



ORDINARY COUNCIL MEETING  
26 JULY 2022

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Minutes of the Ordinary Council Meeting held in the City of Gosnells Civic Centre Council Chambers, 2120 Albany Highway, Gosnells on Tuesday 26 July 2022.

**1. DECLARATION OF 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 in which they may have an interest, until such time as they have seen a copy of the Minutes of the meeting or have been advised in writing by City staff.

**1.2 RECORDING OF COUNCIL MEETINGS**

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

*Following publication and distribution of the meeting minutes to Elected Members the digital recording will be available on the City's website.*

*For further information please contact the Business Services Support Officer on 9397 3046.*

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

**2. RECORD OF ATTENDANCE****ELECTED MEMBERS**

MAYOR  
DEPUTY MAYOR

CR T LYNES  
CR A HORT  
CR P ABETZ  
CR A ADAMS  
CR D GOODE JP  
CR D GRIFFITHS  
CR K MCDONALD  
CR S PATTERSON  
CR S WILLIAMSON  
CR E ZHANG

**STAFF**

CHIEF EXECUTIVE OFFICER  
ACTING DIRECTOR COMMUNITY ENGAGEMENT  
DIRECTOR BUSINESS SERVICES  
DIRECTOR INFRASTRUCTURE  
DIRECTOR PLANNING & DEVELOPMENT  
CHIEF FINANCIAL OFFICER  
COORDINATOR GOVERNANCE & PROCUREMENT  
MINUTE CLERK

MR I COWIE  
MS M AHRENS  
MR G BRADBROOK  
MR M GLOVER  
MR C TERELINCK  
MS R AUGUSTIN  
MS V WILSON  
MS S MORESBY  
MS N LAUAN

**PUBLIC GALLERY**  
**PRESS**

9  
1

**2.1 APOLOGIES**

Cr C Baayens  
  
Cr G Dewhurst

**2.2 LEAVE OF ABSENCE**

Nil.

**3. DISCLOSURE OF INTEREST**

Nil.

**4. ANNOUNCEMENTS BY THE PRESIDING MEMBER**  
(without discussion)

Nil.

**5. REPORTS OF DELEGATES**  
(without discussion)

Cr D Goode advised that he attended the Joint Development Assessment Panel (JDAP) meeting on 26 July 2022 with Cr P Abetz. He advised that at the meeting, approval was granted for the development of place of worship, community purpose building, educational establishment, restaurant and shop on Sheoak Road, Maddington adjacent to the Maddington Village Shopping Centre.

Cr S Williamson advised that she attended the Switch Your Thinking - South East Regional Energy Group (SEREG) meeting on 20 July 2022. Cr Williamson acknowledged that 60 workshops were delivered during last financial year with almost 1,000 attendees. In addition to that, 32 workshops were held in relation to waste reduction. Switch Your Thinking is currently assisting the City of Gosnells with the roll out of a recycling hub and a sustainability action plan.

Cr S Patterson congratulated local resident, Sam Thomas, who started the not-for-profit business, Sam's Spares, to tackle e-waste. He was announced as the winner of the Channel 7 Local Champion Award for his environmental contribution.

**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.

**6.1 QUESTION TIME**

Question Time for the Public commenced at 7.34pm.

Mrs Sandra Baraiolo asked the following question/s:

**Question 1:** Is it correct that Victoria Road has been described in numerous reports by the City of Gosnells as a narrow rural poorly maintained road?

**Response:** The Director Planning and Development advised that Victoria Road has been identified for upgrading as a component of the MKSEA Precinct I Structure Plan. There has been some contention about the condition of the road, however, he doesn't recall it being described by the City as a poorly maintained rural road.

**Question 2:** Is it correct that the intersection of Victoria Road and Bickley Road has also been described as inadequate for turning of over-length and over-width commercial vehicles and the intersection needs attention for safe road use?

**Response:** The Director Planning and Development acknowledged that the intersection will need an upgrade to perform properly to accommodate industrial traffic.

**Question 3:** Is it true that there are numerous over-width, over-length commercial vehicles accessing Victoria Road via Bickley Road Kenwick that do not have permits to be on this road due to the length restrictions?

**Response:** The Director Infrastructure advised that the City is aware of oversized vehicles using Bickley Road and such information has been forwarded to Main Roads WA for action. Main Roads has arranged a number of patrols over the past 12 months and issued infringements where offences occurred. Main Roads WA is the only authority in WA that issues permits for oversized vehicles and police the compliance.

**Question 4:** Is it true that Main Roads has advised the City of Gosnells that the correct width for the commercial vehicles to drive on Victoria Road should be 10 metres wide and currently it is only 8 metres wide?

**Response:** The Director Infrastructure responded that based on the Austroads Guide for Road Width, the minimum width for a road such as Victoria Road is only 7 metres.

**Question 5:** Is it true that the speed data for Bickley Road clearly indicates that the vehicles and or commercial vehicles are travelling at more than 50 km/h, and the average speed is 67 km?

**Response:** The Director Infrastructure advised that Bickley Road is posted as a 50 km/h speed limit. However, since the introduction of the speed advisory sign, 85 percent of vehicles are travelling at 58 km/h or less instead of 63 km/h speed.

**Question 6:** Is it correct that the corner of Bickley Road going towards Kenwick Road is being damaged on the verges by the over-width, over-length commercial vehicles? Pictures and videos have been sent to Council.

**Response:** The Director Infrastructure advised that the City is aware of the damage to a tree on this corner.

**Question 7:** Is it correct that numerous residents along Victoria Road and Bickley Road have constantly complained to the City of Gosnells for more than 10 years about the excessive use of commercial vehicles due to the narrow roads?

**Response:** The Director Infrastructure responded that the City has been regularly contacted by one resident on Victoria Road with concerns regarding oversized vehicles and speeding. The City is in constant communication with the resident.

The Mayor added that she is aware of other complaints from a resident on Bickley Road.

**Question 8:** Would Council consider constructing some of the roads identified in the structure plan ahead of collecting the developer contributions? As Council are aware, almost 80% of the commercial vehicles do not have permits and are illegally using the roads.

**Response:** The Director Planning and Development responded it is possible and Council will need to consider the budget and capital works program in the future.

Question Time for the Public concluded at 7.40pm.

## **6.2 PUBLIC STATEMENTS**

Public Statement Time commenced at 7.40pm.

**6.2.1** Mrs Kerry Jarian made a statement in relation to Item 13.2.2 "Southern River Precinct 3 Development Contribution Plan Report - Finalisation".

**6.2.2** Mr Clayton Plug from Harley Dykstra made a statement in relation to Item 13.2.2 "Southern River Precinct 3 Development Contribution Plan Report - Finalisation" speaking on behalf of his client, the Free Reformed Church of Southern River.

**6.2.3** Mrs Sandra Baraiolo made a statement in relation to Item 13.5.6 "Proposed City of Gosnells Cat Amendment Local Law 2022" speaking in favour of the staff recommendation.

Public Statement Time concluded at 7.46pm.

## 7. CONFIRMATION OF MINUTES

### STAFF RECOMMENDATION AND COUNCIL RESOLUTION

#### 155 Moved Cr K McDonald Seconded Cr A Hort

That the Minutes of the Special Council Meeting held on 5 July 2022, as published and distributed be confirmed as an accurate record.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

### STAFF RECOMMENDATION AND COUNCIL RESOLUTION

#### 156 Moved Cr K McDonald Seconded Cr A Hort

That the Minutes of the Ordinary Council Meeting held on 12 July 2022, as published and distributed be confirmed as an accurate record.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

## 8. RECEIVING OF PETITIONS AND PRESENTATIONS

Petitions and Presentations are made in accordance with the requirements outlined in the City of Gosnells Standing Orders Local Law 2016.

Copies of petitions and any items tabled must be provided to the Chief Executive Officer immediately following completion of the submission.

### 8.1 REQUEST FOR INSTALLATION OF BUS SHELTERS ALONG SOUTHERN RIVER ROAD AND GAY STREET

Cr E Zhang presented a petition initiated by Frederic Adhitama containing 11 signatures requesting the installation of bus shelters along Southern River Road and Gay Street.



**COUNCIL RESOLUTION****157 Moved Cr E Zhang Seconded Cr A Hort**

That the petition initiated by Frederic Adhitama containing 11 signatures requesting installation of bus shelters along Southern River Road and Gay Street, be received and a report prepared for Council.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**9. APPLICATIONS FOR LEAVE OF ABSENCE**

Clause 4.10 of the City of Gosnells Standing Orders Local Law 2016 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 subclause (1) shall include the period of leave of absence required and the reasons for seeking the leave”.

Cr G Dewhurst requested leave of absence for the 26 July 2022 Council meeting for personal reasons.

**COUNCIL RESOLUTION****158 Moved Cr S Patterson Seconded Cr D Griffiths**

That Council grants leave of absence to Cr G Dewhurst for 26 July 2022.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** 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**

Nil.

## **12. REPORTS OF COMMITTEE MEETINGS**

### **12.1 PUBLIC ART COMMITTEE MEETING - 1 JULY 2022**

Author: G Blake

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 12.1A Minutes of the Public Art Committee Meeting held on 1 July 2022

12.1B Details of Artwork Acquired

#### **PURPOSE OF REPORT**

For Council to receive the Minutes of the Public Art Committee Meeting held on 1 July 2022.

#### **BACKGROUND**

The City conducts a NAIDOC Week Art Exhibition as part of its annual NAIDOC Week activities in July each year.

A Public Art Committee Meeting was held on 1 July 2022 to consider the acquisition of artworks for the City's collection from this Exhibition.

The Committee resolved to purchase one artwork to the value of \$1,500.

Minutes of the meeting including the details of the acquired artwork are attached as Appendices 12.1A and 12.1B, respectively.

#### **DISCUSSION**

Nil.

#### **FINANCIAL IMPLICATIONS**

The Public Art Committee purchased an artwork with a total value of \$1,500. Funds for this purpose are available in the City's Operating Budget.

#### **STATUTORY IMPLICATIONS**

The following Council Policies are relevant:

- 3.1.12 – Art Acquisition, Management and Decommissioning.
- 3.1.13 – Public Art Committee – Terms of Reference

#### **VOTING REQUIREMENTS**

Simple Majority required.

*Item 12.1 Continued*

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
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**159 Moved Cr A Hort Seconded Cr E Zhang**

That Council receives the Minutes of the Public Art Committee Meeting held on 1 July 2022 attached as Appendix 12.1A.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

## 13. REPORTS

### 13.1 CHIEF EXECUTIVE OFFICE

#### 13.1.1 GREENING GOSNELLS: OUR PUBLIC TREE STRATEGY 2022 - 2030

Author: S Bullock

Author's Declaration Nil.

of Interest:

Previous Ref: OCM 12 April 2022 (Resolution 78)

Appendix: 13.1.1A Draft Greening Gosnells: Our Public Tree Strategy  
2022 - 2030

#### PURPOSE OF REPORT

For Council to endorse the City of Gosnells draft public tree strategy, Greening Gosnells: Our Public Tree Strategy 2022 – 2030, attached as Appendix 13.1.1A.

#### BACKGROUND

At its 12 April 2022 meeting, Council resolved that the Chief Executive Officer prepare an Urban Forest Strategy for consideration by February 2023 (Resolution 78).

#### DISCUSSION

The City recognises the many benefits of trees and is committed to increasing tree numbers and canopy in City owned and managed lands. The public tree strategy summarises the history of the changing landscape and the current status of trees and canopy within the City of Gosnells.

