

13.5.1 PROPOSED OUTLINE DEVELOPMENT PLAN - SOUTHERN RIVER PRECINCT 3A

Author:	S O'Sullivan
Author's Declaration of Interest:	Impartiality. The author was an employee of Taylor Burrell Barnett for 12 months between May 2003 and May 2004.
Reference:	PF07/00020
Applicant:	Taylor Burrell Barnett Town Planning and Design
Owner:	Various
Location:	Southern River Precinct 3A
Zoning: MRS:	Urban
TPS No. 6:	Residential Development
Review Rights:	Yes. State Administrative Tribunal against any discretionary decision of Council.
Area:	Approximately 55ha
Previous Ref:	OCM 12 May 2009 (Resolutions 175 – 188) OCM 14 April 2009 (Resolution 125) OCM 23 September 2008 (Resolution 456 & 457)
Appendices:	13.5.1A Southern River Precinct 3 Structure Plan (as adopted) 13.5.1B Proposed Outline Development Plan – Southern River Precinct 3A (as advertised) 13.5.1C Schedule of Submissions 13.5.1D Proposed Outline Development Plan – Southern River Precinct 3A (as recommended to be modified)

PURPOSE OF REPORT

For Council to consider adopting the proposed Outline Development Plan (ODP) for Southern River Precinct 3A (Precinct 3A), pursuant to Clause 7.4.7 of Town Planning Scheme No. 6 (TPS 6).

BACKGROUND

This application is for consideration of an ODP under the recently adopted Southern River Precinct 3 Structure Plan. The recent history is as follows.

- On 23 September 2008 Council considered the proposed Southern River Precinct 3 Structure Plan and a proposed ODP for Precinct 3A and resolved (Resolutions 456 and 457) that the proposals be advertised for public comment.
- In November 2008, advertising of the proposals for public comment occurred simultaneously.
- On 14 April 2009 Council resolved (Resolution 125) to defer consideration of the Structure Plan to a later meeting.

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- On 12 May 2009, Council again considered the proposed Structure Plan and resolved to adopt a modified version of the Plan to that which was advertised for comment, subject to additional changes being made to the satisfaction of the City's Director Planning and Sustainability (Resolution 175). Council also resolved to forward the duly modified Plan to the Western Australian Planning Commission (WAPC) for its consideration (Resolution 177).

The adopted Structure Plan, as endorsed by Director Planning and Sustainability pursuant to Resolution 175, is contained in Appendix 13.5.1A.

This report details the outcomes of the public consultation process associated with the proposed Precinct 3A ODP and contains recommendations relating to its determination.

Proposed Precinct 3A ODP

Precinct 3A encompasses approximately 55 hectares of land bound by Southern River Road, Holmes Street, Matison Street and Leslie Street, Southern River comprised of approximately 29 individual landholdings.

The proposed Precinct 3A ODP (hereafter referred to as the proposed ODP) was submitted by Taylor Burrell Barnett, on behalf of Viento Property Pty Ltd (Viento). Viento has purchased or is contracted to purchase approximately 50% of lots within Precinct 3A. Other properties within Precinct 3A are held in individual ownership.

The proposed ODP is intended to provide a framework to guide the subdivision and development of Precinct 3A.

A description of the proposal, its planning context and the area to which it relates was contained in the report to Council on 23 September 2008.

Public Consultation

In accordance with Council's Resolution 457, the proposed ODP was advertised for a period of 42 days by way of letters to all landowners within the subject area and relevant government agencies.

Consultation was undertaken through the following means:

- Letters to affected landowners.
- Newspaper advertisements in the local newspapers.
- An information evening.
- City staff were made available to meet personally with landowners to discuss any specific concerns.
- An information brochure.
- A specific project information phone line (staffed 24 hours by Estill and Associates).
- A project website.

