



**ORDINARY COUNCIL MEETING
27 NOVEMBER 2007**

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Minutes of the Ordinary Council Meeting held in the Council Chambers, City of Gosnells Administration Centre, 2120 Albany Highway, Gosnells on Tuesday 27 November 2007.

1. OFFICIAL OPENING/ANNOUNCEMENT OF VISITORS/DISCLAIMER

The Mayor declared the meeting open at 7.30pm and welcomed those members of the public present in the public gallery, Councillors and staff.

DISCLAIMER

The Mayor read aloud the following statement:

Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until such time as they have seen a copy of the Minutes of the meeting or have been advised in writing by Council staff.

COUNCIL MEETINGS – RECORDING OF

The Mayor advised all those present that the meeting was being digitally recorded.

Notice within the Public Gallery in relation to recordings state:

Notice is hereby given that all Ordinary Council Meetings are digitally recorded, with the exception of Confidential matters (in accordance with Section 5.23(2) of the Local Government Act 1995) during which time recording will cease.

Following documentation of the Minutes and distribution to Elected Members a copy of the digital recording shall be available for purchase by members of the public.

Recordings will be available in the following formats at a fee adopted by Council annually:

- * Digital recordings CD ROM (complete with FTR Reader) for use on a Personal Computer; or*
- * Audio recordings CD ROM for use on a CD Player or DVD Player.*

For further information please contact the Administration Assistant on 9391 3212.

I _____ CERTIFY THAT THESE
MINUTES WERE CONFIRMED BY THE COUNCIL OF THE CITY OF GOSNELLS ON

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

ELECTED MEMBERS

MAYOR
DEPUTY MAYOR

CR O SEARLE JP
CR J BROWN
CR D GRIFFITHS
CR B WIFFEN JP
CR R HOFFMAN
CR C FERNANDEZ
CR W BARRETT
CR J HENDERSON
CR R MITCHELL
CR L GRIFFITHS

STAFF

ACTING CHIEF EXECUTIVE OFFICER
DIRECTOR COMMUNITY ENGAGEMENT
DIRECTOR CORPORATE SERVICES
DIRECTOR PLANNING & SUSTAINABILITY
DIRECTOR GOVERNANCE
MINUTE SECRETARY

MR D HARRIS
MS A COCHRAN
MR R BOUWER
MR L KOSOVA
MR T PERKINS
MISS S MACGROTTY

PUBLIC GALLERY

30

APOLOGIES

Nil

APPROVED LEAVE OF ABSENCE

Cr Morris was granted Leave of Absence vide Resolution 506 of the Ordinary Council Meeting held on 13 November 2007.

Cr Iwanyk was granted Leave of Absence vide Resolution 508 of the Ordinary Council Meeting held on 13 November 2007.

3. DECLARATIONS OF INTEREST

Cr W Barrett declared an Impartiality Interest in item "13.2.1" Premier's Australia Day Active Citizenship Awards – Delegation of Authority.

Reason: Member of Australia Day Citizenship Awards Committee.

Cr D Griffiths declared an Impartiality Interest in item "14.1" Additional Name Plaques – Avenue of Trees.

Reason: Person in Avenue of Trees, Centennial Year.

Cr C Fernandez declared an Impartiality Interest in item "14.1" Additional Name Plaques – Avenue of Trees.

Reason: Proposed name on trees.

Cr L Griffiths declared an Impartiality Interest in item "14.1" Additional Name Plaques – Avenue of Trees.

Reason: Proposed name on trees.

Cr R Mitchell declared an Impartiality Interest in item "13.4.2" Rivers Regional Council – New Establishment Agreement and Deed of Amendment.

Reason: Council's representative on the Regional Council.

Cr B Wiffen declared an Impartiality Interest in item "14.1" Additional Name Plaques – Avenue of Trees.

Reason: Proposed name on trees.

4. ANNOUNCEMENTS BY THE PRESIDING MEMBER

(without discussion)

The Mayor circulated to Councillors a list of functions and events she had attended since Tuesday 13 November 2007.