The strategy introduces the opportunities for, and challenges of, planting and maintaining trees and canopy in the City. It provides an implementation plan for optimising tree planting and expanding canopy within City owned and managed lands, including budget implications and timelines.

The strategy is intended to reinforce Council's commitment to delivering on the following Strategic Community Plan priorities and goals:

- Strategic Priority 1 – Places within the City are attractive and vibrant
  - Goal 1.1 – Make the City a clean and attractive place
- Strategic Priority 3 – The environment is protected and enhanced
  - Goal 3.2 - Protect and improve our natural assets and, where possible, integrate them with community activity

#### FINANCIAL IMPLICATIONS

The implementation of actions contained within the public tree strategy will be included in future operational budgets for Council's consideration.

Item 13.1.1 Continued

## STATUTORY IMPLICATIONS

Nil.

## VOTING REQUIREMENTS

Simple Majority required.

### STAFF RECOMMENDATION

#### Moved Cr S Williamson Seconded Cr P Abetz

That Council adopts the draft public tree strategy, Greening Gosnells: Our Public Tree Strategy 2022 – 2030, attached as Appendix 13.1.1A.

#### Amendment

During debate Cr T Lynes moved the following amendment to the staff recommendation:

*“That following the word “Appendix 13.1.1A” in the staff recommendation, the following words be added, “with the inclusion of an additional action in the strategy to be located in the table under the heading “Planting Targets and Partnerships” on page 15 which reads “Seek opportunities to support community tree planting”.”*

Plan	Timeline	Budget Implications
Seek opportunities to support community tree planting.	Year 1 to Year 8	Provision in operating budget.

Cr T Lynes provided the following written reason for the proposed amendment:

*“To ensure the document captures community tree planting partnerships.”*

Cr A Hort seconded Cr T Lynes' proposed amendment.

## Item 13.1.1 Continued

At the conclusion of debate the Mayor put the proposed amendment, which reads:

**Moved Cr T Lynes Seconded Cr A Hort**

That following the word "Appendix 13.1.1A" in the staff recommendation, the following words be added, "with the inclusion of an additional action in the strategy to be located in the table under the heading "Planting Targets and Partnerships" on page 15 which reads "Seek opportunities to support community tree planting".

Plan	Timeline	Budget Implications
Seek opportunities to support community tree planting.	Year 1 to Year 8	Provision in operating budget.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

The amendment was put and carried. The Mayor then put the substantive motion as amended, which reads:

**COUNCIL RESOLUTION****160 Moved Cr S Williamson Seconded Cr P Abetz**

That Council adopts the draft public tree strategy, Greening Gosnells: Our Public Tree Strategy 2022 – 2030, attached as Appendix 13.1.1A with the inclusion of an additional action in the strategy to be located in the table under the heading "Planting Targets and Partnerships" on page 15 which reads "Seek opportunities to support community tree planting".

Plan	Timeline	Budget Implications
Seek opportunities to support community tree planting.	Year 1 to Year 8	Provision in operating budget.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

## 13.2 PLANNING AND DEVELOPMENT

### 13.2.1 DEVELOPMENT APPLICATION - CHILD CARE PREMISES - 271 (LOT 114) AMHERST ROAD CANNING VALE

Director: C Terelinck  
Author's Declaration Nil.  
of Interest:  
Property Number: 313648  
Application No: DA22/00234  
Applicant: Hindley and Associates Pty Ltd  
Owner: Shoreden Pty Ltd  
Location: 271 (Lot 114) Amherst Road, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 26,331m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: 13.2.1A Site, floor and elevation plans

#### PURPOSE OF REPORT

For Council to consider an application for development approval for a Child Care Premises at 271 (Lot 114) Amherst Road, Canning Vale due to an objection being received during the consultation period.

#### BACKGROUND

##### Site Description and Planning Framework

The subject site is located at the corner of Amherst and Warton Roads Canning Vale, and accommodates The Vale Shopping Centre. The Centre includes Woolworths supermarket, various shop tenancies, a medical centre and associated car park.

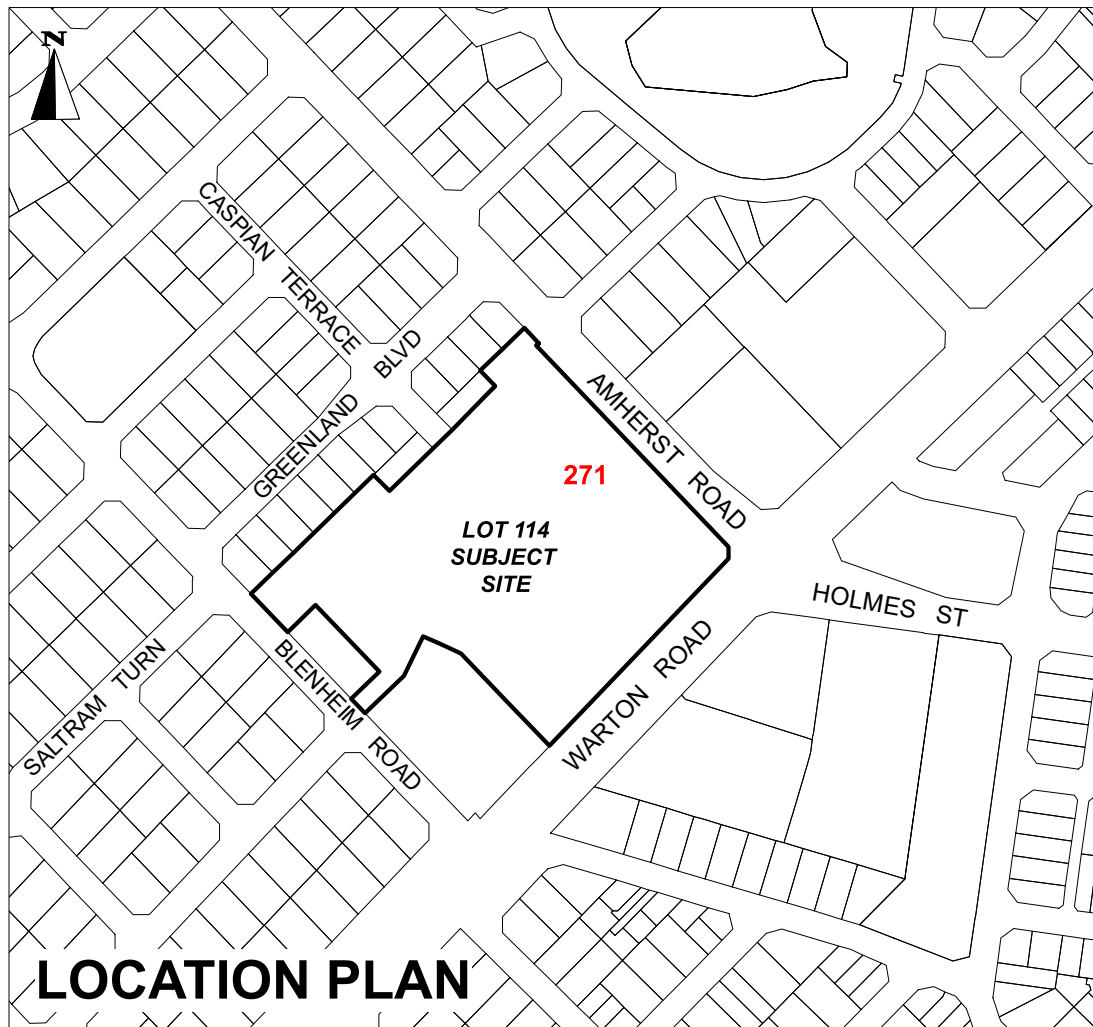
The site is bounded by Amherst Road to the north-east, existing residential development to the north-west, Warton Road to the south-east and Blenheim Road to the south-west.

The site is located within the Canning Vale Outline Development Plan area and is designated as a Mixed Use Centre. The site is subject to the Amherst Neighbourhood Centre Plan.

The proposed childcare premises is located on a vacant part of the north-western portion of the site.

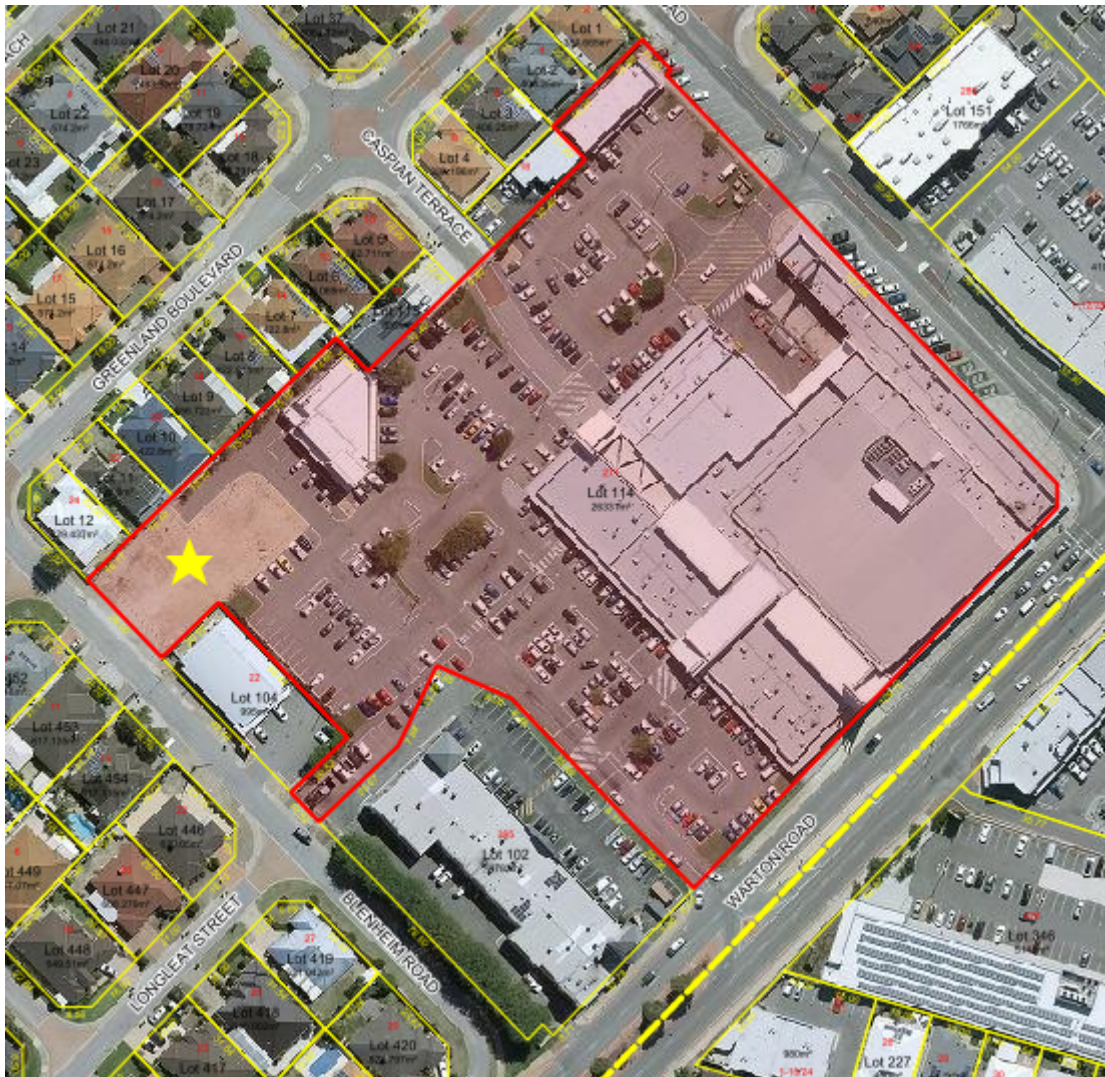
A map and aerial image identifying the location of the subject site follows, with the location of the childcare shown as a star on the aerial image.

