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

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

PURPOSE OF REPORT

For Council to consider:

i) Initiating an amendment to Town Planning Scheme No. 6 (TPS 6) to establish a Development Contribution Arrangement (DCA) for the provision of Common Infrastructure Works (CIW) within Southern River Precinct 1 (Precinct 1).

ii) Adopting a draft Development Contribution Plan report as the basis for making interim contribution arrangements with owners who seek final approval for subdivision and development ahead of finalisation of the proposed TPS 6 amendment.

BACKGROUND

Location

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

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

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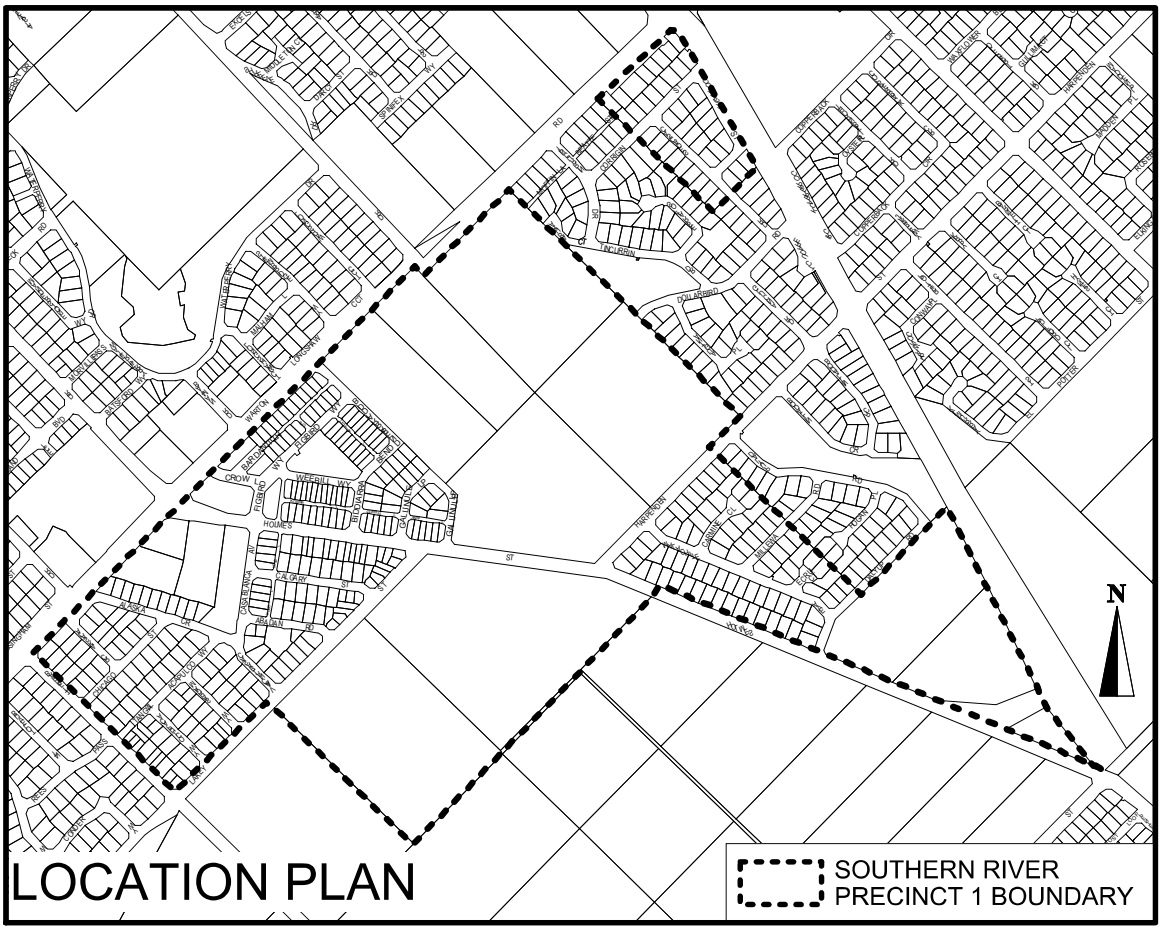

