

12.5.4 OUTLINE DEVELOPMENT PLAN AND AMENDMENT 6 TO TOWN PLANNING SCHEME NO. 6 - REZONING OF LOTS 1, 2, 801, 1297 AND 1298 SOUTHERN RIVER ROAD AND LOTS 1300, 1301 AND 1302 CHAMBERLAIN STREET, GOSNELLS

File:	S8/1/15, TPS/6/6	(SRW)	Psrpt200Dec03
Name:	Civil Technology		
Location:	Area generally bounded by the Southern River, Southern River Road and Chamberlain Street, Gosnells.		
Zoning: MRS:	Urban Deferred		
TPS No. 6:	General Rural		
Appeal Rights:	Nil, however, final determination is made by the Minister for Planning and Infrastructure		
Area:	20.3ha approximately		
Previous Ref:	OCM 12 August 2003 (Resolution 539) OCM 26 March 2002 (Resolution 198) OCM 28 August 2001 (Resolutions 702-707)		
Appendices:	12.5.4A Previous ODP 12.5.4B Proposed ODP		

PURPOSE OF REPORT

For Council to re-consider an amendment to Town Planning Scheme No. 6 and an accompanying Outline Development Plan for the area bounded by Southern River Road, Chamberlain Street and the Southern River. In association with this matter, this report provides Council with the opportunity to consider the “lifting of urban deferment” for the subject land under the Metropolitan Region Scheme.

BACKGROUND

Council at its meeting of 28 August 2001 (Resolutions 702 and 704) considered an application from Broughton Planning to rezone seven lots located in the area bounded by Southern River Road, Chamberlain Street and the Canning River (refer Location Plan). The proposal was to rezone the land from “Deferred Urban” to “Residential Development” under Town Planning Scheme No. 1 (TPS 1). An associated Outline Development Plan (ODP) was also submitted. Resolutions 702 and 704 read as follows:

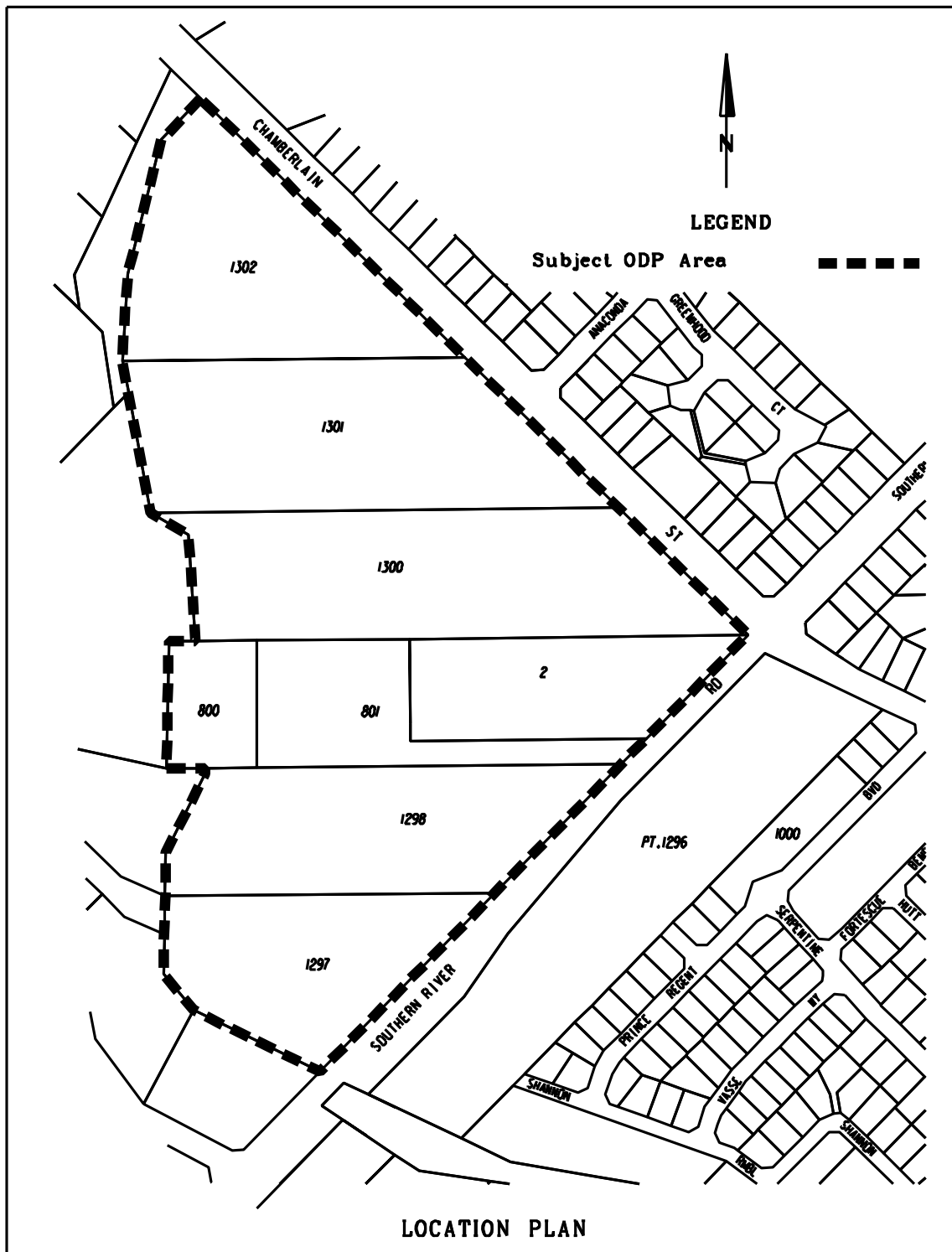
Resolution 702

“That the applicant be advised that Council supports “in-principle” the application to rezone Lots 1, 2, 1297 and 1298 Southern River Road and Lots 1300, 1301 and 1302 Chamberlain Street, Gosnells, from “Urban Deferred” to “Residential Development” once TPS 6 has been gazetted subject to finalisation, to the satisfaction of Council, of a legal agreement, at the applicant’s cost, relating to the irrevocable closure of the poultry farm on Lot 1298 Southern River Road, prior to any formal development approvals being granted.”

Resolution 704

“That Council request the WA Planning Commission via the South East District Planning Committee to amend the Metropolitan Region Scheme zoning over Lots 1, 2, 1297 and 1298 Southern River Road and Lots 1300, 1301 and 1302 Chamberlain Street, Gosnells, from “Urban Deferred” to “Urban”. ”

A copy of the previous ODP is included at Appendix 12.5.4A.



In line with Council's previous resolutions, following the publication of Town Planning Scheme No. 6 in the "Government Gazette", Amendment No. 6 was initiated by Council at its meeting of 26 March 2002 when it was resolved as follows (Resolution 198):

"That Council, pursuant to Section 7 of the Town Planning and Development Act, 1928 (as amended) initiate an amendment to the City of Gosnells Town Planning Scheme No. 6 to rezone Lots 1, 2, 1297 and 1298 Southern River Road and Lots 1300, 1301 and 1302 Chamberlain Street, Gosnells, from "General Rural" to "Residential Development" subject to finalisation, to the satisfaction of Council, of a legal agreement, at the applicant's cost, relating to the irrevocable closure of the poultry farm on Lot 1298 Southern River Road, prior to any formal development approvals being granted."

Following various attempts by Kevin Broughton of Broughton Planning to have the above-mentioned legal agreement executed, it became apparent that this would not be achieved. Furthermore, in early 2003 Broughton Planning ceased operating as a business. Correspondence was sent to all landowners seeking expressions of interest to engage a planning consultant and progress the planning for the area, however no responses were achieved. Based on the lack of progress, Council considered the matter at its meeting of 12 August 2003 and resolved as follows (Resolution 539):

"That Council, pursuant to Section 7 of the Town Planning and Development Act, 1928 (as amended), advise the WA Planning Commission that it does not wish to proceed with Amendment No. 6 to Town Planning Scheme No. 6 to rezone Lots 1, 1297 and 1298 Southern River Road and Lots 1300, 1301 and 1302 Chamberlain Street, Gosnells, from Urban Deferred to Residential Development due to the absence of a proponent, appropriate documentation and legal agreement relating to the irrevocable closure of the poultry farm on Lot 1298 Southern River Road."