5. REPORTS OF DELEGATES

(without debate)

Cr W Barrett expressed his thanks with representing the Council at the Perth Heat Baseball Park in Thornlie, also stating that Perth Heat are very appreciative of the City's input into the Arena. Cr W Barrett also thanked the Council for the invite to the Museum's Volunteer Lunch and thanked all the volunteers and staff who took part in the volunteer lunch as well as the Multicultural Food Fair, both were deemed a great success.

6. QUESTION TIME FOR THE PUBLIC AND THE RECEIVING OF PUBLIC STATEMENTS

A period of fifteen (15) minutes is allocated for questions with a further period of fifteen (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 three (3) minutes per speaker will be allowed.

The person's speaking right is to be exercised prior to any matter which requires a decision to be made at the meeting.

Questions and statements are to be –

- a) Presented in writing on the relevant form to the Chief Executive Officer prior to commencement of the meeting; and
- b) Clear and concise.

QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS AWAITING RESPONSE

Nil

RESPONSES TO QUESTIONS TAKEN ON NOTICE AT PREVIOUS MEETINGS

Nil

6.1 QUESTION TIMENotation

The Mayor advised several question time forms had been submitted this evening reminding proponents that all questions must be framed as a question. The Mayor added that in accordance with the Question Time Guidelines, two questions would be allowed initially, and if time permitted proponents would be invited back to the microphone to ask their remaining questions.

* Mr Barry West of 38 Coldwell Road Kenwick, asked the following questions:

Q 1 We dispute the Aboriginal heritage claim for this area and ask if the Council will undertake its own study?

Response: The Director Planning and Sustainability advised that in the staff report reference was made to an Aboriginal Heritage Survey that was commissioned by the Water Corporation, the study area for which was only an isolated pocket near Roe Highway in Precinct 3, and it did not relate to the whole of the extent of Yule Brook through the strategic employment area. The Director advised the recommendations of that study do have further consequences and that is why on the third last page of the staff report it is recommended that consideration be given to the City engaging appropriate consultants to conduct its own independent Aboriginal Heritage Survey along the extent of Yule Brook to clearly ascertain whether or not there are any sights of Aboriginal significance.

Q 2 If the Brixton Reserve is of such environmental significance why are the roadside drains such a disgrace?

Response: The Director Planning and Sustainability advised that the Infrastructure Directorate has been instructed to investigate the standard of the drains along the road reserve adjoining the Brixton Street wetlands, however, in any event the Brixton Street wetlands do have recognised State and National significance to do with the ecological value of the wetlands themselves and is not actually influenced or determined by the standard of road or road verges adjoining them.

Notation

The Mayor advised Mr West that if time permitted he would be invited back to ask his additional questions.

* Mr Keith Agar of 109 Brook Road, Kenwick asked the following questions:

Q 1 What are the immediate implications affecting ratepayers in the concept plan 2 for zones 2 and 3B?

Response: The Director Planning and Sustainability advised that it is important to note that the concept plan is just a concept, therefore the implications that the plan may have for land owners will actually be determined to a large extent on how land owners perceive and view that plan. However, the most immediate and pressing impact that the concept plan will have is the uncertainty that it will create for land owners during the transitional period while the plan is being prepared.

Q 2 Would the Council consider reducing the minimum lot size from its current acreage as compensation for leaving zones 2 and 3B rural?

Response: The Director Planning and Sustainability advised that if through the planning process it is determined that certain land within the strategic employment area, or covered by the concept plan is not going to be suitable for industrial development, then the next logical step will be for Council to give consideration to what the land can actually be used for. That might include the status quo remaining and the land remaining rural, or it might include Council giving consideration to the land being able to be further subdivided into smaller lot sizes. However, in stating that, it is important to note that the West Australian Planning Commission is the decision making body for subdivisions.

Notation

The Mayor advised proponents of questions that all responses would be recorded in the minutes which would be available on the City's website following the meeting.

* Mr Fred Sharp of 48 Boundary Road Kenwick asked the following questions:

Q 1 Will the Council consider allowing Schools or Church institutions in the rural areas 3B?

