.18A.

*Item 13.5.18 Continued*

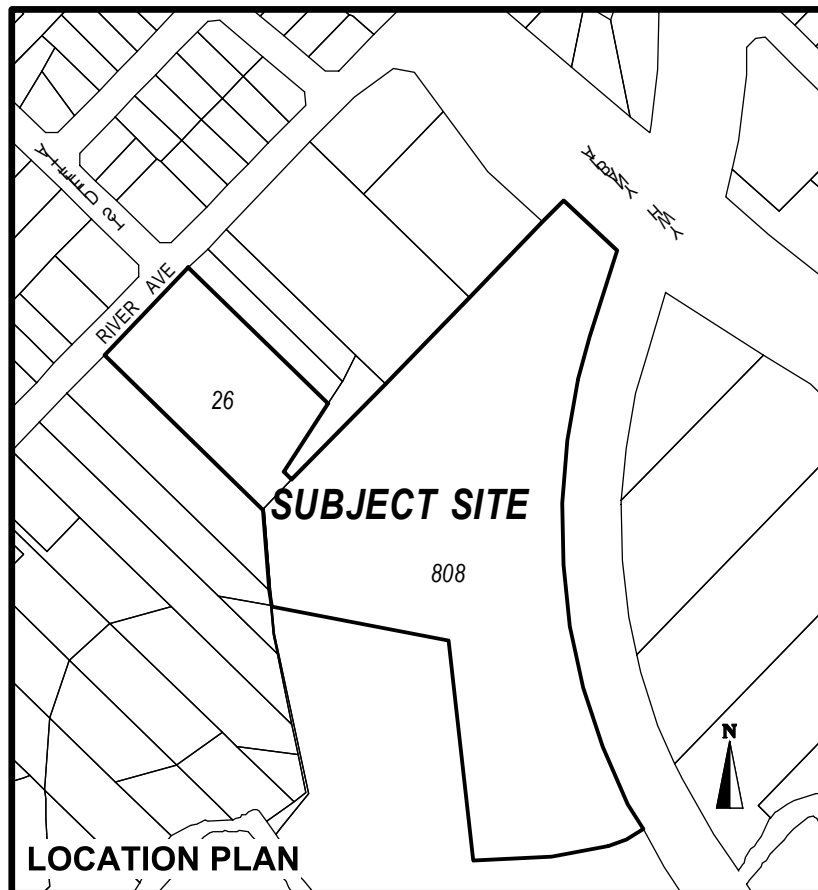
With the ODP approved, Council now has a formally established framework to further investigate the service infrastructure required for the area. As such, the City is preparing a Developer Contribution Arrangement (DCA) which will detail the infrastructure requirements, the associated costs, and how these are to be equitably shared between developers. This task is ongoing.

In the meantime, an application has been lodged by Dynamic Planning for the first amendment to the ODP.

**Site Description**

The subject lots, being Lot 26 River Avenue and Lot 808 Albany Highway are generally bound by River Avenue to the west, Albany Highway to the north, the Perth to Armadale railway line to the east, and the Canning River to the south.

A location plan identifying the subject lots is shown below.



Lot 26 is substantially cleared vacant land with very little remnant vegetation remaining and contains a single residence.

Lot 808 is a large isolated lot abutting the railway reserve and Stokely Creek and is in close proximity to the Canning River. It is largely cleared of vegetation and contains a residence.

*Item 13.5.18 Continued*

## **DISCUSSION**

### **Summary of Proposal**

The applicant is seeking to modify the Central Maddington ODP relating to Lot 26 River Avenue and Lot 808 Albany Highway.

It is proposed to:

- Modify the density code for Lot 26 River Avenue from R20 to R30
- Modify the density code for Lot 808 Albany Highway from R20 to R40, remove the proposed public road that borders the railway reserve and construct a roundabout at the only road intended to access the site.

The modified ODP is attached as Appendix 13.5.18B.

The various merits and issues associated with the proposed modifications are discussed below.

### **Approved Central Maddington ODP**

The Central Maddington ODP is intended to facilitate redevelopment of the area by proposing a range of densities from R20 to R80, introducing new roads to provide adequate vehicular connectivity through the area, and developing new areas of local open space (LOS) for recreation.

The densities are premised on locating a greater proportion of residents within close proximity to convenience shopping at Maddington Centro and the public transport provided by railway and bus routes along Albany Highway and Kelvin and Olga Roads.