Following the consideration of the matter by Council, Civil Technology on behalf of a number (but not all) of the landowners made contact with the City and the Department for Planning and Infrastructure (DPI) with a view to progressing the planning for this area. A plan of subdivision has already been lodged with the Western Australian Planning Commission (WAPC), however it is envisaged that the subdivision would be progressed concurrently with scheme amendments and an ODP.

This report provides the opportunity for Council to consider the re-initiation of a previous scheme amendment, the lifting of Urban Deferment under the Metropolitan Region Scheme and an Outline Development Plan to guide future subdivision and development.

DISCUSSION

As outlined in the background, three key issues have previously prevented further planning for the area occurring, as follows:

- The lack of a proponent,
- The lack of formal documentation,
- The lack of a legal agreement relating to the irrevocable closure of the poultry farm on Lot 1298 Southern River Road.

These matters are discussed further in the following sections and ultimately form the basis for a recommendation to progress the planning in this area.

Lack of a Proponent and Formal Documentation

Kevin Broughton of Broughton Planning was previously representing a number of the landowners within the ODP area, however Broughton Planning no longer operates as a business. Civil Technology has essentially replaced Broughton Planning as the proponent through the preparation of necessary documentation and as such the lack of a proponent is no longer a constraint to further planning.

Lack of a Legal Agreement

With respect to existing poultry farms, it has been common practice for Council to require the execution of a legal agreement relating to the irrevocable closure of the poultry farm prior to the urbanisation of the area. This was necessary to provide appropriate “safeguards” to prevent subdivision or development within 500 metres of an operational poultry farm. Following on from previous difficulties of getting such a legal agreement, the applicant engaged both the City and the DPI in further discussion regarding the need for a legal agreement.

The main concern that various poultry farm operators have expressed in the past has been the potential time delay between ceasing operating the farm (ie. at the commencement of the planning processes) and the finalisation of planning processes. Realistically, a two to three year planning process is not uncommon where Scheme Amendments and Outline Development Plans are required, with no guarantee of a particular outcome at the outset.

Based on further discussions with DPI, support for the rezoning of land including poultry farms can provide an incentive for a poultry farm operator to cease operating and to further subdivide and/or develop their land. One needs to be mindful to avoid a “catch-22” situation that could otherwise occur, with the poultry farm continuing to operate until subdivision occurs, with subdivision not able to occur until the poultry farm ceases to operate.

Historically, there has been a lack of a clear planning framework for addressing poultry farms and associated buffers in an urban context, hence the need for some form of legal agreement. With the release of Statement of Planning Policy No. 5 (SPP5) in 1998, clear guidance and safeguards have been provided for the WAPC and the City. One of the objectives from SPP5 is to “*encourage the relocation of poultry farms on land required for residential or rural-residential development*”. In terms of achieving this objective, SPP5 states the following:

“In new development areas, consideration will be given to provide incentives to encourage existing poultry farms to relocate. These incentives may take the form of higher order zonings, special area levies or including the affected farms in town planning development schemes.”

This report proposes to include the existing poultry farm within the land parcel to be rezoned and coordinated through the progression of an ODP, to provide an incentive for the poultry farm to either cease operating or relocate. This approach is further supported by a plan of subdivision that has already been lodged with the WAPC which proposes residential development on the existing poultry farm site.

In addition to the above, Council staff further discussed the use of legal agreements with DPI. Based on discussions with local authorities in the north-west Corridor of the Perth Metropolitan Area, it became apparent that most other Local Authorities do not use legal agreements as the provisions of SPP5 provide appropriate guidance and safeguards. It is understood that previous negotiations and outcomes involving a former poultry farm in Balfour Street, Huntingdale, provided the impetus for the release of SPP5.

“Lifting of Urban Deferment” under the Metropolitan Region Scheme

The subject land is currently zoned “Urban Deferred” under the Metropolitan Region Scheme (MRS). This zone recognises the future development potential of the area, however identifies various potential constraints to development. Historically, this area has remained as “Urban Deferred” due primarily to the presence of a poultry farm on Lot 1298 Southern River Road. In accordance with the discussion above, the existence of a poultry farm is no longer a constraint to achieving an Urban zoning under the MRS.