History of Planning for Precinct 1

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

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

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

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

The Need for a Developer Contribution Arrangement

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

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

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

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

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

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

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

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

Significance of Unresolved Contribution Parameters

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

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

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

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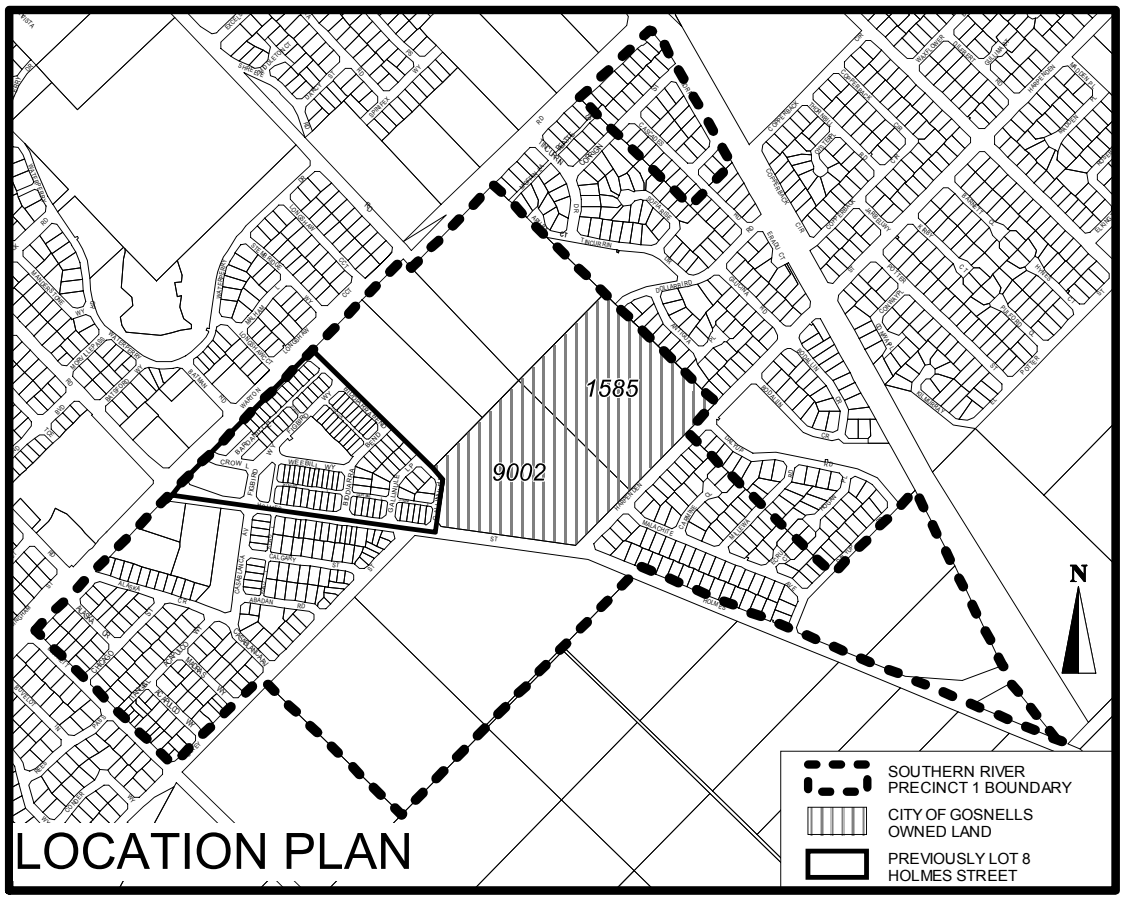
There is an obligation on Council to ensure that the funds it holds for Precinct 1 are transparently administered and used to complete the required CIWs and POS. Council's administration of a DCA would be better secured and more effective by operating under a head of power provided by TPS 6.

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

The City owns the following lots in Precinct 1 freehold:

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

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



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DISCUSSION

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

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

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

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

Planning Context

Town Planning Scheme No.6

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

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

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

State Planning Policy 3.6 – Development Contributions for Infrastructure

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

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

Draft Local Planning Policy - Development Contribution Arrangements

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

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

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

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- *Land tenure*
- *Development potential limitations*
- *Potential community benefits*
- *Regional significance of development area and/or infrastructure*
- *Environmental constraints*
- *Involvement of other responsible authorities*
- *Efficiency and coordination benefits*
- *Financial risk*
- *Available resources*

2.2 Where possible, encourage appropriate provision of infrastructure through imposition of approval requirements on subdivision and development proposals or by private arrangements between land owners.