The densities provide a diverse range of housing choice and graduate from the higher densities (R80 and R40) located nearest to the Maddington Centro and regional roads, to lower densities (R30 and R20) toward the Canning River.

Lot 26 is proposed to be developed at R20 and to provide new areas of LOS. The developable portion of the site is proposed to be serviced by new public roads which connect to the existing road network at River Avenue. New road construction on Lot 26 will provide the only means of access to Lot 808 via a road and bridge that is to be constructed through the LOS reserve and over Stokely Creek. The land surrounding Lot 26 is proposed for development at densities of R20, R30 and R40

Lot 808 is unique given its relative isolation from other nearby residential areas of the ODP due to the presence of Stokely Creek. It is also in close proximity to the Canning River, the proposed conservation/recreation reserve, and Albany Highway via pedestrian access only.

In the current ODP, Lot 808 is proposed to be developed at R20 and is to be partially developed as LOS in the vicinity of Stokely Creek. A public road is to be constructed around the perimeter of the developable area and along the railway reserve. The significant area of LOS between Lots 808 and 26 is intended to be developed into a Conservation/LOS reserve to provide areas for public recreation whilst affording



*Item 13.5.18 Continued*

protection to conservation areas along Stokely Creek. Land surrounding Lot 808 is proposed to be coded R20.

There is a small wedge of crown land between Lot 26 and Lot 808 which will be traversed by the construction of the access road. Access through crown land is to be negotiated with the WAPC and is the responsibility of the applicant.

**Proposed Modification to Central Maddington ODP**Overview

The modification to Lot 26 involves increasing the density from R20 to R30 with all other aspects including proposed new roads and areas of LOS to remain in accordance with the approved ODP.

The developer intends to develop Lot 26 with over 55's residential strata units or single bedroom strata units. The R-Codes provide a concession in lot size for these types of development which means they can be reduced by one third of the minimum lot size applicable to that density.

The modification to Lot 808 involves increasing the density from R20 to R40, the removal of proposed public road along the railway reserve and the construction of a roundabout at the access point to the site.

The increase in density for Lot 808 is the most significant aspect of the proposed modification. The R40 density code will facilitate the development of strata dwellings with a mix of single storey and two storey development proposed along the interface with the Canning River and the proposed conservation recreation reserve.

To demonstrate this developer's vision for the subject lots the applicant has submitted a concept plan which illustrates how the site is to be developed in future.

The concept plan is attached at Appendix 13.5.18C, and its various elements are discussed in more detail below.

**Concept Plan**

At this stage, the concept plan is indicative, with its principles and urban design criteria to be reflected in a Detailed Area Plan (DAP) to be prepared by the applicant and submitted to Council for determination in the near future.

The concept plan shows:

- An R30 residential development on Lot 26 River Avenue comprising an over 55 retirement village or single bedroom dwellings
- An R40 residential strata unit development on Lot 808 Albany Highway with a combination of two storey and single storey development (highlighted in red) strategically positioned to overlook the public realm (LOS and recreation reserve). The development scenario shows private roads, communal private open space and visitor parking spaces in lieu of the public road proposed abutting the railway line

*Item 13.5.18 Continued*

- The construction of a noise wall between the boundary of Lot 808 Albany Highway and the Perth to Armadale Railway line
- The construction of a roundabout at the intersection on Lot 808 Albany Highway
- The extension of Attfield Street with a 20m wide boulevard road reserve terminating at a newly proposed roundabout.

Increase in Residential Density for Lot 26

The increase in density to R30 in this location is considered marginal when compared to densities on nearby lots of R20, R30 and R40. Lots at a density of R20 and R30 are typically developed as green title lots with dwellings oriented fronting public roads. However, the R-Codes provide for alternative styles of development at reduced lot sizes for aged and dependant care and single bedroom units.

As such, over 55's residential strata units or single bedroom strata units provide diversity in housing choice which is not uncommon in areas coded R20, R30 and R40 and are therefore considered part of the urban character at these densities.

Increase in Residential Density for Lot 808

The increase in density proposed for Lot 808 from R20 to R40 is intended to facilitate development of strata style units serviced by internal private roads. This is the density typically utilised to achieve this type development.