The WAPC in advice has indicated that it will provide support for the lifting of “urban deferment” upon:

- The proponent demonstrating that the adjacent poultry farm will cease its activities before final approval is granted to subdivision of any part of the subject land;
- Demonstrating that the land can be serviced by urban infrastructure;
- The City of Gosnells indicating its support for the land to be included within the “Urban Zone”;
- There being landowner support for subdivision; and

- There being a co-ordinated subdivision and/or development plan over the subject land.

Each of these matters have now been addressed and as such the staff recommendation for this report includes a formal request to achieve the lifting of “Urban Deferment” through the South East District Planning Committee.

Outline Development Plan

To provide a framework for the future subdivision and development of the area, it is considered necessary for an ODP to be progressed concurrently with any scheme amendment. Under the provisions of TPS. 6 for land zoned “Residential Development”, any zone on an ODP shall have the same effect as if it were zoned directly under the Scheme itself. The use of development zones in conjunction with ODP’s provides a flexible approach to planning for rapidly developing areas, as greater consideration can be given to achieving planning objectives as opposed to adhering to strict administrative provisions and requiring formal scheme amendments

An Outline Development Plan is provided in Appendix 12.5.4B as an initial step, Council is required to consider whether the ODP is satisfactory for advertising prior to adopting the ODP for final approval. The ODP provides for predominantly residential development at a density of R17.5, the provision of public open space and a potential mixed use centre at the intersection of Southern River Road and Chamberlain Street.

Based on previous approaches from the landowner of Lot 1301 and 1302, there has been an expressed desire to create a “heritage farm” on portions of these two properties. The landowner has a long association with the area and does not wish to develop or subdivide his properties at this time, but rather develop the property such that it may be open to the public. Should this proceed, it is likely such a proposed use would be classified as an “exhibition centre”, a discretionary use requiring advertising under the Scheme in a Residential Development zone. A formal application and assessment would be required for the proposal to proceed, with detailed design considerations being able to be addressed at this time. In the interim, however, the interface between a future heritage farm and residential subdivision will need to be carefully considered to achieve the objectives of the SafeCity Urban Design Strategy. Rather than leaving portions of these properties with “Urban Deferred” and “General Rural” zonings, it is recommended that these properties be included in rezoning process, however, shown on the ODP as “Private Recreation”. This would facilitate ease of any future subdivision of the land if the landowner should choose to develop by way of an amendment to the ODP.

In essence, the ODP is very similar to that previously considered and supported by Council. For this reason, and that the ODP is considered consistent with the objectives of TPS 6, it is recommended that the ODP be progressed in conjunction with the lifting of Urban Deferment under the MRS and an amendment to TPS 6.

Land Zoned “Urban Deferred” Opposite the ODP Area

Following previous Council resolutions, Council staff have been involved in discussions with the Department for Planning and Infrastructure regarding the “lifting of urban deferment” under the Metropolitan Region Scheme for both the ODP area and Pt Lot 1296 and Lot 1000 on the southern side of Southern River Road. As outlined previously, the principle reason for the “Urban Deferred” zone has been the existence of a poultry farm on Lot 1298 Southern River Road. With the removal of this constraint, there is no reason why Lot 1000 and 1296 should not be included in the Urban zone. Previous consultation with the landowners has provided support for this approach. Should an Urban Zone be achieved under the MRS, an amendment to TPS 6 would be required in due course, however it is understood that there would be no significant challenges to this being achieved.

District Level Infrastructure Contributions

Discussions have been held between Council staff and the applicant regarding the provision and coordination of district level infrastructure. It is common for large Outline Development Plans to include cost-sharing mechanisms, whereby developer contributions are managed by Council. This is generally necessary where the scope of works is beyond that capable of being addressed through subdivision processes. Based on the information provided to Council staff by the applicant regarding the provision of services and the small scale of the ODP area, it does not appear necessary to establish a cost sharing mechanism; necessary infrastructure will be provided through subdivision processes only.

A contribution towards the provision of a traffic control device at the intersection of Chamberlain Street and Southern River Road in addition to the upgrading of Southern River Road have previously been the subject of discussion with Broughton Planning and more recently the applicant. The position of Council to require these devices would not be altered by the provision, or lack thereof, of a cost sharing mechanism.

Finally on this matter, the potential financial risk to Council associated with managing and coordinating costs are avoided by not establishing cost sharing mechanisms. All costs remain the responsibility of landowners at the time of subdivision or development.