Response: The Director Planning and Sustainability advised that at the moment churches and schools are permissible uses under the existing general rural zone under Council's Town Planning Scheme, which the properties in the strategic employment area are zoned. If the zoning is ultimately converted to industrial then those use classifications may change depending on what Council's opinion is at the time. At the moment those uses are permissible and classed as A uses which means that Council can approve those uses at their discretion subject to public advertising.

Q 2 Would Council consider leaving properties in zone 2 bounded by Brentwood and Boundary Roads as rural, thus providing a natural buffer between industrial and Bush Forever areas?

Response: The Director Planning and Sustainability advised that, if through the planning process it is identified that land in the concept plan area is not going to be suitable for industrial development, the options that will be available to Council will be to investigate what alternative or existing land uses are in fact going to be suitable. There is a chance that this might be the case although it needs to be determined through more detailed studies, some of which are currently being undertaken.

* Regina Drummond of 87 Kenwick Road Kenwick asked the following question:

Q 1 Does the City of Gosnells realise that this is probably one of the last opportunities they have to implement some very important measures to rectify serious mistakes of the past, for example water management, interruption of the Yule Brook? The disruption of native flora re-vegetation and the spread of weeds by manipulating natural water courses. Are you going to take this opportunity to address such issues to restore balance and protect precious habitat?

Response: The Director Planning and Sustainability advised that the City of Gosnells is acutely aware of the environmental values in the area and that is why the Council is taking such a precautionary approach to planning for this area. The Council has undertaken significant studies to date, and further studies are continuing. Botanists are out in the fields conducting field surveys to ground proof the previous desktop data that was gathered and those studies will continue to inform the planning for the area.

* Mr Deuk Sung Bae of 59 Central Park Avenue Canning Vale, asked the following questions:

Q 1 How much land in from Yule Brook do we need to leave alone as a buffer?

Response: The Director Planning and Sustainability advised that the staff report and the revised concept plan identifies the land along Yule Brooke as a new Precinct to be known as Precinct 3B. In that precinct the Council is proposing that no further development or industrial development occur until such time as further investigations identify a need for change to that position. The big issue that has arisen is the Aboriginal Heritage Survey that has come from the Water Corporation which identifies that there is potentially some Aboriginal Heritage significance, and issues along the extent of Yule Brook. Before the Council can make any decisions about the extent of land that may or may not be required for buffer or for roads or anything else, the Council needs to do further surveys and investigations to then determine to what extent the land will need to be set aside or not. If the area and upshot of those investigations is that the land remains rural, the Council will need to give consideration to whether or not any buffer would even be required in this instance.

Notation

The Mayor invited Mr Barry West, who had submitted more than two questions, back to the microphone.

* Mr Barry West of 38 Coldwell Road Kenwick asked the following questions:

Q 3 Are there any properties in this overall concept plan that have a caveat applied?

Response: The Director Planning and Sustainability advised that there is approximately 150 properties covered by the concept plan, and the only way to accurately determine if there are caveats applying to the certificates of title to each of these lots is to do individual title searches. However, if the question is to whether or not this concept plan or the planning process is intended to apply caveats to properties to prevent or encourage certain things from occurring, the short answer is no. There has been no caveats applied by the City as a result of the concept plan and that has not been a consideration to date.

Q 4 Did the Shire receive permission or have to consult Aboriginal Cultural Heritage (ACHM) prior to excavating with heavy plant to deepen, widen man made sections of Yule Brook and if so is the resulting report available?

Response: The Director Planning and Sustainability advised that he personally was not familiar with the excavation works that are being referred to, nor whether or not that work affected, or had the potential to affect any Aboriginal Heritage site. In Western Australia the Aboriginal Heritage Act 1972 makes provision for the preservation of places and objects of traditional importance to Aboriginal people. The Act specifies among other things, requirements for, and processes to be followed, where an activity is likely to cause disturbance to an Aboriginal heritage site, regardless of whether the site is on public or private land, and whether or not the site is registered. If the excavation work that Mr West is referring to occurred prior to the commencement of the Act then the requirements of the Act would not have applied, conversely if the excavation work occurred since that Act commenced then the Act would have applied. If the excavation was done to an apparently man made drain then the persons conducting that work may not have known, or have reasonably been expected to know, whether the work they were doing affected a place to which the Act potentially applied.