The density of R40 is considered reasonable for the following reasons:

- It provides housing choice
- It increases the proportion of dwellings and residents in a location with significant advantages in terms of:
  - opportunities for recreation and improved amenity along the river foreshore and proposed conservation/recreation reserve; and
  - the convenience of nearby bus routes on Albany Highway approximately a kilometre away from the Maddington Train Station and Maddington Town Centre.

A significant factor in support of the density increase is the implementation of a desirable built form in the area shown in red indicated the concept plan at Appendix 13.5.18C.

In this area the developer intends to construct a combination of two storey and single storey dwellings orientated to overlook the river foreshore and the conservation/recreation reserve. This development scenario is intended to provide appropriate surveillance over the public space and variation in the streetscape arising from diversity in the built form of individual dwellings. The two storey development is expected to improve amenity for future residences by virtue of increased living space and improved visual access to areas of high visual amenity.

*Item 13.5.18 Continued*

### Construction of a Roundabout

The construction of the roundabout is a practical solution that provides a number of entry roads required to service the entire site. A roundabout is the safest and therefore the most appropriate method of traffic management in this location.

### Removal of Proposed Road

The removal of the public road is not expected to result in any significant impact to the development of the area. Whilst it would provide additional separation from the effects of noise from the railway on future residents, it is proposed to achieve a better outcome through the construction of a noise wall, and additional separation provided through open space and parking proposed between the wall and future development.

Of most importance is the construction of public road along the river and proposed LOS areas proposed near Stokely Creek as a means of access for public recreation and maintenance. This remains unchanged and is accordance with the approved ODP.

### Traffic

The proposal will require a traffic impact assessment and a road safety audit to be prepared and approved by the City. This will be reflected as a notation on the DAP and is to be approved prior to approval for development and recommendations of support for subdivision.

### Noise

The ODP area is subject to noise impacts associated with the Perth to Armadale railway line. To address the issue the applicant is proposing to construct a noise wall between the railway line and future residents, to a standard that will protect nearby future residences from unreasonable levels of transport noise. This approach is consistent with State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning, which provides guidance on the implementation of noise attenuation measures. The requirement for a noise wall will be addressed in the preparation of a DAP.

### **Detailed Area Plan**

Under the provisions of the Central Maddington ODP, the applicant is required to prepare a DAP as a condition of subdivision approval to clearly articulate built form controls to ensure appropriate surveillance of and interface with the public realm. The DAP will need to address the issues detailed in the concept plan to the City's satisfaction with particular emphasis on the strategic placement of two storey and single storey development fronting the public realm.

The DAP and subsequent development approvals will be required to address various urban design aspects as follows:

- Built form controls shall be clearly articulated to ensure appropriate surveillance of and interface with the public realm with particular emphasis on two storey development fronting the public realm

*Item 13.5.18 Continued*

- Overlooking of the public realm shall achieve surveillance with an emphasis on key activity nodes, areas with poor visibility and recreational linkages including connection to the principle shared path (both the river and Albany Highway links)
- Visibility of the streetscape from within the LOS shall reinforce the sense of surveillance from and connection to the urban environment given the significant topographic variation between the two
- A strong streetscape identity shall be provided to accentuate view lines to and from the subject lots
- Built form scale shall achieve a sense of integration with adjoining established areas particularly viewed from a distance
- Entry statements to the area shall be designed at the central roundabout and nodes of development at highly visible corners
- Built form diversity shall be shown to vary the estate's streetscape and assist the estate's integration into the broader area, particularly given the predominance of the single storey development proposed
- A roundabout shall be designed and implemented at the proposed intersection on Lot 808 Albany Highway
- The extension of Attfield Street shall be designed and implemented with a 20m boulevard road reserve width terminating at the proposed roundabout on Lot 808 Albany Highway
- The height, length, scale and materials used in the construction of the noise wall shall be designed and implemented to a standard to protect nearby future residences from unreasonable levels of transport noise from the railway line, in accordance with prescribed standards specified in the Environmental Protection (Noise) Regulations 1997
- The noise wall shall attractively frame the development as viewed from the ODP area and the railway line and incorporate an appropriate architectural design.

Due to the importance placed on the urban design aspect of the development, the DAP, once prepared, will be referred to Council for consideration. Whilst the importance of design elements for development of Lot 26 are much less, the DAP is still required to represent Lot 26 as it has an integral role in the development of Lot 808 with respect to the boulevard style road proposed to access Lot 808 via Lot 26.