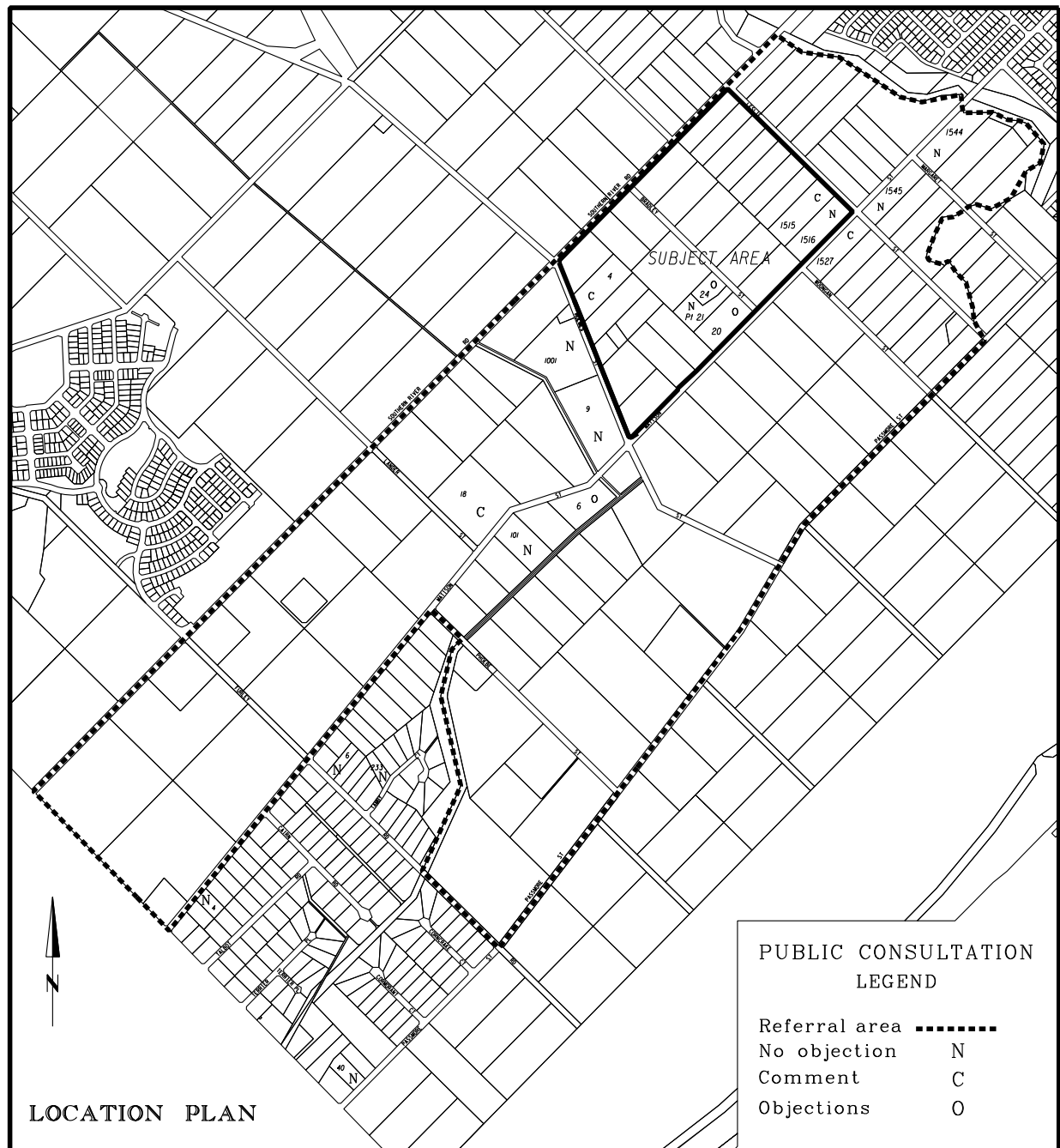
The proposed ODP, as advertised, is contained in Appendix 13.5.1B.

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Schedule of Submissions

The City received 21 submissions on the proposed ODP during the advertising period, of which nine raised no objection, four raised an objection and eight provided comment. A summary of submissions received and staff comments are provided in the following Schedule of Submissions contained in Appendix 13.5.1C.

A Consultation Plan showing the consultation area and the origin of submissions received is indicated below.



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The submissions indicate that there is a reasonably high level of support for and a low level of objection to the proposed ODP. There are however some concerns that have been raised in submissions and through further assessment of the proposal by the City that warrant discussion.

There are two main considerations involved in determining whether to adopt the proposed ODP at this time. The first main consideration relates to whether to adopt the proposed ODP in advance of the WAPC considering the proposed Precinct 3 Local Structure Plan. Critical to this consideration is the planning context for the proposal, particularly the provisions of the Metropolitan Region Scheme (MRS) and TPS 6, issues of consistency with the Precinct 3 Planning Framework Policy and the principles of orderly and proper planning. The second main consideration relates to the appropriateness of the proposed approach to establishing an equitable cost sharing and development contribution arrangement, which is a key aspect of the planning for Precinct 3.

There are also several secondary considerations involved in determining whether to adopt the proposed ODP. These considerations relate to matters of detail relating to the urban form elements of the proposed ODP, including the proposals for commercial development, public open space (POS), water management and traffic control.

These considerations are discussed in the following section of this report.

Primary Considerations Relating to the Proposed ODPSouthern River Precinct 3 Planning Framework Local Planning Policy

Council at its meeting on 28 November 2006 adopted a Local Planning Policy that established a planning framework for Precinct 3. The Policy divides Precinct 3 into six sub-precincts and sets out the various planning tasks that need to be addressed prior to proposals for subdivision and development being supported. These tasks include amendments being made to the Metropolitan Region Scheme (MRS) and TPS 6 and a whole-of-precinct Structure Plan being prepared in addition to an ODP being prepared for each of the six sub-precincts. The Policy also sets out the information that needs to be provided in support of the respective planning tasks.

Metropolitan Region Scheme

Precinct 3A is predominantly zoned Urban in the MRS with the portion between Holmes Street and the Other Regional Road (ORR) reservation for the future construction of Garden Street being zoned Urban Deferred.

In 2005 Council requested the WAPC to progress an amendment to the ORR reservation for Garden Street to generally align with the existing Holmes Street road reserve in order to avoid the future road dissecting the adjacent Bush Forever site 464. At its meeting on 12 May 2009 Council resolved to request that the State Government expedite this MRS amendment (Resolution 185).

It is anticipated that this Urban Deferred portion will convert to Urban through the MRS amendment required to realign the ORR reservation, although the time taken by the WAPC to date has not assisted in finalising this aspect of planning for the area.

Town Planning Scheme No. 6

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Precinct 3A is predominantly zoned Residential Development under TPS 6 and is located within a Special Control Area (SCA) that applies to a significant portion of Precinct 3. The SCA and related provisions require certain planning requirements to be addressed prior to subdivision and development occurring, particularly in respect to water management and developer contributions, in order to achieve a coordinated approach to planning and development within Precinct 3. The extent of the area zoned Residential Development corresponds with the area zoned Urban under the MRS.