Item 13.2.1 Continued





## Item 13.2.1 Continued

**LOCATION PLAN – AERIAL VIEW****Proposal**

The application involves the construction of a childcare premises, comprising:

- A 490m<sup>2</sup> single storey building and outdoor play area.
- Two pedestrian entries, one from Blenheim Road and the other from the shopping centre car park.
- A maximum of 74 children and 12 staff at any one time.
- Hours of operation from Monday to Friday, 7am to 6pm.
- Vehicle access from the internal shopping centre car park (accessed from Warton Road and Amherst Road).
- Six new parking bays provided directly adjacent to the proposed building which will form part of the existing car park.
- A masonry brick wall along the north-west boundary that will vary between 2m and 2.4m in height.

*Item 13.2.1 Continued*

The site, floor and elevation plans are contained as Appendix 13.2.1A.

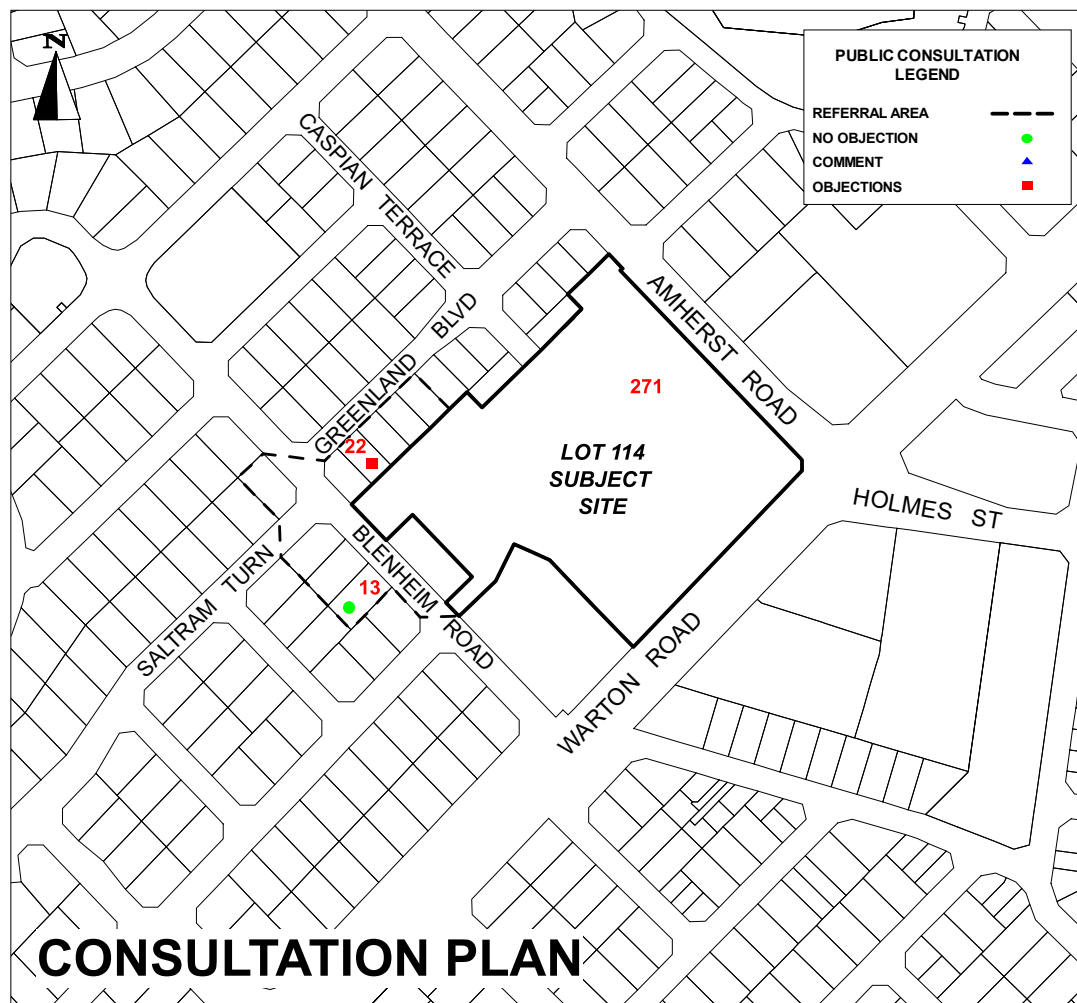
**Consultation**

The proposal was advertised for public comment for a period of 21 days, from 30 May 2022 to 21 June 2022. Letters were sent to the owners of ten properties within the consultation area, and in addition, three occupiers of properties were also invited to comment.

It is noted the proposed use does not require advertising under the provisions of Town Planning Scheme No.6, however, the City considered advertising to adjoining and nearby landowners and occupiers was appropriate in this instance. In the past, the nearby residents of Blenheim Road have shown an interest in the development of The Vale Shopping Centre.

In response, two submissions were received including one objection to the proposal and one non-objection.

A map identifying the consultation area and the origin of each submission follows.



*Item 13.2.1 Continued*

The main issues raised in the objection are as follows:

- Amenity;
- Noise;
- Traffic;
- Built Form; and
- Privacy.

Each is discussed in the following sections, along with any other applicable technical matters.

**DISCUSSION****Town Planning Scheme No. 6 (TPS 6)**

The subject site is zoned Residential Development under TPS 6 and is designated as a Mixed Use Centre under the Canning Vale Structure Plan. In accordance with TPS 6, a Child Care Premises is a "D" use, meaning it is not permitted unless the local government has exercised its discretion by granting development approval. The proposal is therefore capable of approval.

Car Parking

The following table details the car parking requirements for the proposal:

Land Use	Car Parking Standards	Car Parking Required	Car Parking Proposed/Available
Existing Shopping Centre	6 spaces for every 100m <sup>2</sup> net commercial floor space.	385 bays required.	430 bays (existing).
Proposed Child Care Premises	1 space for every 10 children the facility is designed to accommodate;  1 space for every employee; Minimum 4 spaces.	Maximum of 74 children, therefore 8 bays required (rounded up).  12 employees therefore 12 bays required.	6 bays proposed.
<b>Total</b>		405 bays	436 bays

While the child care premises requires 20 bays under TPS 6 with only six bays proposed, the centre currently provides a surplus of parking, as shown above. Consequently, the proposal complies with the TPS 6 standards.

Setbacks

Clause 4.7.1 of TPS 6 (Non-Residential Development in the Residential Zone) requires all non-residential development within the Residential zone to conform with the setback provisions prescribed in the Residential Design Codes (R-Codes).

*Item 13.2.1 Continued*

The building is setback 1.2m from the north-west (residential) boundary and is compliant with the deemed-to-comply requirements of the R-Codes. The proposal is therefore compliant with this scheme requirement.

**Amherst Neighbourhood Centre Plan**

The subject site is located within the Amherst Neighbourhood Centre Plan (Centre Plan) area. The planning objectives for the Centre Plan are to provide:

- “i) a concentration of activities such as retail, office, commercial, entertainment, recreation and community facilities.*
- ii) a community focal point, with vibrant and diverse uses and a high level of convenience.*
- iii) an attractive setting for business and social interaction within a streetscape environment that marries an appropriate mix of uses with a high quality public domain.*
- iv) opportunities for incorporating residential development.*
- v) convenient access to activities within the Centre from a range of transport modes including walking, cycling, public transport, cars and commercial and service vehicles.”*

The Centre Plan includes specific design principles relating to built form, street interface, access and public spaces. The proposal is generally consistent with these design principles.

**Noise**

An Acoustic Report was conducted by a qualified acoustic consultant (Reverberate Consulting). The assessment considers the noise impacts/sources associated with children, mechanical plant and car park use. The noise was assessed against the requirements of the *Environmental Protection (Noise) Regulations 1997* by way of noise modelling. The assessment and findings of the report demonstrate that the proposal will comply with the regulations subject to incorporating the following fencing/barriers:

- 2m high masonry wall for a portion along the north-west boundary adjoining the proposed building and car park.
- 2.4m high masonry wall for a portion along the north-west boundary adjoining the proposed outdoor play area.

The development plans include the treatments specified above. Should Council approve the application, a condition should be imposed requiring the recommendations of the Acoustic Report be implemented and maintained for the life of the development, to the satisfaction of the City.

*Item 13.2.1 Continued***Traffic**

A Transport Impact Statement (TIS) was provided with the application to support the proposal. The TIS assessed the volume of traffic movements generated by the development and its impacts on the surrounding road network. The development is expected to generate up to 56 traffic movements during the AM peak hour period and 45 trips during the PM peak period. The TIS states that the development will not increase traffic flows above acceptable service levels, and would not have any significant impact on the surrounding road network. The City has reviewed the TIS and agrees with the findings.

**Built Form and Scale**

The building has a commercial appearance and includes timber cladding and concrete panels with a painted finish, which is appropriate given the site is located within a Mixed Use centre. The building is single storey, has windows and its entry facing the street, and has setbacks that complement the adjoining residential dwellings. The proposal will not detract from the amenity of adjoining and nearby residents or the streetscape, although the length and size of the façade could be further enhanced by the introduction of quality landscaping facing the Blenheim Road frontage.

**Landscaping**

The application includes a preliminary landscape plan that shows lawn and three street trees fronting Blenheim Road, and several trees and shrubs in the car parking area. The play area landscaping is to be determined by the future tenant. It is considered that the Blenheim Road frontage landscaping could be improved to provide a better interface between the building and the street. Should Council approve the proposal, a condition should be imposed requiring a detailed landscaping plan to be approved by the City prior to the lodgement of a Building Permit application.

**Privacy**

The building is single storey and includes masonry fencing with a minimum height of 2m adjacent to the north-west boundary. Therefore, the proposal does not cause any privacy issues for neighbours.

**Planning Bulletin No. 72/2009 - Child Care Centres**

The Western Australian Planning Commission's Planning Bulletin No. 72/2009 outlines guidelines in relation to the location and development of child care centres. The bulletin notes that child care activities are to be broadly located in residential areas, and in assessing such applications, consideration should be given to a range of factors,

*Item 13.2.1 Continued*

including site characteristics, and traffic and noise impacts. Specifically, the Planning Bulletin suggests that a child care facility should be:

- Strategically located to maximise benefits to the community it serves;
- Within easy walking distance of commercial, recreational or community nodes;
- Located where adjoining uses are compatible with a child care centre, with outdoor play areas located away from noise-sensitive premises such as dwellings;
- Serviced by public transport;
- Easily and safely accessible by car; and
- On a regular shaped lot greater than 1,000m<sup>2</sup> in area.

With regards to the above the following is relevant:

- The subject site is located within a Mixed Use centre which comprises a mix of residential, recreational and commercial uses;
- The subject site is located on the corner of two Distributor roads and is served by public transport services on Warton Road;
- The proposal contains a development site of approximately 1,500m<sup>2</sup> and is regularly shaped; and
- Whilst a portion of the play area is located adjacent to residential development, the majority of the play area is located away from the residential area and will be screened by a 2.4m high masonry wall which will reduce potential noise impacts.

The proposal is therefore considered to meet the criteria.