2.3 Amend the City Town Planning Scheme and prepare associated documents to establish the basis for and outline the intended operation of the proposed arrangement and will consult with affected land owners as part of this process.

2.4 Ensure the principles of State Planning Policy 3.6 - Development Contributions for Infrastructure are applied.

2.5 Ensure that it can be operated effectively and efficiently with minimal City involvement and exposure to financial risk.

2.6 Only agree to infrastructure items being included as a shared cost for developers where their provision could not be equitably or reasonably achieved without such an arrangement.

2.7 Have the estimated costs of items reviewed by an appropriately qualified external professional in accordance with relevant legislative requirements and procedures as a cost to the arrangement.

2.8 Make contingency provision in cost estimates to cover reasonably unforeseen events and ensure a shortfall of funds does not occur.

2.9 Include the anticipated cost of its administration as a contribution item."

Proposed Amendment Overview

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

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

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

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

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

Development Contribution Arrangement Overview

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

Common Infrastructure Works

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

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

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

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

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

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

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

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

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

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

Public Open Space

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

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

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

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

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

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

Exclusions from the DCA

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

Land Required for Conservation

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

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

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

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

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

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

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

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

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

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SNPSs apply in the following contexts:

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

The objectives of a SNPS include:

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

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

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

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

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

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Exclusion of Drainage Basins

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

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

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

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

Subdivisional Requirements

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

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

Valuation Approach

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

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

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

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

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

Financial Implications

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

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

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

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

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

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

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

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

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CONCLUSION

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

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

FINANCIAL IMPLICATIONS

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

STATUTORY IMPLICATIONS

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

VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION (1 OF 4) AND COUNCIL RESOLUTION

520 Moved Cr R Mitchell Seconded Cr R Hoffman

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

1. Amending the Scheme Map by applying a Special Control Area - Development Contribution Area 6 to the Southern River Precinct 1 area, as depicted on the Scheme Amendment map contained in Appendix 13.5.6B.

2. Amending the Scheme Text by inserting the following new Attachment F into Schedule 12:

ATTACHMENT F

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

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Item 13.5.6 Continued

Relationship to other planning instruments	This Development Contribution Plan operates in association with the Southern River Precinct 1 Outline Development Plan Area, adopted pursuant to Clause 7.4.15 of the Scheme.
Infrastructure and administration items to be funded	1. Land Acquisition for Arterial Roads 2. Arterial Road Upgrade 3. Arterial Road Construction 4. Traffic Management 5. Fauna Underpasses 6. General Administration and Studies
Method for calculating contributions	As detailed in the Southern River Precinct 1 Outline Development Plan Development Contribution Plan Report.
Period of operation	Five years from the date of gazettal of Amendment No. 108 to Town Planning Scheme No. 6.
Priority and timing	As set out in the Development Contribution Plan Report or in accordance with any relevant Council resolution.
Review process	Council will review the Development Contribution Plan Report annually and will adjust the cost estimate of infrastructure items and land valuations as required.

CARRIED 10/0

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

AGAINST: *Nil.*

STAFF RECOMMENDATION (2 OF 4) AND COUNCIL RESOLUTION

521 Moved Cr R Mitchell Seconded Cr R Hoffman

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

1. The Environmental Protection Authority (EPA) for comment, pursuant to Section 81 of the *Planning and Development Act 2005*; and

2. The Western Australian Planning Commission for consent to advertise for public comment;

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

CARRIED 10/0

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

AGAINST: *Nil.*

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Item 13.5.6 Continued

STAFF RECOMMENDATION (3 OF 4) AND COUNCIL RESOLUTION

522 Moved Cr R Mitchell Seconded Cr R Hoffman

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

CARRIED 10/0

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

AGAINST: *Nil.*

STAFF RECOMMENDATION (4 OF 4) AND COUNCIL RESOLUTION

523 Moved Cr R Mitchell Seconded Cr R Hoffman

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

CARRIED 10/0

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

AGAINST: *Nil.*

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