The portion of Precinct 3A zoned Urban Deferred under the MRS is zoned General Rural under TPS 6 and will need to be rezoned to Residential Development to enable subdivision and development to occur.

Most of Precinct 3A is zoned Urban in the MRS and Residential Development under TPS 6, which leaves it open to Council to favourably determine the proposed ODP. A notation is contained on the proposed ODP in relation to the land that is zoned Urban Deferred and General Rural and is affected by the proposed realignment of Garden Street, which indicates that portion of the ODP will not take effect until the land is appropriately zoned under the MRS and TPS 6.

Decision required by Council

Part 7 of TPS 6 requires that Council, within 60 days of the conclusion of a public advertising period on a proposed ODP, consider all submissions received and determine whether to:

- Adopt the proposed ODP as advertised
- Adopt the proposed ODP with modifications or
- Refuse to adopt the proposed ODP

These are the only options available to Council.

Deemed Refusal of Proposed ODP

It should be noted that a determination on the proposed ODP has not been made within the required timeframe stipulated by TPS 6. The proposed ODP is therefore deemed to have been refused by Council.

The ODP public comment period concluded on 14 November 2008. The 60 day period within which to determine the proposed ODP concluded on 13 January 2009. Avoiding a deemed refusal was practically impossible as it was logical and sensible to address the numerous submissions received on the broader Precinct 3 Local Structure Plan, before turning attention to the Precinct 3A ODP. To have avoided the 60 day deemed refusal provision, the ODP would have needed to have been advertised after consideration of the Local Structure Plan concluded but this would have significantly delayed the process.

TPS 6 sets a similar 60 day timeframe for the Western Australian Planning Commission (WAPC) to determine a proposed ODP from the time it receives a proposal determined by Council (including a deemed refusal).

Taylor Burrell Barnett has lodged an application to the State Administrative Tribunal (SAT) for the alleged failure of the WAPC to determine the proposed ODP within

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60 days of the deemed refusal of Council (which occurred on 13 January 2009). It is understood that the SAT has held two preliminary hearings (known as directions hearings) on the application.

The fact that the proposed ODP was deemed refused by Council and is under review by SAT does not prevent Council from actually determining the proposal. The SAT at its most recent hearing indicated it would be awaiting Council's actual determination of the proposed ODP prior to considering issuing additional directions. The next hearing is set for 29 May 2009.

Timing for Decision Making

Given that the Precinct 3 Structure Plan has been adopted by Council and provides a framework for the development of Precinct 3A, it is now appropriate for Council to consider the proposed ODP.

In making a determination on the proposed ODP, Council needs to give consideration to whether it wants to adopt the proposal now or if it would prefer to await the outcome of the WAPC's endorsement of the Structure Plan. The WAPC is a key stakeholder in planning for Precinct 3 and Council may consider it undesirable to endorse the proposed ODP at this time in case the WAPC's determination of the Structure Plan necessitates it being modified, which in turn might necessitate a change to the proposed ODP.

While, ideally, it would be preferable to await the endorsement of the WAPC on the Local Structure Plan, this would be likely to delay progression of the ODP and therefore subdivision and development of Precinct 3A and result in the matter being resolved through the SAT.

Given the zoning of the land, the Council's decision on the Structure Plan, the SCA provisions in TPS 6 which prevent subdivision and development being supported by Council until certain matters are resolved, on balance, it is considered reasonable for Council to consider adopting the proposed ODP at this time, notwithstanding the WAPC is yet to determine the proposed Precinct 3 Structure Plan.

Development Contribution Arrangement

The establishment of a development contribution arrangement (DCA) for Precinct 3 is a critical matter. This is essentially because development will necessitate certain areas being set aside for various public purposes and infrastructure works being undertaken in an area that is comprised of fragmented landholdings in multiple ownership and where there is a need for equitable development arrangements to be applied.

The advertised Precinct 3 Structure Plan identified land required for various public purposes (these being conservation areas, recreation, school sites, drainage etc) and recognised that development will also necessitate major infrastructure upgrades (regional roads, drainage etc). It was evident from submissions on the proposed Structure Plan and ODP that there is considerable interest among landowners on how a DCA would be established and operate. Interest has been expressed by those who own land that may be required to be set aside for a public purpose and have an expectation of being compensated sufficiently for doing so and those that may be required to make a contribution towards the cost of compensation payable to landowners and common infrastructure needed to facilitate development.

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As required by the Precinct 3 Planning Framework Policy, Taylor Burrell Barnett prepared a draft framework for the establishment and operation of a DCA for Precinct 3. The draft framework was appended to the advertised Precinct 3 Structure Plan report and its details and implications were discussed at length in the reports to Council on 14 April 2009 and 12 May 2009 in respect to the Structure Plan.

The draft DCA framework identified various works and associated costs as possible inclusions to be administered by the City. Identified common infrastructure works (CIW) included elements of the road, path and drainage network and wetland conservation in addition to costs associated with land acquisition (for public open space (POS), conservation and drainage) and DCA administration. The draft framework also identified works and costs that are not to be funded through the DCA, including the cost of acquiring Bush Forever sites and school sites and certain drainage and subdivision/civil works.