**Consultation**

A modification to the ODP is considered under Part 7 of TPS 6. In accordance with Clause 7.4.5 of TPS 6, should Council resolve to grant consent to advertise the ODP then this will occur for a period of 21 days. Advertising will occur by way of letters to all affected landowners which are considered to be those owners of lots directly south east of River Avenue. Referral to the relevant government agencies will be undertaken and an advertisement is to be placed in the local newspaper. Upon completion of the advertising period the matter will be referred back to Council for further consideration.

*Item 13.5.18 Continued*

## **CONCLUSION**

The proposed modification to the Central Maddington ODP is considered satisfactory for the purpose of advertising for public comment.

## **FINANCIAL IMPLICATIONS**

All costs associated with advertising the modified ODP will be borne by the applicant.

## **STATUTORY IMPLICATIONS**

Town Planning Scheme No. 6 - Part 7.

## **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

### **52 Moved Cr J Brown Seconded Cr W Barrett**

That Council, pursuant to Section 7.4.2(a) of Town Planning Scheme No. 6 determine that the proposed modification to the Central Maddington Outline Development Plan, attached as Appendix 13.5.18B, is satisfactory for the purpose of advertising for public comment for a period of 21 days, by way of letters to landowners within the outline development plan area on land designated Residential R20 and relevant government agencies, and an advertisement in a local paper.

**CARRIED 11/0**

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

**AGAINST:** *Nil.*

**13.5.19 DEVELOPMENT APPLICATION - SIGNAGE - MONOLITH SIGN -  
137 (LOT 306) KELVIN ROAD, MADDINGTON**

Author: J Carmody  
Author's Declaration Nil.  
of Interest:  
Reference: 219692  
Application No: DA11/00320  
Applicant: Mark Simmonds - Signs and Lines  
Owner: Marando Properties Pty Ltd.  
Location: 137 (Lot 306) Kelvin Road, Maddington  
Zoning: MRS: Urban  
TPS No. 6: General Industry  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 5,797m<sup>2</sup>  
Previous Ref: Nil.  
Appendices: 13.5.19A Site Plan  
13.5.19B Sign Elevations

**PURPOSE OF REPORT**

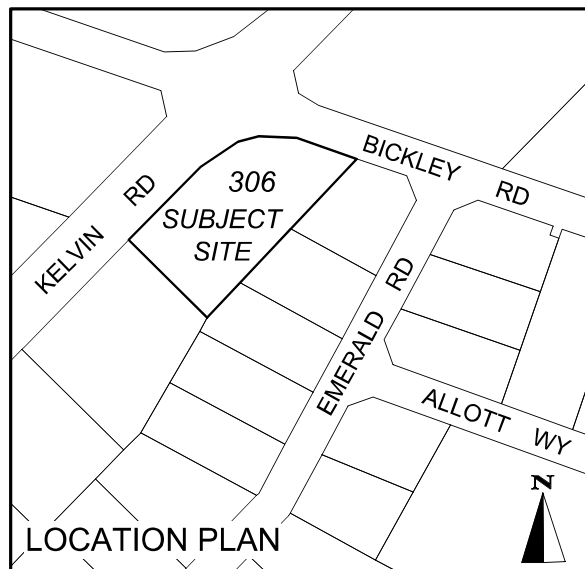
For Council to consider an application for planning approval for replacement signage at 137 (Lot 306) Albany Highway, Maddington, as the proposal is outside the authority delegated to staff.

**BACKGROUND****Site Description**

The subject site is zoned General Industry under the Town Planning Scheme No. 6 (TPS 6) and is located on the northern boundary of the Maddington industrial estate at the intersection of Kelvin Road (an Other Regional Road under the Metropolitan Region Scheme) and Bickley Road. The site is occupied by a number of commercial units and a service station which has recently changed ownership. The proposed sign is for the service station use.

A map identifying the location of the property follows:

Item 13.5.19 Continued



### Proposal

The application proposes the installation of a monolith sign as a replacement for an existing monolith sign as part of a rebranding of the existing service station. The existing monolith sign is 1.8m wide and 2.9m high. The proposed sign is a monolith sign measuring 6m in height, 1.5m in width with digital displays for petrol pricing. The sign is proposed to be located abutting the front boundary.

A site plan and elevations are contained in Appendices 13.5.19A and 13.5.19B.