Public Consultation

Should Council support the re-initiation of the Scheme Amendment and the draft ODP, extensive consultation with the community would be required to be undertaken prior to finalisation. It is anticipated that both the ODP and Scheme Amendments would be advertised concurrently to ensure clarity for the community and government agencies when reviewing the proposals.

CONCLUSION

Based on the information presented to Council, the previous constraints to progressing the further planning of this area have been addressed. With a proponent, formal documentation and the issues associated with the existing poultry farm addressed, it is necessary to progress Scheme Amendments and an ODP to guide future subdivision and development.

FINANCIAL IMPLICATIONS

Due to the small scale of the ODP, comprising 14 hectares of developable area, it is not considered necessary for Council to establish a cost-sharing mechanism for the provision of district level infrastructure. A plan of subdivision has already been lodged for the majority of the ODP area, which will provide a framework for coordinating the considered appropriate infrastructure to service future subdivision and development.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

**805 Moved Cr S Iwanyk Seconded Cr C Matison, Cr P Wainwright
and Cr R Croft**

“That Resolution 539 of the Ordinary Council Meeting held on 12 August 2003, which reads as follows:

“That Council, pursuant to section 7 of the Town Planning and Development Act, 1928 (as amended), advise the WA Planning Commission that it does not wish to proceed with Amendment No. 6 to Town Planning Scheme No. 6 to rezone Lots 1, 1297 and 1298 Southern River Road and Lots 1300, 1301 and 1302 Chamberlain Street, Gosnells, from Urban Deferred to Residential Development due to the absence of a proponent, appropriate documentation and legal agreement relating to the irrevocable closure of the poultry farm on Lot 1298 Southern River Road.”

be revoked.”

CARRIED BY ABSOLUTE MAJORITY 8/4

FOR: Cr W Barrett, Cr R Croft, Cr R Hoffman, Cr P Wainwright, Cr R Mitchell, Cr C Matison, Cr S Iwanyk and Cr PM Morris.

AGAINST: Cr S Moss, Cr O Searle, Cr J Brown and Cr D Griffiths.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

806 Moved Cr R Hoffman Seconded Cr C Matison

“That Council formally request the Perth Region Planning Committee, through the South East District Planning Committee to consider the “lifting of Urban Deferment” under the Metropolitan Region Scheme for the area bounded by Southern River Road, Chamberlain Street and the Southern River in addition to Pt Lot 1296 Southern River Road and portion of Lot 1000 Prince Regent Boulevard.”

CARRIED 9/3

FOR: Cr W Barrett, Cr R Croft, Cr R Hoffman, Cr P Wainwright, Cr R Mitchell, Cr O Searle, Cr C Matison, Cr S Iwanyk and Cr PM Morris.

AGAINST: Cr S Moss, Cr J Brown and Cr D Griffiths.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

807 Moved Cr R Hoffman Seconded Cr C Matison

“That Council, pursuant to clause 7.4.2 of Town Planning Scheme No. 6 deem the Outline Development as shown in Appendix 12.5.4B Plan satisfactory for advertising subject to the following:

1. The designation of portion of Lots 1301 and 1302 as “Private Recreation”.
2. The designation of the existing poultry farm on Lot 1298 on the ODP.”

CARRIED 9/3

FOR: Cr W Barrett, Cr R Croft, Cr R Hoffman, Cr P Wainwright, Cr R Mitchell, Cr O Searle, Cr C Matison, Cr S Iwanyk and Cr PM Morris.

AGAINST: Cr S Moss, Cr J Brown and Cr D Griffiths.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

808 Moved Cr R Hoffman Seconded Cr C Matison

“That Council, pursuant to section 7 of the Town Planning and Development Act, 1928 (as amended) re-initiate Amendment 6 to the City of Gosnells Town Planning Scheme No 6 to rezone portions of Lots 1297, 1298, 1300, 1301, 1302 and Lots 801 and 2 from “General Rural” to “Residential Development”.”

CARRIED 9/3

FOR: Cr W Barrett, Cr R Croft, Cr R Hoffman, Cr P Wainwright, Cr R Mitchell, Cr O Searle, Cr C Matison, Cr S Iwanyk and Cr PM Morris.

AGAINST: Cr S Moss, Cr J Brown and Cr D Griffiths.