**CONCLUSION**

The proposal is generally consistent with the planning framework for the area and is not considered to cause a detrimental impact on the amenity of nearby residents or the area. The proposal is well located within a mixed use centre with good pedestrian and vehicle access. It is therefore recommended the proposal be approved subject to conditions as detailed in the recommendation.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

- *Planning and Development (Local Planning Schemes) Regulations 2015.*
- Town Planning Scheme No. 6.
- Amherst Neighbourhood Centre Plan.

*Item 13.2.1 Continued***VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION****161 Moved Cr D Griffiths Seconded Cr A Adams**

That Council approves the application for a Child Care Premises at 271 (Lot 114) Amherst Road, Canning Vale, dated 4 May 2022 subject to the following conditions:

1. Prior to applying for a Building Permit, the applicant shall submit, have approved, and thereafter implement, a drainage design, prescribing a functional drainage system, including detailed engineering drawings, and necessary technical information to demonstrate functionality of the design in accordance with the relevant Urban Water Management Plan, to the satisfaction of the City of Gosnells.
2. Prior to applying for a Building Permit, a detailed Landscape Plan for the development site and the adjoining road verge(s) is to be submitted to and approved by the City of Gosnells. The following details are to be included:
  - (i) Landscape treatments.
  - (ii) The location, species, quantity and pot size of proposed trees and shrubs.
  - (iii) Areas to be irrigated.
3. Prior to applying for a Building Permit, a schedule of materials, finishes and colours shall be submitted to and approved by the City of Gosnells. Prior to the occupation of the development, the approved external finishes and colour schemes are to be implemented to the satisfaction of the City of Gosnells and maintained thereafter.
4. Prior to occupation of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, drained, line-marked and kerbed in accordance with the approved plans and Council's engineering requirements and design guidelines. The car parking is to be maintained to the satisfaction of the City of Gosnells for the duration of the development.
5. Prior to the occupation of the development, the landscaping and irrigation of the development site and the adjoining verges is to be installed in accordance with the approved landscape plan and thereafter maintained to the satisfaction of the City of Gosnells.
6. Prior to the occupation of the development, certification from a qualified acoustic consultant is to be submitted to the City of Gosnells confirming that the recommendations of the Acoustic Report dated March 2022 prepared by Reverberate Consulting (Reference: P191153RP1A) have



*Item 13.2.1 Continued*

been implemented (including the boundary fence, and noise attenuating measures within the building). The attenuation features shall then be maintained for the life of the development to the satisfaction of the City of Gosnells.

7. A maximum of 74 children and 12 staff are permitted on site at any one time.
8. The hours of operation are restricted to between 7am and 6pm, Monday to Friday.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.



**13.2.2 SOUTHERN RIVER PRECINCT 3 DEVELOPMENT CONTRIBUTION PLAN  
REPORT - FINALISATION**

Director:	C Terelinck
Author's Declaration of Interest:	Nil.
Property Number:	Various
Application No:	PF09/00022
Applicant:	City of Gosnells
Owner:	Various
Location:	Southern River Precinct 3
Review Rights:	Yes, pursuant to Town Planning Scheme No. 6
Area:	Approximately 253ha
Previous Ref:	OCM 11 May 2021 (Resolutions 82-90) OCM 12 November 2013 (Resolutions 459-462) OCM 28 February 2012 (Resolutions 77-80) OCM 22 March 2011 (Resolutions 100-104)
Appendix:	13.2.2A Ministerial Approved Scheme Amendment Map 13.2.2B Ministerial Approved Scheme Amendment No. 110 Text 13.2.2C Modified Southern River Precinct 3 DCPR 13.2.2D Southern River Precinct 3 Guide Plan (2019) 13.2.2E Modified Southern River Precinct 3 Guide Plan (2022)

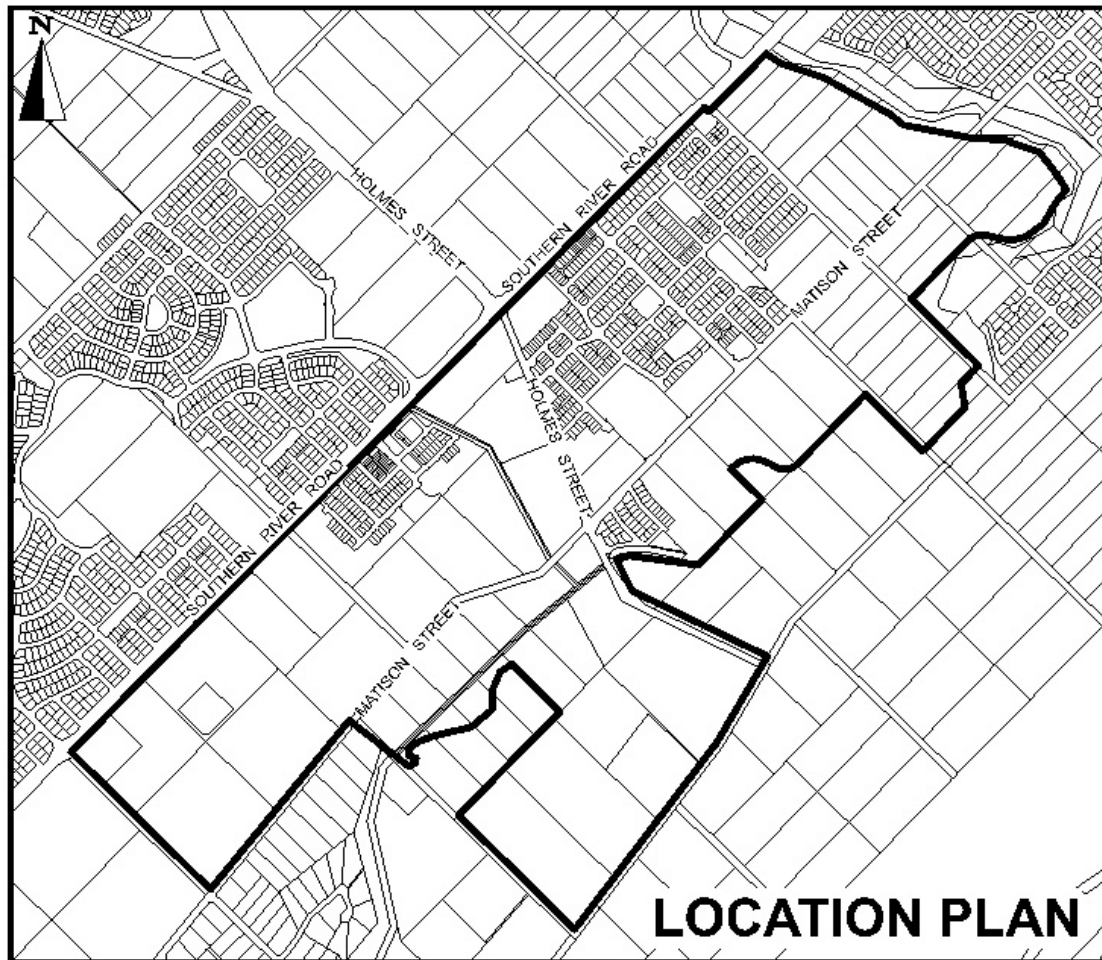
**PURPOSE OF REPORT**

For Council to adopt a modified Development Contribution Plan Report (DCPR) for the Southern River Precinct 3 (Precinct 3) Development Contribution Area (DCA).

**BACKGROUND**

Precinct 3 lies within the area generally bound by Southern River Road, Ranford Road, the Kennel zone, Passmore Street and the Southern River.

A map showing the location of the Precinct 3 DCA follows.

*Item 13.2.2 Continued*

In March 2011 Council initiated Amendment No. 110 to Town Planning Scheme No. 6 (TPS 6) to establish a Developer Contribution Plan (DCP) to fund the provision of infrastructure in Precinct 3. Council also resolved to include a draft Development Contribution Plan Report (DCPR) in the amendment documentation that establishes how the DCP will operate.

Amendment No. 110 and the draft DCPR were then forwarded to the Environmental Protection Authority (EPA) and the Western Australian Planning Commission (WAPC) for review. The EPA advised no environmental assessment was required and the WAPC indicated it would grant consent to advertise the proposal subject to minor modifications.

On 22 February 2012 Council adopted the modifications to the amendment and in March the WAPC granted consent to commence public consultation. Amendment No. 110 and the draft DCPR were advertised for 42 days between April and June 2012.

On 12 November 2013 Council considered the submissions received on Amendment No. 110 and the draft DCPR. Council resolved that the draft DCPR be revised to reflect various matters raised during public consultation and then re-advertised. The resolution and the amendment were subsequently forwarded to the WAPC seeking approval to re-advertise. However, it was not until 13 January 2018, approximately 50 months later, that the Minister for Planning (Minister) directed the City to modify the amendment and update the draft DCPR for the purpose of readvertising.

*Item 13.2.2 Continued*

The City raised concerns with the Department of Planning, Lands and Heritage (DPLH) about the Ministerial directive as aspects of the directions were, in the City's opinion, poorly considered and sought reconsideration. The City did not receive revised directions from the Minister until 18 December 2019.

The City subsequently engaged Wood + Grieve Engineering consultants to design and cost (85% design-level) the common infrastructure required to service Precinct 3. This process ensured the infrastructure and servicing costs that informed the updated draft DCPR were accurate.

The modified amendment and updated draft DCPR were re-advertised in October 2020 and endorsed by Council on 11 May 2021 (Resolutions 82 – 90). The proposal was then forwarded to the WAPC and the Minister for approval.

On 23 December 2021 the Minister directed the City to make a final set of modifications to the amendment which included the removal of District Open Space (DOS). Following modifications in accordance with the ministerial directive, Amendment No. 110 received final approval on 19 April 2022, which allows Council to finalise the DCPR.

The Ministerial approved amendment text and map are contained in Appendices 13.2.2A and 13.2.2B.

**DISCUSSION****Review of the Development Contribution Plan Report**

The key change to Amendment No. 110 has been the removal of DOS, which was previously considered by Council on 11 May 2021. In addition, the DCPR has been modified to reflect updated land valuations, design considerations involving the Forrestdale Main Drain (FMD) and text changes to provide greater clarity on administration and implementation. The changes include:

- All references to DOS have been removed.
- Land requirements for the FMD have increased from 2.6607ha to 3.6524ha. This increase was necessary to achieve the State Government's requirement for the FMD to be upgraded to a 'living stream' standard. This effectively means the width of the drainage corridor has increased from 50m to 62m.
- As a result of the removal of DOS and the widening of the FMD, the total net contribution area has decreased from 164.5264ha to 164.3839ha.
- Land valuations have been updated to inform the reimbursement for land required to widen Southern River Road; Holmes Street; Balannup Lake Drain (BLD); FMD and the provision of Local Open Space (LOS) in sub-precincts 3A North and 3E.
- Common infrastructure works costs have been indexed in accordance with the Australian Bureau of Statistics (ABS) construction indices and the Consumer Price Index (CPI).
- *Section 3.1 – Calculation of Net Contribution Area* has been amended to provide clarity in relation to levying a contribution on all developable land in Precinct 3.

*Item 13.2.2 Continued*

- The Southern River Precinct 3 Guide Plan (GP) 2019 has been amended to replace the designations on Lots 9000 Southern River Road, Lot 18 Matison Street, Lot 1789 Passmore Street and Lot 1790 Passmore Street from 'District Open Space' to 'Subject to Further Planning'. Further, the GP has been updated to include the approved Structure Plans (SP) within sub-precincts 3C and 3D.
- Appendix C and Appendix H have been amended to reflect a change in the City's procedure in dealing with claims for reimbursement of common infrastructure works.
- Minor text and mapping changes have been undertaken to reflect the Ministerial directives.