Most of the signage associated with the re-branding was able to be approved under Delegated Authority due to its compliance with the relevant local laws and policy. However, the proposed monolith sign does require the approval of the Council.

### Consultation and Referrals

The proposal was not required to be advertised to the public under TPS 6 or the local laws.

The Western Australian Planning Commission was not required to be notified under the relevant Notice of Delegation for Other Regional Roads as the sign does not encroach onto the road reservation, nor does the development have a construction value of greater than \$100,000.

### DISCUSSION

#### Town Planning Scheme No. 6

The erection of signage is defined as development under TPS 6 and therefore requires planning approval.

*Item 13.5.19 Continued***Local Laws Relating to Signs, Hoardings and Bill Postings****Monolith Sign**

The application proposes a freestanding monolith sign in proximity to the front boundary. Neither TPS 6 nor the City's Local Law Relating to Signs, Hoardings and Bill Postings (Signage Local Law) provide guidance on the assessment of such signs. In the absence of any specific guidance, it has been considered appropriate to use the Pylon Sign provisions of the Signage Local Law as part of the assessment of the current proposal. These provisions are shown below:

	<b>Local Laws Standards for Pylon Signs</b>	<b>Proposed Monolith Sign</b>
Height	6m	6m
Width	No standard specified	1.5m
Surface Area	4m <sup>2</sup>	9m <sup>2</sup>
Clearance from ground	2.7m	0m
Minimum Boundary setback	2.0m	0m

The proposed monolith sign therefore exceeds the Signage Local Law height and surface area specifications. It is also located closer to the lot boundary than prescribed.

Specific guidance in relation to monolith signs is provided in the draft Signage and Flags Policy, approved by Council for purposes of advertising at its meeting of 23 August 2011 (Resolution 392), but not yet adopted (due to procedural issues relating to revocation of the Signage Local Law). The proposal has been assessed against the draft policy as shown below.

**Draft Signage and Flags Local Planning Policy**

	<b>Draft Policy Standards for Monolith Sign</b>	<b>Proposed Monolith Sign</b>
Size	Maximum height 7m Maximum width 2.5m	Complies Complies
Location	Minimum boundary setback 2m	Abutting boundary
Maximum Number	Two signs per business	Complies

The proposed monolith sign therefore is generally compliant with the draft policy with the exception of the minimum setback required by both the Local Laws and the draft policy. This variation is considered acceptable given that the existing monolith sign (which the proposed sign will replace) is already located in the same location. The existing sign is slightly wider at 1.8m. The proposed location of the sign is 5m from the road, and does not obstruct vehicle sightlines. It cannot be setback an additional 2m as this would place it within a vehicle access route considered essential to the functioning of the service station.

**CONCLUSION**

The proposed monolith sign is supported for the following reasons:

- It is in keeping with the amenity of the locality
- It does not obstruct vehicle sight lines



*Item 13.5.19 Continued*

- It provides an essential function for the applicant's business and there is no scope for the sign to be alternatively located
- It complies with the City's draft policy, apart from the setback requirement.

It is 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
- City of Gosnells Local Law relating to Signs, Hoardings and Bill postings.

### **VOTING REQUIREMENTS**

Simple Majority required.

<b>STAFF RECOMMENDATION AND COUNCIL RESOLUTION</b>
--

#### **53 Moved Cr R Lawrence Seconded Cr R Mitchell**

That Council approve the application for signage at 137 (Lot 360) Kelvin Road, Maddington received 23 September 2011 subject to the following conditions:

1. All signage shall not contain fluorescent, reflective or retro-reflective colours or materials.
2. Any illuminated signage panels are to be low lit and must not flash, pulsate or chase.

**CARRIED 11/0**

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

**AGAINST:** *Nil.*

**13.5.20 INITIATION OF LEGAL PROCEEDINGS - NON - COMPLIANCE WITH CONDITIONS OF PLANNING APPROVAL - 888 (LOT 99) NICHOLSON ROAD, CANNING VALE**

Author: J McDermott  
 Author's Declaration Nil.  
 of Interest:  
 Reference: 309492  
 Owner: A V Ventures Pty Ltd  
 Location: 888 (Lot 99) Nicholson Road, Canning Vale  
 Zoning: MRS: Urban  
 TPS No. 6: Residential Development  
 Review Rights: Nil  
 Area: 1.4119ha  
 Previous Ref: Nil.