The draft framework also outlined an intended approach to landowner compensation for ceding land for public purposes, which was based on differential valuations for land based on its zoning and environmental constraints.

Taylor Burrell Barnett advocated that the Structure Plan be adopted on the basis that the draft framework provided a broad guide to the intended direction for establishment of a DCA and that there is a formal process for establishing a DCA, which will involve the preparation of an amendment to TPS 6. Taylor Burrell Barnett contended that it is practically impossible to prepare an amendment at present given that certain elements of the proposed Structure Plan, particularly the extent of land required for wetland conservation, is not well defined and suggested that the TPS 6 amendment would be better prepared and considered in light of the ultimate direction taken by the WAPC on the Structure Plan. Taylor Burrell Barnett is essentially advocating the same in respect to the proposed ODP.

The City's assessment of the draft framework, as contained in the report to Council on 12 May 2009 in respect to the proposed Structure Plan, concluded as follows:

"Council is not at this stage necessarily required to make a decision on the content of the Development Contribution Framework put forward by the proponent or the details of how a DCA for Precinct 3 would operate. It is however important to bear in mind that there are a range of complex issues raised in submissions that relate to putting in place equitable arrangements for development in this area.

The proposal before Council is for a broad land use planning framework for Precinct 3. Many of the concerns raised relate to matters of detail concerning implementation of the proposed Structure Plan, particularly in respect to development contributions, including how landowners may be required to contribute to common infrastructure and land acquisition costs and how compensation will be addressed. Council may legitimately be concerned with elements of the proposed Contribution Framework and how a DCA might operate. In this respect it is open to Council to accept the proposition put forward by the proponent that matters relating to developer contributions be addressed as part of the required TPS amendment to formally establish a DCA in Precinct 3. Equally, it is open to Council to require further detail on how a DCA will operate prior to adopting the Structure Plan.

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Accordingly, Council must consider to what extent it wants to facilitate urban growth in Precinct 3 and whether the benefits in facilitating this growth will outweigh the potential costs and risks involved in not having a complete picture on how implementation of the proposed Structure Plan will occur in terms of development contributions. Unfortunately, the level of benefit versus the cost and risk cannot be easily quantified. However the key judgment required is whether Council is satisfied that the proposed Structure Plan can progress onto the next stage (that is, determination by the WAPC) in a manner that will preserve the ability of Council to ensure that an equitable approach to the treatment of all landowners in Precinct 3 can occur.

In considering the various issues associated with the proposed Structure Plan and related supporting documents, it is concluded and will be recommended that the Structure Plan be adopted (subject to modifications, as detailed in the following section of this report). The specific details of the intended approach to development contributions will need to be determined as part of the required TPS 6 Amendment to formally establish a DCA for Precinct 3. The City's interests are considered to be adequately protected by the Special Control Area in place for Precinct 3 in TPS 6, which requires a DCA to be in place prior to subdivision or development being supported unless Council at its discretion accepts alternative arrangements to secure contributions."

The discussion provided in the above quotation applies equally to the determination of the ODP. Council's 12 May 2009 (Resolution 178) specifically excluded any endorsement of the notional DCA framework, and further advised that matters relating to the establishment and operation of a DCA for Precinct 3 will need to be addressed as part of the preparation of the amendment required to TPS 6 to formalise the Arrangement.

It is open to Council to accept the proposition put forward by Taylor Burrell Barnett that matters relating to developer contributions be addressed as part of the required TPS amendment to formally establish a DCA in Precinct 3. Council's interests are considered to be adequately protected by the SCA in place for Precinct 3 in TPS 6, which requires a DCA to be to be in place prior to subdivision or development being supported unless Council is prepared to accept an alternative arrangement to secure contributions.

Secondary Considerations Relating to the Proposed ODP

If Council is prepared to accept the proposition that it adopt the Precinct 3A ODP, notwithstanding that the broader Precinct 3 Structure Plan is not finalised by the WAPC and detailed arrangements for development contributions still need to be established, then the focus can turn to consideration of a range of matters that relate to the land use and urban form elements of the proposed ODP. The key land use and urban form elements are as follows:

Commercial Land Use

Consistent with the proposed Precinct 3 Structure Plan, the proposed ODP depicts two Local Centres, both adjacent to Southern River Road, with one at the intersection with Holmes Street and the other at the intersection with Leslie Street.

The proposed Holmes Street centre is shown in a location that is different to that proposed in the DSP. The DSP showed a 'Neighbourhood Centre' in a location

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generally central to Precinct 3A. The justification provided by the applicant is that the proposed location of the Holmes Street centre on the ODP would be suitable for car-based commercial uses given its location at what will in future be an intersection with significant traffic volumes in each direction. It is understood that the reference to car-based commercial uses is intended to mean commercial facilities such as a fuel station/convenience store and drive-through fast food outlet. The applicant advocates that the development of this type of commercial centre would reduce pressure for these sorts of uses to be accommodated within the other identified Local Centres in the locality, which are likely to be pedestrian-based, resulting in a sensibly balanced distribution of commercial uses.

It is considered that there is merit in locating commercial centres on roads with high traffic volumes as opposed to a location in the middle of a residential cell with limited passing traffic. While there are accessibility benefits to residents in having a centrally located local or neighbourhood centre, the commercial viability of centres at the lower end of the retail hierarchy in such locations is questionable as they lack the passing trade and urban energy provided by roads with higher volumes of traffic.