The changes to the DCPR have the effect of reducing the overall costs in the arrangement from \$31,640,641.20 to \$27,197,746.02. For convenience the changes detailed above are highlighted in Appendix 13.2.2C.

**Removal of District Open Space**

At the Ordinary Council Meeting of 11 May 2021 Council resolved to recommend that the Minister remove 4.09ha of DOS from Lot 18 Matison Street and Lot 9000 Southern River Road leaving the balance of the 8.5ha of DOS to be located on Lots 1789 and 1790 Passmore Street.

The reasoning underpinning the request to remove almost 50% of the DOS included the proximity of Precinct 3 to Sutherlands Park; the future rationalisation of uses at Sutherlands Park and the existing over-supply of DOS throughout the City. It should be noted that the City had consistently maintained that Precinct 3 did not need to provide any DOS for the reasons mentioned above.

Previous Ministerial advice had, until this point in time, consistently required an area of 8.5ha of DOS in Precinct 3. However, following two deputations from landowners and one from City Officers to the WAPC, this requirement was set aside.

This change has resulted in the contribution rate of \$52,263.46/ha for DOS being deleted from the DCPR.

**Updates to Southern River Precinct 3 Guide Plan**

The GP is a strategic land use plan established under *Local Planning Policy 3.3 – Southern River Precinct 3 Planning Framework*. The 2019 GP is contained in Appendix 13.2.2D.

The purpose of the GP is to guide the assessment of amendments, SP's and associated financial arrangements for Precinct 3. The GP identifies a variety of land uses, including urban and commercial development and a range of public purposes such as conservation areas, recreation, schools, drainage and roads, and is intended to guide and inform the amendment process. Notwithstanding, as a result of the removal of DOS, the 2019 GP has been updated.

*Item 13.2.2 Continued*

The DOS designation on Lot 18 Matison Street and Lot 9000 Southern River Road has been replaced with a designation of 'Subject to Further Planning' which is consistent with the approved structure plan for sub-precinct 3E.

Similarly, the DOS designation on Lots 1789 and 1790 Passmore Street has been replaced with the designation 'Subject to Further Planning'. However, unlike Lot 18 Matison Street and Lot 9000 Southern River Road, the zoning of these lots is 'General Rural' under TPS 6. The subject lots are located within sub-precinct 3D, of which the northern portion has an approved SP with the balance of the area (including the subject lots) requiring further planning to determine zoning and development potential.

During the amendment assessment process a request was received from the owners of Lots 1789 and 1790 Passmore Street for portions of these lots to be designated as 'Urban' and 'Rural Living and Semi-Rural Living' on the GP. The City refused this request on the basis that an 'Urban' or 'Rural Living and Semi-Rural Living' designation on the GP would support residential dwellings being situated within the kennel buffer which could potentially comprise the integrity of the Kennel zone.

The City's position on this matter is also consistent with advice received from the Department of Water and Environmental Regulation (DWER) in relation to an acoustic assessment report prepared for Lot 1790. DWER's advice was unequivocal in its opposition to residential development within the kennel buffer. The 'Subject to Further Planning' designation is an appropriate designation at this point in time as it provides landowners with an opportunity to investigate options for their landholdings through formal planning proposals.

Since the GP was last adopted by Council, two SP's have been approved within sub-precincts 3C and 3D. The GP has been updated to reflect these approved SP's.

It is recommended that Council adopts the updated GP (contained in Appendix 13.2.2E) which is consistent with the Ministerial modifications to the amendment and the current planning framework for Precinct 3.

**Forrestdale Main Drain Land Requirements**

An allowance has been provided in the DCPR for the land required to upgrade the FMD to the standard of a 'living stream'. Essentially this means the existing drainage channel is upgraded to mimic a natural stream. This is the preferred State Government approach to water management and provides benefits such as improved amenity through attractive natural landscaping, the creation of diverse habitats which can restore environmental characteristics in urban areas and the removal of pollutants.

The upgrade of the FMD initially proposed a 50m wide landscaped drainage corridor. An additional 6m of widening on each side is required to ensure the upgrade will seamlessly interface with abutting land, which will result in the creation of a 62m wide corridor.

The land requirements for the FMD will therefore increase by 9,917m<sup>2</sup> and increase the costs to the DCP by \$872,832.50 based on updated valuations.

*Item 13.2.2 Continued***Revised Valuation Advice**

An allowance has been included in the DCPR for the provision of land required to widen Regional Roads, the FMD and the BLD and establish LOS. To determine the value of this land the City engaged McGees Property Valuers (McGees) to prepare valuations which will be used to inform the reimbursement for landowners affected by public purpose reservations. Valuations were prepared by McGees in March 2021 which comprised two englobo valuations and two site-specific valuations. These valuations were updated in May 2022 to inform the latest DCPR (contained in Appendix 13.2.2C). The change in valuations is shown below.

<b>Comparison of Valuation Figures from March 2021 to May 2022</b>		
	<b>March 2021</b>	<b>May 2022</b>
Urban Englobo	\$132.50/m <sup>2</sup>	\$145.00/m <sup>2</sup>
Rural Englobo	\$24/m <sup>2</sup>	\$28/m <sup>2</sup>
Lot 1000 Holmes Street - road widening	\$539,000.00	\$517,000.00
Lot 8 Holmes Street - road widening	\$580,437.50	\$619,300.00

TPS 6 provides for landowners to object to a valuation within 28 days of adoption of the DCPR by Council and seek a review. Following a review, should the valuation figure not change or an amended valuation figure not be acceptable to the landowner, an application can be made to the State Administrative Tribunal for arbitration.

**Common Infrastructure Works Costs (Indexed)**

Infrastructure costs estimates in the draft DCPR were informed by Wood + Grieve Engineering consultants and provided to the City more than two years ago, however, these costs are now considered out of date and require adjustment. The City reviews and adjusts the cost of works set out in DCPRs on an annual basis and this occurs to ensure the estimated cost of works not yet completed are aligned to changes in costs over time therefore reducing the risk of a shortfall in the arrangement.

As required by *State Planning Policy 3.6 – Infrastructure Contributions* the higher of the average of several Australian Bureau of Statistics (ABS) indices (which includes Building Construction, House Construction and Road/Bridge Construction) or the annual CPI rate are used to index estimated infrastructure costs. Accordingly, an indexation rate of 14% has been applied as this represents an average of ABS indices and is higher than the annual CPI rate. The only exception to this indexation rate are actual (known) costs that have been expended and are able to be reimbursed once the DCPR is operational. As such the following costs have not been indexed:

- Southern River Road upgrade
- Design and Costing Report (Wood + Grieve Engineering)
- Preparation of Precinct 3 GP
- Preparation of Structure Plan – Sub-Precinct 3A North

Following adoption of the DCPR by Council, subsequent annual reviews will apply either the averaged group of construction indices or annual CPI, whichever is greater,

*Item 13.2.2 Continued*

to outstanding infrastructure cost estimates while the annual CPI rate will apply to completed works and administration costs.

**Net Contribution Area**

The Net Contribution Area (NCA) is calculated by deducting land exempt from contributions from the DCA's gross land area. The gross land area is calculated by excluding land reserved under the MRS as 'Recreation', regional roads, conservation, drainage, existing local roads and other public purpose land.

The majority of Precinct 3 is covered by approved SP's which define developable areas and provide certainty in relation to land required to contribute towards CIWs. In relation to the balance of Precinct 3 there are portions of sub-precincts B, C and D which are not subject to an approved SP and therefore the final contribution area is not yet known.

In order to determine contributions required under the DCPR it is necessary to establish the areas of land required to contribute. In sub-precincts where approved SP's are in place the land areas are based on the relevant plan. In sub-precincts without an approved SP, area plans have been prepared to establish contribution areas. Precinct 3 contributions are fixed on the basis of the sub-precinct area plans and land tables in Appendix N of the DCPR.

Any future amendments to individual SP's or other development outcomes that reduce contribution areas will not alter the requirement for developers to contribute on the land areas stated in the DCPR. In situations where additional land is proposed (above the areas nominated in the sub-precinct area plans), contributions will be required on the revised land area. This ensures funding shortfalls do not materialise as a result of diminished contribution areas and all development areas contribute.

The DCPR has been modified to specifically refer to all land which is developable, but currently falls outside of the contribution areas identified in the DCPR, to contribute towards the provision of CIWs. The previous document only refers to additional residential zoned land instead of all developable land. This amendment ensures an equitable levying of contributions.

**Local Open Space Development and Maintenance Reimbursements**

Appendices C and H contained in the DCPR have been amended in relation to reimbursements for local park development and maintenance to align with the City's recent approach to this process. That is to say, the City has now adopted a more flexible approach to assessing claims for reimbursement by allowing overspends for individual unit items to be recovered from underspends in other items. This also applies to reimbursements for CIW's associated with the broader Precinct 3 costs.

**CONCLUSION**

It is recommended that Council adopts the modified DCPR, as contained in Appendix 13.2.2C, so as to ensure consistency with the recently gazetted amendment to TPS 6.

*Item 13.2.2 Continued***FINANCIAL IMPLICATIONS**

The financial integrity of the DCP will to a large extent rely on the adjustment of preliminary contributions made under legal agreements and the collection of additional contributions to satisfy financial obligations. This will be undertaken once the DCP has been finalised.

**STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- *Planning and Development Act 2005*
- State Planning Policy 3.6 – Development Contributions for Infrastructure

**VOTING REQUIREMENTS**

Simple Majority required.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION (1 OF 2)****162 Moved Cr S Patterson Seconded Cr P Abetz**

That Council, pursuant to Clause 5.4 of Town Planning Scheme No. 6, adopts the modified Development Contribution Plan Report, as contained in Appendix 13.2.2C.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION (2 OF 2)****163 Moved Cr S Patterson Seconded Cr P Abetz**

That Council adopts the modified Southern River Precinct 3 Guide Plan, as contained in Appendix 13.2.2E.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.



### 13.3 INFRASTRUCTURE

#### 13.3.1 LANGFORD NETBALL COMPLEX FLOODLIGHTING FUNDING OUTCOME

Author: R Watkins  
Author's Declaration Nil.  
of Interest:  
Previous Ref: OCM 22 March 2022 (Resolution 57)  
Appendix:

#### PURPOSE OF REPORT

To advise Council of the successful outcome of the City's Community Sport and Recreation Facilities Fund Night Lights application to upgrade floodlighting at the Langford Netball Complex and seek approval to amend the 2022/23 budget.

#### BACKGROUND

The City submitted an application to the Community Sport and Recreation Facilities Fund (CSRFF) Night Lights Program seeking \$100,000 towards the upgrade of floodlighting on 14 courts at the Langford Netball Complex. The City's application has been successful with a grant of \$100,000 approved for the project.

#### DISCUSSION

The City's successful CSRFF Night Lights application will allow the City to complete the floodlighting upgrade to all of the netball courts at the complex. The total cost of the project is estimated at \$313,500, with the balance of \$213,500 to be shared evenly between the City and the Southern Districts Netball Association.

#### FINANCIAL IMPLICATIONS

Proposed funding for upgrades to lighting at the Langford Netball Complex is as follows:

Community Sport and Recreation Facilities Fund	\$100,000
Southern Districts Netball Association	\$106,750
City of Gosnells	\$106,750

The City's contribution is proposed to be funded through a transfer from the Community Infrastructure Reserve. The reserve has a current balance of \$24,994,703.