**PURPOSE OF REPORT**

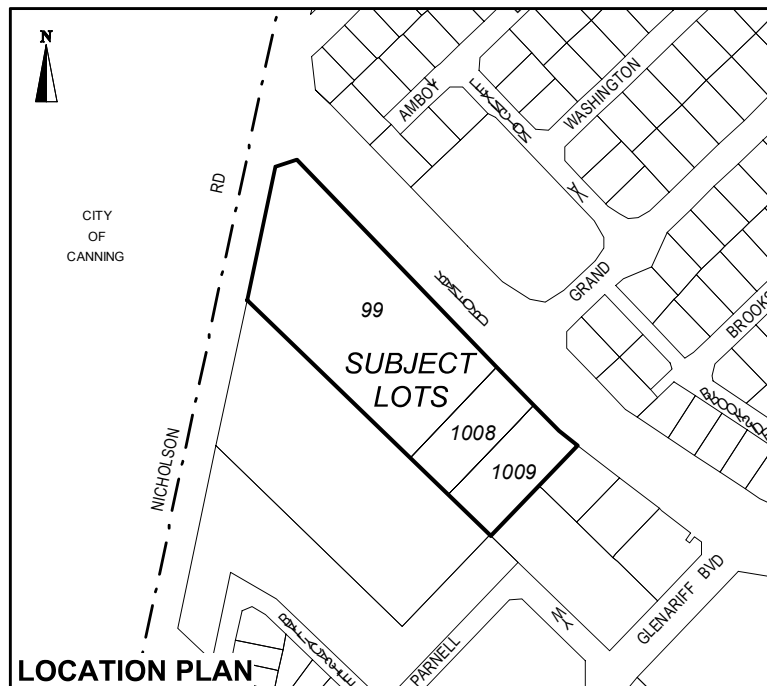
For Council to authorise legal proceedings against the property owner of 888 (Lot 99) Nicholson Road, Canning Vale, for the breach of a condition of planning approval (dated 27 May 2003).

**BACKGROUND**

**Site Description and Planning Framework**

The subject site accommodates an existing commercial complex.

A location plan follows.



*Item 13.5.20 Continued*

### **Site History**

On 27 May 2003, the City granted planning approval to develop Lot 99 for Single Storey Showrooms, subject to 18 conditions. Condition 17 of the approval requires the "Applicant to submit a written undertaking acknowledging that on development of adjacent Lot 278 Ranford Road, reciprocal rights of access may be required and will be granted."

The subject site was subsequently developed without the required undertaking.

On 27 February, 2008, Lot 99 was purchased by AV Ventures Pty Ltd as trustee for The Nicholson Property Trust.

Between November 2007 and December 2009, Lot 278 was subdivided into six lots, one of the resultant lots being Lot 1008, which is located directly adjacent to Lot 99.

In April 2011, Lot 1008 was developed as showrooms. The site has no direct vehicular access to Ranford Road, with access to be obtained via the adjacent Lots 99 and 1009.

To this date, condition 17 has not been complied with, despite numerous requests from both the City and shop owners from within the commercial complex on Lot 1008.

### **DISCUSSION**

The tenants of the adjoining Lot 1008 have complained to the City regarding this matter, with the City making both the legal representative and property manager of Lot 99 aware of the need to complete the conditions.

To date the property owner has failed to comply with the condition, causing undue inconvenience for the abovementioned tenants. The lack of reciprocal rights of access between the adjoining lots has compromised access and servicing arrangements between Lot 99 Nicholson Road and Lot 1008 Ranford Road.

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 \$200,000 for an offence and \$25,000 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 \$1,000,000 and \$125,000 respectively.

### **CONCLUSION**

The owners A V Ventures Pty Ltd, have been made fully aware of the City's concern about the activity and have been afforded generous and extended opportunities to comply with conditions of the relevant planning approval.

The lack of reciprocal rights of access between the adjoining lots has compromised access and servicing arrangements between Lot 99 Nicholson Road and Lot 1008 Ranford Road.

*Item 13.5.20 Continued*

### **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 27 May 2003.

### **VOTING REQUIREMENTS**

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

#### **54 Moved Cr R Hoffman Seconded Cr L Griffiths**

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against A V Ventures Pty Ltd being the property owners of 888 (Lot 99) Nicholson Road, Canning Vale for non compliance of conditions of planning approval dated 27 May 2003.