A good example of a similar situation is in the Canning Vale ODP, where provision has been made for the development of local centres throughout the area, including centres within the residential area as well as on the fringing regional or higher order roads. The only commercial centre of note to have developed in this area is located at the intersection of Warton Road, Amherst Village and Holmes Street. Its success as a development, at least in terms of the rate and extent to which it has developed, is, in part, due to the high levels of passing traffic that would have aided the decisions of landowners to invest in the development of the centre.

There have however been difficulties experienced in planning for the development of this centre, particularly in coordinating an appropriate built form, access and parking, and controlling the allocation of floorspace for retail uses given that the centre straddles a busy intersection under the ownership of several separate landowners.

There is a similar need to coordinate commercial development proposed on both sides of Southern River Road in the vicinity of the intersection with Holmes Street. The preparation of an overall Centre Plan for the proposed commercial development in this area has been identified as a requirement, with the purpose to establish parameters for the composition of land uses, the allocation of retail and non-retail floorspace, vehicular and pedestrian access, car parking and any particular built form controls that may be necessary. While there may be some physical separation between the commercial development proposed adjacent to Southern River Road, it will be important that there is a coordinated approach to planning.

The proposed ODP is considered to have sufficiently addressed the requirement to ensure coordinated commercial development occurs by indicating the requirement for a Centre Plan. Development of the proposed Local Centres shown in the proposed ODP, in addition to the other commercial areas proposed in Precincts 2 and 3 should reinforce the role of Southern River Road as an activity corridor, consistent with the guidance set out in the WAPC's Network City planning strategy.

Traffic Management

Certain aspects of the proposed road network detailed on the proposed ODP are a concern. Three proposed intersections, namely a staggered 'four-way' intersection, marked on the plan contained in Appendix 13.5.1D with the numeral '3' and two

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more-conventional intersections marked on the same plan with the numeral '4' warrant specific comment.

The proposed staggered four-way intersection is considered to have the potential to create traffic conflict and pose an unacceptable risk to vehicular and pedestrian safety, because the intersections are proposed on bends in the road. There are considered to be options for addressing this issue in a manner that will be localised and not have a knock-on effect requiring modification to the proposed road layout within the rest of Precinct 3A.

It will be recommended that Council, should it be prepared to adopt the ODP, do so by adopting a revised ODP which incorporates a notation that requires detailed road design arrangements and intersection treatment requirements to be addressed at the time of lodging an application for subdivision involving land containing this intersection.

The concern with the two proposed conventional four-way intersections is that they may lack the necessary controls to appropriately manage traffic safety. There is often a preference for this type of intersection to be controlled by a roundabout. There is usually debate that surrounds whether this type of intersection should be controlled with a roundabout or some other form of management (such as signage, raised islands or whether differential pavement treatments would suffice) or should be avoided altogether through design.

It will be recommended that Council, should it be prepared to adopt the ODP, do so by adopting a revised ODP which incorporates a notation that requires intersection treatment requirements to be addressed at the time of lodging an application for subdivision involving land containing these intersections. There are considered to be options for addressing these requirements in a manner that will be localised and not have a knock-on effect on the road layout within the rest of Precinct 3A.

Wetland Buffer – Lot 20 Bradley Street

The owner of Lot 20 Bradley Street has objected to the setting aside of a buffer associated with the Conservation Category Wetland (CCW) located within and adjacent to Bush Forever site 464 south of Matison Street (see Submission No. 21). The landowner does not consider the subject wetland to be of regional significance. The landowner believes that the existing Matison Street reserve represents a significant and suitable barrier and that any extension of a buffer into Lot 20 would offer little benefit to the protection of the wetland. It is requested that the buffer requirements be truncated at Matison Street, presumably to allow Lot 20 to instead be designated with a residential coding.

A 50m buffer associated with a CCW is shown on the proposed ODP, which is generally consistent with the Precinct 3 Structure Plan. The proposed ODP also shows the reserve for Matison Street, which it is agreed physically disconnects part of the buffer from the CCW, with the severed part of the buffer proposed for Local Open Space. In addition the proposed ODP shows a portion of the buffer for R30, which is intended to allow for the existing dwelling on Lot 20 Bradley Street to be retained and potentially would allow redevelopment of this portion of the property in future.

The proposed ODP, as it relates to Lot 20, may be considered to be a pragmatic and warranted solution in the circumstances, as it is generally consistent with the requirement to set aside a buffer associated with a wetland of conservation category, while recognising that part of the buffer is already developed and severed from a wetland which in itself remains in private ownership. Technically the proposal is likely

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to be in conflict with State Government environmental policy, however this has not been confirmed as the Department for Environment and Conservation (DEC) has not responded to the City's invitation to comment on the proposed ODP.

It should be noted however that when the Environmental Protection Authority commented on Amendment No. 70 to TPS 6 (which proposed to rezone Precinct 3A to Residential Development and include much of the broader Precinct 3 area in a Special Control Area where related pre-requisite requirements to subdivision and development apply), it suggested that the CCW in question should be the subject of a site-specific study to determine parameters for development near the wetland and for its buffer and its extent. No such study was prepared in support of the proposed ODP nor has one since been completed.

The absence of a study that supports a 50m buffer and the proposal for residential development within part of the 50m buffer is not considered in itself to represent a bar to Council adopting the ODP, particularly as the issue is relevant only to a small part of the ODP area. However the fact no study has been done may present a barrier to the individual affected landowners should they seek to subdivide near the buffer or develop the portion of land identified within the buffer for residential use in accordance with the ODP, as the DEC/EPA do not typically recognise ODPs as proposals for the purposes of the Environmental Protection Act.