#### STATUTORY IMPLICATIONS

Section 6.8 of the *Local Government Act 1995* prescribes that a local government is not to incur expenditure for an additional purpose except where the expenditure is approved in advance by a resolution.

*Item 13.3.1 Continued***VOTING REQUIREMENTS**

Absolute Majority required.

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

**164 Moved Cr A Adams Seconded Cr P Abetz**

That Council approves expenditure of \$313,500 to upgrade floodlighting at the Langford Netball Complex in the 2022/23 financial year.

CARRIED BY ABSOLUTE MAJORITY 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

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

**165 Moved Cr A Adams Seconded Cr P Abetz**

That Council approves a transfer of \$106,750 from the Community Infrastructure Reserve as its contribution to the upgrade of floodlighting at the Langford Netball Complex.

CARRIED BY ABSOLUTE MAJORITY 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

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

**166 Moved Cr A Adams Seconded Cr P Abetz**

That Council approves adjustments to its 2022/23 budget to recognise revenue of \$100,000 in grant funding and a contribution of \$106,750 from the Southern Districts Netball Association for the upgrade of floodlighting at the Langford Netball Complex.

CARRIED BY ABSOLUTE MAJORITY 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**13.4 COMMUNITY ENGAGEMENT**

Nil.

**13.5 BUSINESS SERVICES****13.5.1 FINANCIAL ACTIVITY STATEMENT - JUNE 2022**

Author: S Chaudhary

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 13.5.1A Financial Activity Statement for the month of June 2022

**PURPOSE OF REPORT**

For Council to receive the Financial Activity Statement Report for the month of June 2022.

**BACKGROUND**

In accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, 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
- Net Current Assets Report
- Reserve Movements
- Capital Works Expenditure
- Outstanding Debtor Information
- Rates Report
- Investment Report.

**DISCUSSION**

The Financial Activity Statement Report for the month of June 2022 is attached as Appendix 13.5.1A.

**FINANCIAL IMPLICATIONS**

Nil.

Item 13.5.1 Continued

## STATUTORY IMPLICATIONS

*Local Government (Financial Management) Regulations 1996*, Regulation 34.

## VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---------------------------------------------

### 167 Moved Cr S Patterson Seconded Cr K McDonald

That Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, receives the following reports, contained in the Financial Activity Statement Report for the month of June 2022, attached as Appendix 13.5.1A:

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

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**13.5.2 PAYMENT OF ACCOUNTS - JUNE 2022**

Author: R Augustin

Author's Declaration Nil.

of Interest:

Previous Ref: Nil.

Appendix: 13.5.2A Cheque and EFT Payment Listing for 1 June to 30 June 2022

**PURPOSE OF REPORT**

To advise Council of payments made for the period 1 June 2022 to 30 June 2022.

**BACKGROUND**

Nil.

**DISCUSSION**

Payments of \$8,009,618.57 as detailed in the cheque and EFT payment listing for the period 1 June 2022 to 30 June 22, attached as Appendix 13.5.2A, have been approved by the Chief Financial Officer under delegated authority.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY IMPLICATIONS**

Regulation 13(2) of the *Local Government (Financial Management) Regulations 1996* requires a local government to prepare a list of accounts approved for payment under delegated authority 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****168 Moved Cr A Adams Seconded Cr A Hort**

That Council notes the payment of accounts totalling \$8,009,618.57 as shown in the cheque and EFT payment listing, attached as Appendix 13.5.2A, for the period 1 June 2022 to 30 June 22.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**13.5.3 BAD DEBT WRITE OFF - WESTERN POWER**

Author: C Buswell  
Author's Declaration Nil.  
of Interest:  
Previous Ref: Nil.  
Appendix: Nil.

**PURPOSE OF REPORT**

For Council to approve the amount of \$24,438.50 owed by Western Power being written off as a bad debt in accordance with section 6.12(1)(c) of the *Local Government Act 1995*.

**BACKGROUND**

In 2017, as part of works being undertaken by Main Roads WA (Main Roads) to remove the level crossing on Nicholson Road, Canning Vale, it was discovered that gas and power lines had been laid through one of the City's stormwater drainage pipes.

On 11 April 2017, a meeting was held between the City, Main Roads, ATCO Gas and Western Power. Verbal agreement was reached that Main Roads, which was undertaking civil works at the site, would repair the drainage pipe and invoice the City for the cost of the works. Further, the cost of repairs would be shared equally by the City, ATCO Gas and Western Power, with the City to invoice ATCO Gas and Western Power for their contributions.

The stormwater drainage pipe was repaired in 2018 and the City received an invoice for \$73,315.50 from Main Roads. The City subsequently issued invoices to ATCO Gas and Western Power for the amounts of \$24,438.50 each. ATCO Gas made payment in full on 4 April 2019.

Between 2018 and 2019, numerous attempts were made through reminder notices and emails to Western Power for payment of its contribution, however, no payment was received.

In November 2019, the City was advised by Western Power that it does not accept any liability for damage to the pipe. Western Power indicated that it believed the damage was caused by one of its contractors and the City would need to pursue the matter with the contractor. However, Western Power was unwilling, or unable, to provide the City with the contractor's details to enable the City to pursue payment.

As the City believes that Western Power is ultimately responsible for the damage, Mettam Legal was engaged by the City to recover the debt.

**DISCUSSION**

Mettam Legal has advised that the claim would be difficult to pursue as there is no written agreement or any documentation from the site meeting held on 11 April 2017 between the City, Main Roads, ATCO Gas and Western Power.

*Item 13.5.3 Continued*

As Western Power has denied liability and refused to pay its contribution, the case would be taken to trial and the City's employee who attended the site meeting on 11 April 2017 with Main Roads, ATCO Gas and Western Power would need to provide evidence in court. That person is no longer employed by the City.

Mettam Legal has advised that it would cost the City in the order of \$22,000 in legal fees to pursue that matter through the Courts. In addition, if such action was unsuccessful, the City could be liable for Western Power's legal costs, likely be in the order of \$20,000.

There is a high risk that the City would be unsuccessful in Court action to recover the money it is owed by Western Power and as such, it will be recommended that the debt be written off.

**FINANCIAL IMPLICATIONS**

Writing off the debt owed by Western Power would result in the City foregoing income of \$24,438.50, however, there is little prospect that the debt could be recovered.

**STATUTORY IMPLICATIONS**

Section 6.12(1)(c) of the *Local Government Act 1995* makes provision for the write-off of any amount of money which is owed to the local government.

**VOTING REQUIREMENTS**

Absolute Majority required.

<b>STAFF RECOMMENDATION</b>
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**Moved Cr S Patterson Seconded Cr D Goode**

That Council approves the debt of \$24,438.50 owed by Western Power being written off.

**Foreshadowed Motion**

*During the debate Cr T Lynes foreshadowed that she would move the following motion if the motion under debate was defeated:*

*"That Council requests the Mayor to write to the Minister for Energy, the Hon Bill Johnston MLA, the Chair of the Western Power Board, Mr Colin Becket AO, and Western Power's Acting Chief Executive Officer, Mr Sam Barbaro, to request payment of Western Power's contribution towards rectifying a situation where Western Power's power lines were laid through a stormwater drainage pipe in Canning Vale."*

*Cr T Lynes provided the following written reason for the proposed motion:*

*"Western Power's power lines were run through one of the City's stormwater drainage pipes in Canning Vale and regardless of whether that line was run by*

*Item 13.5.3 Continued*

*Western Power or one of its contractors, Western Power is ultimately responsible for the works. To suggest that the City should pursue Western Power's contractor but be unable to confirm which of its contractors was responsible is unacceptable. Western Power should reimburse the Gosnells community for its share of the costs of rectification works. Western Power can then pursue its own contractor for costs if it wishes to do so."*

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

**STAFF RECOMMENDATION****LOST****Moved Cr S Patterson Seconded Cr D Goode**

That Council approves the debt of \$24,438.50 owed by Western Power being written off.

**LOST 0/10**

**FOR:** Nil.

**AGAINST:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**Notation**

*As the staff recommendation was lost the Mayor put her foreshadowed motion, which Cr K McDonald seconded.*

**COUNCIL RESOLUTION****169 Moved Cr T Lynes Seconded Cr K McDonald**

That Council requests the Mayor to write to the Minister for Energy, the Hon Bill Johnston MLA, the Chair of the Western Power Board, Mr Colin Becket AO, and Western Power's Acting Chief Executive Officer, Mr Sam Barbaro, to request payment of Western Power's contribution towards rectifying a situation where Western Power's power lines were laid through a stormwater drainage pipe in Canning Vale.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.



**13.5.4 TENDER 05/2022 - SUPPLY AND LAYING OF HOT ASPHALT**

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

**PURPOSE OF REPORT**

To advise Council of submissions received in relation to Tender 05/2022 – Supply and Laying of Hot Asphalt and recommend the most advantageous tender for the purpose of awarding a contract.

**BACKGROUND**

Tenders were advertised on 18 May 2022 and closed on 15 June 2022 to select a contractor to supply and lay hot asphalt for road projects for a period of three years, with two options to extend of one year each.

Submissions were received from the following companies:

<b>Company Name</b>	<b>Address</b>
Asphalttech Pty Ltd (WA)	416 Victoria Road, MALAGA WA 6090
Boral Resources (WA) Ltd t/as Boral Asphalt	130 Fauntleroy Avenue, REDCLIFFE WA 6104
Downer EDI Works Pty Ltd t/as Downer Surfacing	39 Dalhi Road, NORTH RYDE NSW 2113
Fulton Hogan Industries Pty Ltd	158 Talbot Road, HAZELMERE WA 6055
Jackson Asphalt	531 Bickley Road, MADDINGTON WA 6109
KEE Asphalt	36 Murray Road North, WELSHPOOL WA 6106

The work is currently undertaken by Roads 2000 at a total annual cost of approximately \$2,000,000.

**DISCUSSION**

Tender submissions have been assessed by the Evaluation Panel against the evaluation criteria defined within the tender specification.

The following table details the Panel's assessment of each tender against the qualitative evaluation criteria.

Item 13.5.4 Continued

<b>Tenderer</b>	<b>Relevant Experience</b>	<b>Key Personnel and Resources</b>	<b>Demonstrated Understanding</b>	<b>Total Qualitative Score</b>
Weighting	20%	15%	15%	50%
Asphaltech Pty Ltd (WA)	16	12	12	40.0
Fulton Hogan Industries Pty Ltd	16	12	12	40.0
Downer EDI Works Pty Ltd t/as Downer Surfacing	16	10.5	12	38.5
Boral Resources (WA) Ltd t/as Boral Asphalt	12	10.5	12	34.5
KEE Asphalt	10	7.5	7.5	25.0
Jackson Asphalt	8	6	4.5	18.5

As Jackson Asphalt scored less than 50% on each of the qualitative criterion, the company was excluded from further consideration.

The following table provides the estimated annual costs for each tender based on price schedules submitted, and the corresponding price weighting. Estimated costs are based on quantities of asphalt required over the last 12 months.