CARRIED 11/0

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

**AGAINST:** Nil.

**13.5.21 INITIATION OF LEGAL PROCEEDINGS - 37 (LOT 72) VICTORIA ROAD, KENWICK - NON COMPLIANCE WITH TOWN PLANNING SCHEME NO. 6**

Author: J McDermott  
Author's Declaration Nil.  
of Interest:  
Reference: 210376  
Owner: Andrew J Sawyer & Nicole R Sawyer  
Location: 37 (Lot 72) Victoria Road, Kenwick  
Zoning: MRS: Rural  
TPS No. 6: General Rural  
Review Rights: Nil  
Area: 1.9089 ha  
Appendix: Nil.

**PURPOSE OF REPORT**

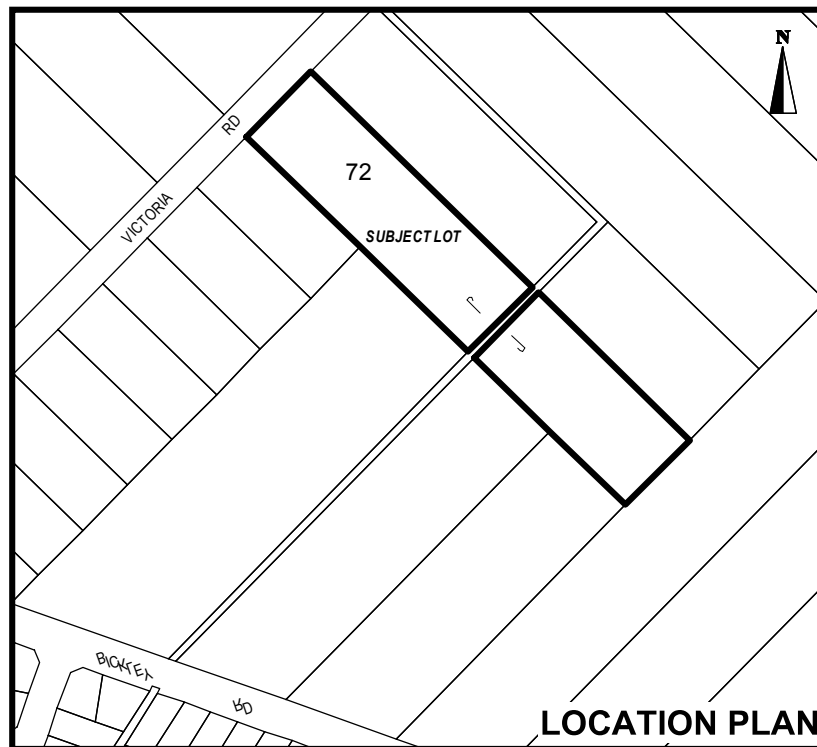
For Council to authorise legal proceedings against the owners of 37 (Lot 72) Victoria Road, Kenwick, for unapproved development and use of the property.

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

The subject site accommodates a house in the south-east corner of the property.

The site lies within Precinct 1 of the Maddington Kenwick Strategic Employment Area, which is the subject of a proposal recently advertised for public comment by the Western Australian Planning Commission to amend the Metropolitan Region Scheme to rezone the area from Rural to Industrial.

A location plan follows.

*Item 13.5.21 Continued***Site History**

On 11 December 2007, following the receipt of a complaint and a subsequent site inspection, the owners of Lot 72 were issued with a warning letter regarding the storage of materials, including tyres and sea containers, and parking of commercial vehicles on the site without the necessary planning approval.

On 9 July 2008, a direction notice was served on the owners to remove tyres from the property. It was also suggested that owners needed to apply for approval for the sea containers and commercial vehicle parking or cease these activities.

On 25 June 2010, an application was made for the storage of sea containers and parking of three commercial vehicles.

On 8 September 2010, a request was made by the City for the applicant to provide additional information to support the application, to which no reply was received.

On 21 December 2010, the application was deemed refused, due to the lack of information. A letter was issued to the applicant outlining the reasons for the refusal.

On 23 March 2011, as a result of a complaint received in respect to a sea container on the site, the owners were advised of what was required to reapply for planning approval.

On 8 August 2011, a direction notice was issued to the owners, requiring the removal of the sea container.