The Director further advised the survey that was commissioned by the Water Corporation only applies to a portion of what is being referred to as Precinct 3B near Roe Highway, although some of the recommendations affect the entire Precinct 3B. These recommendations are not necessarily supported by on site investigations and therefore a separate survey would need to be carried out to determine the existence of and implications of any Aboriginal heritage issues for the planning and development of Precinct 3B.

Notation

The Mayor invited Mr Keith Agar, who had submitted more than two questions, back to the microphone.

- * Mr Keith Agar of 109 Brook Road Kenwick asked the following questions:

Q 3 If the area does not go industrial, what will happen?

Response: The Director Planning and Sustainability advised that the Council would like to be in a position to provide a great deal of certainty to land owners in this area, however, until further surveys are conducted, particularly the Aboriginal Heritage Survey, the Council will not know conclusively what use the land can be put to. If it is concluded, through the planning process, that the Council identify that the land is not going to be suitable for industrial purposes then Council and City staff, in consultation with affected land owners, will try and identify the uses in which it can be adequately put to without adversely or significantly impacting on the environmental attributes of the area.

Notation

The Mayor announced that the period for receiving of questions and public statements had expired, with Cr R Hoffman moving the following motion to enable an extension of time:

COUNCIL RESOLUTION

546A Moved Cr R Hoffman Seconded Cr J Brown

That an extension of time be granted for the receiving of questions and public statements from the public during item 6, Question Time for the Public and the Receiving of Public Statements.

CARRIED 10/0

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

AGAINST: Nil.

Resolution No.
Amended
Vide
Resolution
566
18 Dec 2007
OCM

The Mayor invited Mr Agar to continue with his next question.

- * Mr Keith Agar of, 109 Brook Road Kenwick continued asking the following question:

Q 4 Will the Shire offer any protection, noise buffer etc, in the way of a wall to protect the small pocket 3B rural to achieve an aesthetically pleasing result, as other successful Shire's have carried out, where industrial/rural properties adjoin?

Response: The Director Planning and Sustainability advised that if what is being referred to is Precinct 3A ultimately converting to an industrial zone, then industrial development will occur. If Precinct 3B remains as rural, then the Council will need to closely look at options for treating the interface between the rural area and the industrial area.

Whether or not it will ultimately include a wall or some other measure is something that will need to be discussed in more detail between the City and affected land owners once that decision has been made.

Notation

The Mayor invited Mr Fred Sharp, who had submitted more than two questions, back to the microphone.

* Mr Fred Sharp of, 48 Boundary Road Kenwick asked the following questions:

Q 3 With stage 3A approved will this not bring industrial and environmental damage to 3B with the improved infrastructure?

Response: The Director Planning and Sustainability advised that potentially yes, it could if it is not adequately managed. Given the amount of studies the City has conducted, and is continuing to conduct, in regards to Precinct 3 and the rest of the strategic employment area, it will be required that any development that occurs in Precinct 3A occur in a manner that is going to minimise or prevent any adverse off site environmental impacts on land in Precinct 3B.

6.2 PUBLIC STATEMENTS

* Keith Agar of 109 Brook Road, Kenwick made a public statement in relation to item 13.5.1 "Planning for the Maddington Kenwick Strategic Employment Area – Consideration of Landowner submission on concept plan" speaking on behalf of the Brook Road Action Group Now concept plan 2 affecting zones 2 and 3B. Mr Agar stated that they are disputing the Aboriginal heritage claim as 25 years ago there was no creek and that Yule Brook is man made from Welshpool Road Underpass and from Foxwood Farms as to direct water from flooding peoples homes and farms. Mr Agar stated that the affected ratepayers ask the Gosnells Council to help them work through what appears to be a long process and to consider as soon as possible the possibility of lowering block sizes.