It will be recommended that Council, should it be prepared to adopt the ODP, do so by adopting a revised ODP which incorporates the following notation:

"Development proposed within and adjacent to the Conservation Category Wetland buffer may be subject to a requirement for a site specific buffer study to be completed to demonstrate the appropriateness of the proposal in terms of protecting the environmental values associated with the Conservation Category Wetland. The form, function and development of the Public Open Space area, including rehabilitation of the wetland buffer, will need to be addressed through preparation of a Public Open Space Development Plan."

Local Water Management Strategy (LWMS)

A LWMS was appended to the proposed ODP during the advertising stage for public comment. The LWMS for Precinct 3A has since undergone further detailed assessment and been the subject of liaison between the proponent and the City's Infrastructure Directorate. Submissions from the Swan River Trust and Department of Water indicated that some concerns still exist with the proposed LWMS on certain issues including the control of groundwater and management of groundwater quality, the functionality of the proposed sub-soil drainage system, the containment of certain storm events to drainage swales and parameters for construction of drainage facilities.

While it is acknowledged that the LWMS requires additional detail to be supplied and reviewed for it to be considered for endorsement, the required details are not considered substantial enough or of a nature to warrant a change to the urban structure proposed by the ODP. Even if a change was necessary, this would be possible through either undertaking a subsequent modification to the ODP or reflecting the required change in subdivision and development proposals.

It is a requirement of the Special Control Area that applies to Precinct 3A that appropriate water management arrangements are in place prior to subdivision and development being supported. In this respect subdivision and development

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applications need to be accompanied by an Urban Water Management Plan (UWMP), which addresses the criteria in the LWMS. To reinforce the importance of the LWMS and requirement for it to guide more detailed water management arrangements, it will be recommended that the proposed ODP be modified to include a note which stipulates the need for a LWMS to be approved as part of the ODP and UWMPs prepared and submitted in support of subdivision and development applications.

Public Open Space

Discussion is required in respect to the proposals in the ODP for POS provision.

Identified POS areas have been strategically located to provide for local active and passive recreational needs, the retention of quality vegetation and opportunities for natural drainage passage and infiltration, consistent with the proposed Precinct 3 Structure Plan. Regard has also been given to the site's proximity to Sutherlands Park on the opposite side of Southern River Road.

The following table provides a breakdown of the proposed provision of public open space within Precinct 3A.

Southern River Precinct 3A – POS Schedule	Total (Ha)
Gross Area	57.4296
Deductions	
Local Centres	0.7572
Road Widening (Holmes Street)	1.2800
Total Deductions	2.0372
Net subdividable area	55.3924
POS required @ 10%	5.5392
POS Provided (inc 100% credit for buffers)	4.6809
POS Provision	8.4504%

The criteria for POS provision are set out in the WAPC's adopted Liveable Neighbourhoods Policy. The usual requirement is for 10% of land to be subdivided, typically for residential purposes only, to be set aside for POS. POS often provides a range of functions, including recreation, drainage and conservation. Because drainage and conservation areas can provide some recreational utility, Liveable Neighbourhoods makes provision for land ceded for drainage and conservation to be counted towards satisfying the 10% requirement, though there are limitations on credit allowances.

For instance, 100% credit for drainage areas within POS is allowed where these areas accommodate storm events equal to or less often than a 1:5 year event. One-fifth of the required 10% POS can be provided in the form of restricted open space, such as areas that incorporate stormwater captured from between 1:1 and 1:5 year events or wetlands.

Drainage areas are not specifically shown on the proposed ODP, though from the LWMS submitted with the ODP, it is evident that most proposed areas of POS are to contain areas for drainage. The POS Schedule detailed in the table above effectively credits 100% credit of all drainage and wetland buffer areas provided as POS. It is difficult to assess whether a 100% credit for drainage would be appropriate as the drainage areas proposed in the LWMS appear to be designed to cater for both 1:1 and 1:5 year storm events and areas required for accommodating these events are shown only conceptually.

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The proposed ODP proposes 8.54% of the Precinct 3A area, after deductions and allowing for drainage and buffer credits, be set aside for POS. This is a 1.56% or 0.86ha shortfall, which could be greater if the credits sought for drainage and wetlands are inappropriate.

When considered in isolation, the ODP fails to meet WAPC Liveable Neighbourhood Policy requirements for 10% provision, however it is considered that POS requirements need to be considered in the context of the broader Precinct 3, where it is proposed that landowners in Precinct 3A will be required to contribute towards the acquisition of land for public purposes, including land for POS, including district playing fields and other uses like drainage and conservation, which will offer recreational utility to varying extents.

It is not possible to accurately quantify the extent to which landowners in Precinct 3A will be required to contribute to land required for public purposes in the rest of Precinct 3, as the exact land requirement is not defined. The main reason it is not defined is because of uncertainty on the extent of land that will have to be set aside for wetland and buffer conservation. However, Council should note the following.

The total area of Precinct 3 is approximately 365ha. Once Bush Forever sites, arterial drainage areas, mapped wetlands (outside of Bush Forever sites) and their buffers, the district playing fields and school sites are deducted, the resulting developable area of Precinct 3 could range from approximately 120ha (if all mapped wetlands have to be protected) to 170ha (if all mapped wetlands could be developed). Bearing in mind that portion of the developable area includes the light industrial area proposed in Precinct 3F, which is approximately 45ha in area, the area of land to be developed for residential purposes in Precinct 3 could amount to only between 75ha and 125ha.