<b>Tenderer</b>	<b>Estimated Annual Costs</b>	<b>Price Weighting</b>
	<b>\$</b>	<b>50%</b>
Downer EDI Works Pty Ltd t/as Downer Surfacing	1,945,534	50.00
Fulton Hogan Industries Pty Ltd	2,133,902	45.59
Asphaltech Pty Ltd (WA)	2,368,319	41.07
KEE Asphalt	2,454,613	39.63
Boral Resources (WA) Ltd t/as Boral Asphalt	2,472,376	39.35

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>
Downer EDI Works Pty Ltd t/as Downer Surfacing	38.50	50.00	88.50	1
Fulton Hogan Industries Pty Ltd	40.00	45.59	85.59	2
Asphaltech Pty Ltd (WA)	40.00	41.07	81.07	3
Boral Resources (WA) Ltd t/as Boral Asphalt	34.50	39.35	73.85	4
KEE Asphalt	25.00	39.63	64.63	5

*Item 13.5.4 Continued*

The submissions that proceeded to full evaluation were professional, satisfied the City's work health and safety requirements, addressed the qualitative criteria and demonstrated the ability to provide the City with the required services.

Following the assessment of tenders against the criteria detailed in the tender specification, the tender submitted by Downer EDI Works was assessed as being the most advantageous for the City.

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

**FINANCIAL IMPLICATIONS**

Costs associated with the supply and laying of hot asphalt will be included in relevant operational budgets 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.

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION****170 Moved Cr S Patterson Seconded Cr P Abetz**

That Council awards Tender 05/2022 – Supply and Laying of Hot Asphalt to Downer EDI Works Pty Ltd t/as Downer Surfacing for a three year period, with two options to extend of one year each.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

**13.5.5 APPLICATION TO KEEP THREE DOGS - 52A BLANCHE STREET, GOSNELLS**

Director: J Lamp  
Author's Declaration Nil.  
of Interest:  
Applicant: G Ford  
Location: 52A (Lot 1 on SP420) Blanche Street, Gosnells  
Review Rights: Yes. State Administrative Tribunal against any discretionary decision of Council.  
Area: 507m<sup>2</sup>  
Previous Ref: Nil.  
Appendix: Nil.

**PURPOSE OF REPORT**

For Council to consider an application to keep three dogs on the property located at 52A Blanche Street, Gosnells.

**BACKGROUND**

The City has received an application to keep three dogs on the property located at 52A Blanche Street, Gosnells which has an area of 507m<sup>2</sup>. The City's Dogs Local Law 2020 limits the number of dogs to two, when kept at a property with an area of less than 2,000m<sup>2</sup>. In accordance with the *Dog Act 1976*, a person can apply to keep more dogs than is permitted under a local law.

Council policy 5.4.46 - Applications to Keep More Than the Permitted Number of Dogs prescribes the factors to be considered when determining applications to keep more than the permitted number of dogs as follows:

- The size of the property on which the dogs are to be kept
- The type of dogs proposed to be kept and the generally accepted characteristics of those dogs
- Any history of complaints in relation to dogs on the property
- Any history of complaints in relation to dogs registered to the applicant, including those made to other local governments or the RSPCA
- Surrounding land uses
- The adequacy of fences to contain the dogs
- The reason for which the exemption is sought.

Where the City receives an application to keep more than the permitted number of dogs on residential zoned land, Council Policy 5.4.46 also requires the City to undertake consultation with the owners and occupiers of properties located within 50 metres of the property at which the dogs are proposed to be kept.

**DISCUSSION**

Each of the policy parameters to be considered and the outcome of consultation on the application are discussed below.

*Item 13.5.5 Continued*The size of the property on which the dogs are to be kept

The subject property has an area of 507m<sup>2</sup>. An aerial photograph of the property follows.

The type of dogs proposed to be kept and the generally accepted characteristics of those dogs

The applicant currently owns a sterilised male Chihuahua. Another occupant who recently moved into the property owns a male Red Heeler and a male Dingo.

All three breeds are considered to be energetic.

Any history of complaints in relation to dogs on the property

On 2 May 2022 the City received a complaint regarding dogs barking excessively at the property. In dealing with the complaint the City found that three dogs were being kept at the property. The applicant put measures in place to rectify the dog barking issue by separating the dogs within the property and submitted an application to keep three dogs. No further complaints regarding nuisance barking have been received.

*Item 13.5.5 Continued*

On 8 June 2022 the City received a complaint regarding one of the dogs the subject of this application being off leash in a public place. Rangers attended and observed the owner retrieving his dog from within the road reserve. The owner was issued with a warning for the offence.

Any history of complaints in relation to dogs registered to the applicant, including those made to other local governments or the RSPCA

The RSPCA has advised that it has never received any complaints in relation to animals kept by the applicant.

Surrounding land uses

The subject property is surrounded by low density residential properties.

The adequacy of fences to contain the dogs

The fences at the property are considered sufficient to contain the dogs.

The reason for which the exemption is sought

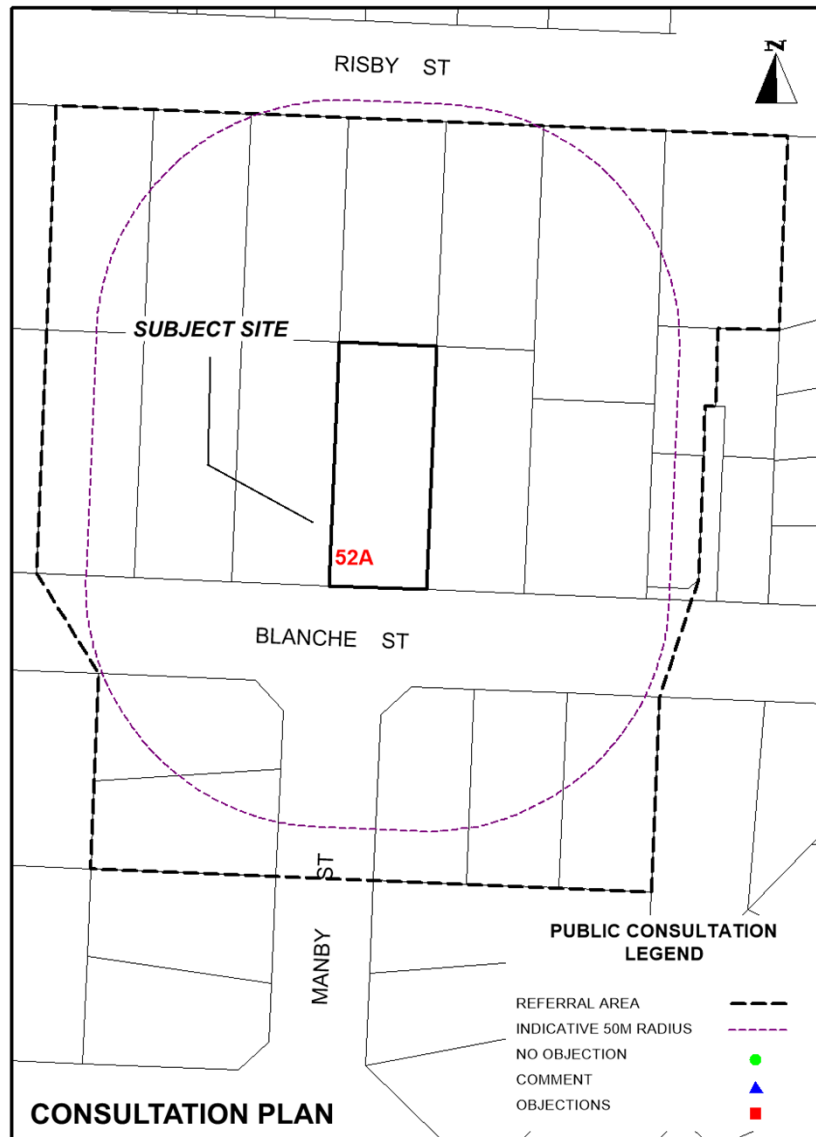
The applicant has been living at the subject property with his Chihuahua for several years. He advises that recently a new occupant who was having difficulty finding a new rental property after his long term lease was not renewed moved into the property, bringing his two dogs with him. The applicant advises that he is unsure of how long the new occupant will be staying with him given the current rental market and the difficulty he is having finding affordable rental accommodation.

The applicant advises that the new occupant has nowhere else to keep the dogs and does not want to give up his pets.

**Consultation**

In accordance with Council Policy 5.4.46 - Applications to Keep More Than the Permitted Number of Dogs, the owners and occupiers of properties located within 50 metres of the subject property were invited to comment on the application. No submissions were received. A map of the consultation area follows.

## Item 13.5.5 Continued

**CONCLUSION**

Whist an initial complaint was received regarding the subject dogs causing a nuisance by barking, measures put in place to resolve the issue appear to have worked as no further complaints have been received. Importantly, no concerns about dog barking were raised during the consultation process.

Given that no objections to the application were received from residents of surrounding properties it is recommended that the application be approved.

The approval would be personal to the applicant, only for the three dogs currently registered at the subject property, and not transferrable to any other person or property.

*Item 13.5.5 Continued*

## **FINANCIAL IMPLICATIONS**

Nil.

## **STATUTORY IMPLICATIONS**

Sections 26 (1) and (2) of the *Dog Act 1976* allow local governments to make a local law that limits the number of dogs that may be kept on a property. The City of Gosnells Dogs Local Law 2020 limits the number of dogs that can be kept on a property less than 2,000m<sup>2</sup> in area, to two.

However, Section 26(3) of the *Dog Act 1976* allows a local government to grant approval for a person to keep more than the number of dogs permitted under a local law. That approval can be subject to any conditions the local government considers appropriate and may be revoked at any time.

Where a local government refuses an application to keep more than the permitted number of dogs on a property or approves an application but imposes conditions the applicant finds objectionable, the applicant can seek a review of that decision by the State Administrative Tribunal.

## **VOTING REQUIREMENTS**

Simple Majority required.

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

### **171 Moved Cr D Goode Seconded Cr K McDonald**

That Council approves the keeping of three dogs at the property located at 52A Blanche Street, Gosnells with the approval being personal to the applicant, only for the dogs subject to this application, and not transferrable to any other person or property.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.



**13.5.6 PROPOSED CITY OF GOSNELLS CAT AMENDMENT LOCAL LAW 2022**

Author: G Bradbrook

Author's Declaration Nil.

of Interest:

Previous Ref: OCM 14 June 2022 (Resolution 124)

Appendix: 13.5.6A Proposed Position Statement on the *Cat Act 2011*

**PURPOSE OF REPORT**

For Council to consider feedback provided by the Department of Local Government, Sport and Cultural Industries in relation to the proposed City of Gosnells Cat Amendment Local Law 2022.

**BACKGROUND**

At its meeting held on 14 June 2022 Council commenced the process to make the City of Gosnells Cat Amendment Local Law 2022. The purpose of the local law was to prohibit cats from being in public places unless under effective control, make it an offence for a cat to be on private property without the consent of the owner of the property, and to limit the number of cats a person may keep (as of right) to two.

As required under the *Local Government Act 1995* (Act), a copy of the proposed local law was provided to the Minister for Local Government. Feedback on the local law has subsequently been received from the Department of Local Government, Sport and Cultural Industries (DLG).

**DISCUSSION**

The DLG has raised concerns over provisions that prohibit cats from public places unless under effective control, and those that prohibit cats from being on private property without the consent of the owner of that property. In raising concerns, the DLG has cited previous decisions made by the Joint Standing Committee on Delegated Legislation (JSCDL). The JSCDL is a Parliamentary Committee established to review local laws.

**Cats in Public Places**

In terms of cats in public places, the JSCDL has expressed a view that as the *Cat Act 2011* (Cat Act) specifies the powers of local governments in respect of cats in public places, it is not open to local governments to extend those powers through local laws. This is premised on a view that Parliament has considered the extent to which cats should be permitted in public places and made a determination on that issue.