*Item 13.5.21 Continued*

On 5 October 2011, a site inspection was conducted and the sea container was observed on site. No further application has been made to permit the container to remain.

**DISCUSSION**

The owners of the subject site are understood to have a tyre supplies business in Kewdale, servicing heavy earthmoving equipment.

While no commercial vehicles were present at the time of the City's site inspection on 5 October 2011, the owners have admitted to occasionally having a need to park commercial vehicles and store tyres and other associated equipment on site.

Some storage of tyres was observed, however not to an extent that would warrant legal action on that aspect alone.

The sea container and commercial vehicle parking is however of concern.

Clause 9.1 of Town Planning Scheme No. 6 (TPS 6) states:

*"All development on land zoned and reserved under the Scheme requires the prior approval of the local government. A person must not commence or carry out any development without first having applied for and obtained the planning approval of the local government under Part 10."*

The land owners have been given extended and generous time to comply with the requests from the City of Gosnells to either cease commercial vehicle parking and sea container storage or seek the necessary planning approvals to permit these activities.

Section 218 (a) of the *Planning and Development Act 2005* provides that it is an offence to contravene a local planning scheme. Section 218 (b) of the Act provides that it is an offence to continue to contravene a local planning scheme. 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 land owners have been made fully aware of the City's concern about the unapproved sea container and commercial vehicle parking activity and afforded generous and extended opportunities to comply with the requirements of TPS 6.

It will be recommended that Council authorise the initiation of legal proceedings to effect Scheme compliance.

**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.

Item 13.5.21 Continued

## STATUTORY IMPLICATIONS

- City of Gosnells Town Planning Scheme No. 6
- Planning and Development Act 2005
- Sentencing Act 2005.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION (1 OF 2) AND COUNCIL RESOLUTION
--

### 55 Moved Cr R Hoffman Seconded Cr W Barrett

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Andrew J Sawyer and Nicole R Sawyer being the property owners of 37 (Lot 72) Victoria Road, Kenwick for the unapproved storage of a sea container and parking of commercial vehicles on 37 (Lot 72) Victoria Road, Kenwick.

CARRIED 11/0

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

**AGAINST:** Nil.

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

### 56 Moved Cr R Hoffman Seconded Cr W Barrett

That Council authorise the Director of Planning and Sustainability to initiate legal proceedings against Andrew J Sawyer being the property owner of 37 (Lot 72) Victoria Road, Kenwick for the breach of the Direction Notice issued under Section 214(2) and 214(3)(a) and (b) of the *Planning and Development Act 2005*.

CARRIED 11/0

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

**AGAINST:** Nil.



**13.5.22 INITIATION OF LEGAL PROCEEDINGS - 470 (LOT 404) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE (*ITEM BROUGHT FORWARD - REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 "Items Brought Forward for the Convenience of those in the Public Gallery" as the fourth report in these Minutes.

**13.5.23 INITIATION OF LEGAL PROCEEDINGS - 478 (LOT 405) BICKLEY ROAD, KENWICK - NON-COMPLIANCE WITH DIRECTIONS NOTICE (*ITEM BROUGHT FORWARD - REFER TO ITEM 11*)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 2003 and is relocated under Item 11 "Items Brought Forward for the Convenience of those in the Public Gallery" as the fifth report in these Minutes.

## 13.6 GOVERNANCE

### 13.6.1 2011 ANNUAL ELECTORS' MEETING

Author: T Perkins  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: 13.6.1A Minutes of the 2011 Annual Electors' Meeting

#### PURPOSE OF REPORT

For Council to confirm the Minutes of the 2011 Annual Electors' Meeting held on Monday 12 December 2011.

#### BACKGROUND

The City's 2011 Annual Electors' Meeting was held on Monday 12 December 2011. A copy of the Minutes of this meeting is attached as Appendix 13.6.1A.

#### DISCUSSION

There were no decisions made at the 2011 Electors' Meeting requiring consideration by Council. As such, the Minutes of this meeting are presented for confirmation only.

#### FINANCIAL IMPLICATIONS

Nil.

#### STATUTORY IMPLICATIONS

Nil.

#### VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

#### 57 Moved Cr R Mitchell Seconded Cr S Iwanyk

That Council confirm the Minutes of the City of Gosnells 2011 Annual Electors' Meeting held on Monday 12 December 2011 attached as Appendix 13.6.1A.

CARRIED 11/0

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

**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 9.23pm.