Considering that the net residential subdividable area of Precinct 3A is approximately 55ha, residential development in Precinct 3A may represent between 44% and 73% of the total residential development in Precinct 3.

The amount of land required for POS (including drainage, conservation and playing fields) in Precinct 3, while not accurately defined, could range from 10ha to 60ha depending on wetland conservation requirements. The extent to which Precinct 3A (and indeed other development cells) will need to contribute to the costs of land acquisition for POS and other public purpose is also not defined, but will be shaped by wetland conservation requirements and whether any external agencies are willing, or landowners elsewhere are required, to contribute to these costs.

Even if it eventuated that Precinct 3A was to contribute to the cost of acquiring only 10ha of land for POS in the broader Precinct, this would more than compensate for the notional shortfall evident when assessing the ODP in isolation.

If a decision is made, either now or in the future, that Precinct 3A need not have any relationship to the broader Precinct 3 in terms of contribution obligations to development infrastructure and land acquisition costs, then it is suggested that the proposed ODP would be non-compliant with POS Policy requirements and should be either refused or modified to either increase the amount of POS provided in Precinct 3A or require a cash-in-lieu arrangement to be established to collect contributions from landowners to address the POS shortfall and expend those funds on the enhancement and development of POS areas provided.

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As mentioned in the discussion under the heading of Development Contribution Arrangement, the proponent of the ODP advocates that the ODP should be adopted on the basis that a DCA can be established on the assumption that it will be required to fund the provision of common infrastructure and the acquisition of all land identified for 'Core Conservation (including Buffers)' on the proposed Structure Plan within Precinct 3. This would then allow for approved applications for subdivision being subject to a requirement to secure contributions based on this worst case scenario. In the event that a reduced amount of land needs to be set aside for acquisition, the proponent suggests that the DCA could be adjusted to reduce the required development contributions accordingly and that if there is any landowner who has developed prior to that adjustment being made and paid a contribution based on the worst case scenario, they could be refunded the amount of excess-contribution.

It has been discussed earlier in this report that while there are advantages and disadvantages of this approach. On balance however it will be recommended that the ODP be approved as it is considered that there are sufficient safeguards to ensure contribution (and other) matters can be appropriately addressed.

It is recognised that the POS shown on the proposed ODP is not distributed equally or evenly over all landholdings within the ODP area and that some properties have more than 10% of their area required for POS. Either with or without a relationship to the broader Precinct 3, there is an acknowledged need for an arrangement to be established for the equitable provision of POS among landowners within the ODP area.

Recommended Modifications to the Proposed ODP

Should Council be prepared to adopt the proposed ODP, it will be recommended that it endorse a revised plan to that which was advertised to incorporate several additional notations. The advertised version of the proposed ODP contains two notations in respect to the Local Centres and land between the existing and proposed MRS reservation for Holmes Street. It will be recommended that Council adopt a revised ODP with the following additional notations numbered 3 to 7:

Note	Recommended Modification	Reason
3	Detailed road design arrangements and intersection treatment requirements are to be addressed at the time of lodging a subdivision application.	To address safety concerns relating to the proposed staggered four-way intersection in the centre of the ODP area.
4	Intersection treatment requirements are to be addressed at the time of lodging a subdivision application.	To address safety concerns relating to the two proposed uncontrolled four-way intersections.
5	Development proposed within and adjacent to the Conservation Category Wetland buffer may be subject to a requirement for a site specific buffer study to be completed to demonstrate the appropriateness of the proposal in terms of protecting the environmental values associated with the Conservation Category Wetland. The form, function and development of the Public Open Space area, including rehabilitation of the wetlands buffer, will need to be addressed through the preparation of the Public Open Space Development Plan.	To respond to requirements of the Environmental Protection Authority, who require a site specific study to determine the buffer zone for the protection of the adjacent conservation category wetland.
6	A Local Water Management Strategy (LWMS) is to be prepared and approved as	To ensure that a LWMS is approved as part of the proposed ODP and that UWMPs are

Item 13.5.1 Continued

Note	Recommended Modification	Reason
	part of the ODP. Urban Water Management Plans (UWMPs) are to be prepared prior to applications for subdivision and development being supported. The UWMPs should address the criteria set out in the LWMS.	prepared in support of applications for subdivision and development and address the criteria of the approved LWMS.
7	The ODP area is subject to the Special Control Area provisions of Part 6 of Town Planning Scheme No. 6.	To draw attention to the specific requirements of the Special Control Area that applies to the ODP area.

The ODP, revised to reflect the modifications listed in this table and recommended for adoption by Council, is contained in Appendix 13.5.1D.

CONCLUSION

Planning for Precinct 3A is complex, as this area sits within the broader Precinct 3, which has a range of constraints to development, including fragmented landownership, environmental issues and land requirements for a range of public purposes and a mix of proposed land uses.

The proposed Precinct 3 Structure Plan seeks to address the area's constraints and provide a framework for more detailed planning and subsequent development. The proposed Precinct 3A ODP seeks to provide this more detailed guide to development in an area where there is a keen intent to develop.