Under the Cat Act, Rangers have the power to seize a cat if they believe or suspect the cat is unsterilised, unregistered, not wearing a registration tag or not microchipped. The City's proposed local law prohibits cats from being in a public place unless they are under effective control. The local law defines effective control as being held by a person, on a leash, or in a pet cage.

*Item 13.5.6 Continued*

Whilst the view expressed by the JSCDL on cats in public places has some merit, existing provisions in the Cat Act in respect of cats in public places are considered entirely unworkable. How a Ranger could be expected to form a “belief or suspicion” that a cat is unsterilised, unregistered, not wearing a registration tag or not microchipped, and then attempt to catch the cat, is difficult to comprehend.

If a person decided to appeal an infringement notice issued by a Ranger, the Courts would likely require a Ranger to be able to explain how they formed a belief or suspicion that a cat was unsterilised, unregistered, not wearing a registration tag or not microchipped, before it was caught. Simply catching a cat and then proving that it satisfied any of these criteria would likely be viewed by the Courts as inadequate to justify a decision to catch the cat in the first place. That is, the ends do not justify the means.

The position taken by the JSCDL would also preclude local governments from trapping cats in public places and taking action against owners whose cats are unsterilised, unregistered, not wearing a registration tag or not microchipped. This is because such action is unlikely to satisfy the test of Rangers first forming a “belief or suspicion” that any cats caught would meet the criteria that would allow the cats to be seized.

The JSCDL considers that local law provisions such as those included in the City’s proposed Cat Amendment Local Law amount to the confinement of cats to the property on which they are ordinarily kept. In the Committee’s view, given that Parliament considered the extent to which cats are permitted in public places, local governments cannot extend their powers and effectively require cats to be confined to the property on which they are kept.

The JSCDL’s view is inconsistent with the DLG’s Cat Local Law Guideline Notes which remain available on its website and advise that local laws can include provisions in relation to the confinement of cats. The DLG’s Guideline Notes state:

*“...consideration should be given to specifying:*

- Whether a portion of land on the premises must be enclosed in a manner capable of confining a cat.*
- The physical requirements of the premises where a cat must be confined.*
- Whether cats should be subject to a curfew, i.e. after dark.”*

It is reasonable to assume that as the Department responsible for development of the Cat Act, the DLG’s guideline was based upon what Parliament intended when the Act was passed. It is interesting that the JSCDL has taken a different view.

**Cats on Private Property**

In terms of provisions in the proposed local law that make it an offence for a cat to be on private property without the consent of the owner of that property, the DLG has advised that it is likely the JSCDL would object to the City’s proposed local law.

*Item 13.5.6 Continued*

The DLG has advised that the Cat Act already allows local governments to seize cats on private property at the request of the owner or occupier of that property. The DLG believes that the City's proposed local law effectively extends the City's powers by making it an offence for a cat to be on private property without the consent of the owner or occupier of that property.

Again, whilst there is some legal merit in the DLG's position, the provisions of the Cat Act are effectively meaningless. In circumstances where a cat that is sterilised, registered and microchipped strays on to a neighbour's property and the owner of that property requests the City to seize the cat, the only action available to the City is to take the cat (if it can be caught) and return it to its owner. This is unlikely to have the effect of encouraging the owner of the cat to prevent it from straying on to neighbouring properties in the future and has potential to waste significant resources in dealing with complaints.

The City's proposed local law would allow the owner of the cat to be issued with an infringement notice to encourage them to contain their cat to their own property.

In circumstances where a cat is not sterilised, registered and microchipped and strays on to private property, at the request of the owner of that property, the City could seize the cat (if it can be caught) and impound it at a cat management facility.

In terms of cats straying on to neighbouring properties, the DLG's Cat Local Law Guideline Notes include suggested provisions for local laws in relation to cats causing a nuisance. One of the suggested criteria for determining when a cat could be considered to be causing a nuisance is when it "*wanders outside the premises where it is ordinarily kept.*" Ironically, this is fundamentally the same as provisions contained in Council's proposed local law which the DLG has advised are unlikely to be permitted by the JSCDL.

The DLG has advised that whilst many local laws containing the same provisions as the City's proposed Cat Amendment Local Law 2022 have been made and permitted by the JSCDL and Parliament in the past, the JSCDL intends to ask the Minister for Local Government to request the Governor to repeal previously permitted local law clauses it now finds objectionable.

**Proposed Approach**

In determining how to proceed with the City's proposed local law, based on advice from the DLG, it is almost certain that the local law as written will be disallowed by Parliament. Following the close of consultation that has commenced on the proposed local law, Council would need to consider whether to proceed to make the local law, or make a local law that is not significantly different from what has been proposed.

There would seem to be little value in progressing with a local law when there is every chance that it would be disallowed by Parliament. As such, Council has two options. Firstly, it could decide to terminate consultation on the proposed local law and commence the process to make a new local law dealing predominantly with the number of cats a person may keep.

*Item 13.5.6 Continued*

Alternatively, the City could continue with consultation on the proposed local law that is already underway but make it clear that provisions relating to cats in public places and cats on private property will be removed from the local law when it is made. The second option would effectively request feedback only on the proposal to limit the number of cats a person may keep.

To minimise confusion in relation to cat matters, the first option, to cease consultation on the proposed local law and commence the process to make a new local law dealing with the number of cats a person may keep, would appear preferable.

In making a new local law dealing with the number of cats a person may wish to keep, Council could also consider expanding the areas in which cats are prohibited to include all environmental conservation areas in the City, and potentially all parks on which children's play equipment is located (given previous health concerns raised in relation to cats defecating in sand surrounding play equipment).

In considering its approach to dealing with cats, the fundamental objective of the proposed local law was to limit the impacts cats have on native fauna, with a secondary benefit of establishing an efficient response to dealing with cats causing a nuisance to local residents. Whilst appreciating the position taken by the JSCDL on cat local laws generally, existing legislative provisions in relation to cats in public places and cats on private property are inadequate to achieve either of these objectives. Essentially, under the Cat Act as it currently stands, cats are free to roam, prey on native fauna and cause a nuisance to local residents.

At the time of writing this report 262 submissions had been received in relation to Council's proposed local law with approximately 60% expressing support for Council's position. This, combined with the fact that many local governments have expressed a desire to make cat local laws dealing with cats in public places and on private property, suggest that existing provisions in the Cat Act do not meet contemporary community expectations.

Given this context it is proposed that Council considers adopting a position statement in respect of cats that can be used to lobby for amendments to the Cat Act that would allow local governments to deal with cats in public places and on private property. A proposed position statement on the Cat Act has been drafted and is attached as Appendix 13.5.6A.

If endorsed, a copy of the position statement would be provided to the Chair of the JSCDL, the Minister for Local Government, local members of parliament, the DLG and the Western Australian Local Government Association.

**FINANCIAL IMPLICATIONS**

Costs of approximately \$500 have been incurred in providing the required public notice of Council's proposal to make the City of Gosnells Cat Amendment Local Law 2022.

If Council resolves to discontinue the process to make the proposed local law and instead seek to make a local law dealing predominately with the number of cats a person may keep, further costs would be incurred in giving notice of that proposal.

Item 13.5.6 Continued

## STATUTORY IMPLICATIONS

Section 3.12 of the *Local Government Act 1995* prescribes the process to be followed to make a local law.

## VOTING REQUIREMENTS

Simple Majority required.

### STAFF RECOMMENDATION (1 OF 3)

#### Moved Cr A Hort Seconded Cr S Patterson

That Council resolves to discontinue the process to make the proposed City of Gosnells Cat Amendment Local Law 2022 on the basis that there is little prospect of the local law being permitted by Parliament.

### STAFF RECOMMENDATION (2 OF 3)

#### Moved Cr A Hort Seconded Cr S Patterson

That Council requests the Chief Executive Officer to draft a new local law which deals with the number of cats a person may keep and considers the expansion of areas across the City in which cats are prohibited.

### STAFF RECOMMENDATION (3 OF 3)

#### Moved Cr A Hort Seconded Cr S Patterson

That Council adopts the Position Statement on the *Cat Act 2011* attached as Appendix 15.5.6A and requests the Chief Executive Officer to provide a copy of the statement to the Chair of the Joint Standing Committee on Delegated Legislation, the Minister for Local Government, local members of parliament, the Department of Local Government, Sport and Cultural Industries, and the Western Australian Local Government Association.

## Amendment

*During debate Cr S Williamson moved the following amendment to the staff recommendation:*

*“That staff recommendation 3 of 3 be deleted and replaced with the following:*

*That Council requests that the City's approach to cat management be listed for discussion at the next Councillor Workshop, with community feedback on Council's previously advertised local law summarised and key themes identified so that a proposed way forward can be discussed and a community consultation plan developed.”*

*Cr S Williamson provided the following written reason for the proposed amendment:*

## Item 13.5.6 Continued

*"It may be premature to adopt a position statement on cats before Council has considered community feedback that has already been provided. Noting that the consultation process is incomplete, it would still be useful to consider this feedback to ensure Council's proposed way forward takes into consideration any key themes that can already be identified.*

*As the City and the Council values community feedback, it is important that there is a clear consultation plan developed to ensure the community understands how the process will now be moving forward and that the community will be given another opportunity to make comment prior to the Council adopting an advocacy position."*

*Cr T Lynes seconded Cr S Williamson's proposed amendment.*

*At the conclusion of debate the Mayor put Cr S Williamson's proposed amendment, which read:*

**Moved Cr S Williamson Seconded Cr T Lynes**

That staff recommendation 3 of 3 be deleted and replaced with the following:

*"That Council requests that the City's approach to cat management be listed for discussion at the next Councillor Workshop, with community feedback on Council's previously advertised local law summarised and key themes identified so that a proposed way forward can be discussed and a community consultation plan developed."*

CARRIED 9/1

**FOR:** Cr P Abetz, Cr A Adams, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Cr D Goode.

*The amendment was put and carried. The Mayor then put the substantive motion as amended, which read:*

**STAFF RECOMMENDATION AND COUNCIL RESOLUTION (1 OF 3)****172 Moved Cr A Hort Seconded Cr S Patterson**

That Council resolves to discontinue the process to make the proposed City of Gosnells Cat Amendment Local Law 2022 on the basis that there is little prospect of the local law being permitted by Parliament.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort,  
Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

*Item 13.5.6 Continued*

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

**173 Moved Cr A Hort Seconded Cr S Patterson**

That Council requests the Chief Executive Officer to draft a new local law which deals with the number of cats a person may keep and considers the expansion of areas across the City in which cats are prohibited.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

## COUNCIL RESOLUTION (3 OF 3)

**174 Moved Cr A Hort Seconded Cr S Patterson**

That Council requests that the City's approach to cat management be listed for discussion at the next Councillor Workshop, with community feedback on Council's previously advertised local law summarised and key themes identified so that a proposed way forward can be discussed and a community consultation plan developed.

**CARRIED 10/0**

**FOR:** Cr P Abetz, Cr A Adams, Cr D Goode, Cr D Griffiths, Cr A Hort, Cr K McDonald, Cr S Patterson, Cr S Williamson, Cr E Zhang and Cr T Lynes.

**AGAINST:** Nil.

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

Nil.

**15. URGENT BUSINESS**

(by permission of the Presiding Member)

Nil.

**16. CONFIDENTIAL MATTERS**

Nil.

**17. CLOSURE**

The Mayor declared the meeting closed at 8.30pm.