Council at its meeting on 12 May 2009 adopted a revised version of the Structure Plan to the one advertised for public comment late in 2008 and resolved to forward it to the WAPC for consideration.

As discussed in this report, Council's primary consideration in relation to the proposed ODP is whether to adopt the proposed ODP in advance of the WAPC considering the proposed Structure Plan. There are secondary considerations to be made in respect to whether adoption of the proposed ODP should occur in advance of certain other matters being resolved, namely arrangements for development contributions and the draft LWMS.

In considering the various issues associated with the proposed Precinct 3A ODP, it is concluded that Council may adopt a revised version of the ODP incorporating the additional notations detailed in the Table of Modifications and as contained in Appendix 13.5.1D, subject to Council firstly approving the proposed revised Precinct 3 Structure Plan.

The modifications to the advertised ODP are minor in nature and are not considered to warrant the revised ODP being readvertised for public comment.

The specific details of the intended approach to development contributions will need to be determined as part of the required TPS 6 Amendment to formally establish a DCA for Precinct 3. Council's interests are considered to be adequately protected by the SCA in place for Precinct 3A in TPS 6, which requires a DCA to be in place prior to subdivision or development being supported unless Council is prepared to accept an alternative arrangement to secure contributions.

It will therefore be recommended that Council:

Item 13.5.1 Continued

- Note the submissions received in respect of the proposed ODP and endorse the staff comments in response to those submissions.
- Adopt the proposed ODP as modified and contained in Appendix 13.5.1D.
- Refer the modified ODP to the WAPC for approval in accordance with Clause 7.4.9 of the Town Planning Scheme No. 6.

Landowners will be informed of Council's decision as a standard administrative action associated with this stage of consideration of an ODP.

FINANCIAL IMPLICATIONS

There are various potential financial implications that may result from development being undertaken in accordance with the proposed ODP. Most significant of these implications is the possibility that Council will need to establish and administer a DCA. This is a matter discussed in this report and in the report to Council on 12 May 2009 in respect to the broader Precinct 3 Structure Plan.

STATUTORY IMPLICATIONS

Council's determination of the proposed ODP is guided by the provisions of clause 7.4.7 of TPS 6, with the options available to Council being as detailed in the Discussion section of this report.

VOTING REQUIREMENTS

Simple majority.

STAFF RECOMMENDATION (1 OF 3) AND COUNCIL RESOLUTION

208 Moved Cr R Mitchell Seconded Cr R Hoffman

That Council note the submissions received in respect of the proposed Southern River Precinct 3A Outline Development Plan (ODP) contained in Appendix 13.5.1C and endorse the staff comments in response to those submissions.

CARRIED 11/0

FOR: Cr D Griffiths, Cr B Wiffen, Cr S Iwanyk, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr T Brown, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

AGAINST: Nil.

STAFF RECOMMENDATION (2 OF 3) AND COUNCIL RESOLUTION

209 Moved Cr R Mitchell Seconded Cr R Hoffman

That Council, pursuant to Clause 7.4.7(b) of Town Planning Scheme No. 6, adopt the proposed Southern River Precinct 3A Outline Development Plan as modified and contained in Appendix 13.5.1D.

CARRIED 11/0

FOR: Cr D Griffiths, Cr B Wiffen, Cr S Iwanyk, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr T Brown, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

AGAINST: Nil.

Item 13.5.1 Continued

STAFF RECOMMENDATION (3 OF 3) AND COUNCIL RESOLUTION
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210 Moved Cr R Mitchell Seconded Cr R Hoffman

That Council refer the modified Southern River Precinct 3A Outline Development Plan to the Western Australian Planning Commission for approval in accordance with Clause 7.4.9 of the Town Planning Scheme No. 6.

CARRIED 11/0

FOR: Cr D Griffiths, Cr B Wiffen, Cr S Iwanyk, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr T Brown, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

AGAINST: Nil.

LEGEND

- Area Subject to Further Investigation to Address the Following Matters:
- Conservation requirements.
- Requirements for the widening of the Forrestdale Main Drain and its integration with adjoining land uses.
- Educational requirements including provision for a Government Primary School and Secondary School, both with special needs components.
- Provision of Public Open Space including land for district playing fields.
- Appropriate Water Management.
- A framework for the equitable provision of development infrastructure and land for public purposes.
- Appropriate development and land use parameters.
- Residential
- Local Centre
- Mixed Business
- Light Industry
- Local Open Space
- Parks and Recreation Reservation
- Kennel Zone
- 500m Kennel Buffer Area (Subject to further acoustic study)
- 1500m Liquid Waste Site Buffer
- Other Regional Road
- Neighbourhood Connector
- Local Connector
- Traffic Signals
- Core Conservation (including Buffers)
- Proposed Bus Route
- Precinct 3 Boundary
- Dual Use Paths
- Extent of wetlands required for conservation to be determined through further environmental review and detailed planning.

NOTES

- Further Local Open Space to be provided in accordance with Council and Drainage requirements.
- Medium residential densities to be provided in accordance with City of Gosnells Local Housing Strategy criteria.
- A Place of Worship is constructed on Lot 16 Southern River Road. Additional development of the site will be subject to resolution of wetland and other environmentally sensitive area protection requirements.
- Planning of the Light Industrial Area will be subject to resolution of wetland and other environmentally sensitive area protection requirements.
- A review of the existing road network will need to be considered as part of further detailed planning. This review will need to consider those roads to be retained, local intersection treatments and road upgrades required.