* Mr Dan Leighton of 14 Hallin Court Ardross made a public statement in relation to item 13.5.1 "Planning for the Maddington Kenwick Strategic Employment Area – Consideration of Landowner submission on concept plan" speaking in relation to the value and manner of applying environmental laws and regulations to the Maddington Kenwick Strategic Employment Area. Mr Leighton stated that he could not find any comparative scientific empirical data on the efficacy of a "buffer" and expressed the view that language and definitions within the concept plan sounds more like religious dogma than scientific endeavour supported by hard facts and rigorous experiment.

7. CONFIRMATION OF MINUTES

COUNCIL RESOLUTION

547 Moved Cr J Brown Seconded Cr B Wiffen

That the Minutes of the Ordinary Council Meeting held on 13 November 2007 be confirmed.

CARRIED 10/0

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

AGAINST: Nil.

8. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS

All petitions are to be handed to the Chief Executive Officer immediately following verbal advice to the meeting.

A copy of all documentation presented by Councillors is located on File and may be viewed subject to provisions of Freedom of Information legislation.

Nil

9. APPLICATIONS FOR LEAVE OF ABSENCE

In accordance with Clause 2.9 of the City of Gosnells Standing Orders Local Law 1998:

- (1) A Member seeking the Council's approval to take leave of absence shall give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in paragraph (1) shall include the period of leave of absence required and the reasons for seeking the leave.

Nil

**10. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN
(without discussion)**

Nil

11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

At this point in the meeting the Mayor may bring forward, for the convenience of those in the public gallery, any matters that have been discussed during “Question Time for the Public and the Receiving of Public Statements” or any other matters contained in the Agenda of interest to the public in attendance, in accordance with paragraph (9) of Sub-Clause 2.15.4 of City of Gosnells Standing Orders Local Law.

COUNCIL RESOLUTION

548 Moved Cr D Griffiths Seconded Cr R Hoffman

That the following items be brought forward to this point of the meeting for the convenience of members in the Public Gallery who have an interest:

- * Item 13.5.1 Planning for the Maddington Kenwick Strategic Employment Area – Consideration of Landowner Submissions on Concept Plan.
- * Item 13.5.2 Amherst Village Community Centre – Lot 8 Holmes Street, Southern River.

CARRIED 10/0

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

AGAINST: Nil.

13.5.1 PLANNING FOR THE MADDINGTON KENWICK STRATEGIC EMPLOYMENT AREA – CONSIDERATION OF LANDOWNER SUBMISSIONS ON CONCEPT PLAN

Author:	S O’Sullivan
Reference:	Project: MKSEA/Concept Plan
Application No:	N/A
Applicant:	N/A
Owner:	Various
Location:	Area generally bounded by Bickley Road, Tonkin Highway, Welshpool Road and Roe Highway
Zoning: MRS:	Rural
TPS No. 6:	General Rural
Review Rights:	Nil
Area:	Approximately 585ha
Previous Ref:	OCM 13 March 2007 (Resolutions 85-88) OCM 10 June 2003 (Resolutions 373-374)
Appendices:	13.5.1A Concept Plan (as advertised for landowner comment) 13.5.1B Concept Plan Information Sheet 13.5.1C Landowner Consultation Plan 13.5.1D Draft Modified Concept Plan (as modified in response to landowner comment)

PURPOSE OF REPORT

For Council to consider submissions from landowners on the Concept Plan for the Maddington Kenwick Strategic Employment Area (MKSEA) and recommended modifications to the Concept Plan.

BACKGROUND

The area bound by Bickley Road, Tonkin Highway, the district boundary with the Shire of Kalamunda and Roe Highway is, for planning purposes, referred to as the MKSEA.

The MKSEA was first identified for future industrial development by the (then) State Planning Commission in 1990 in its metropolitan planning strategy for Perth, Metroplan. The area was later identified by the Commission for future industrial development in the Foothills Structure Plan in 1992.

At its meeting on 10 June 2003, Council considered the findings of a market demand study commissioned by the City that examined the potential expansion of the existing Maddington Industrial area and resolved, in part, as follows:

Resolution 373

“That Council formally approach the Western Australian Planning Commission and the Department of Planning and Infrastructure with the proposal to rezone areas 1A and 1B shown in Appendix 12.5.8B from Rural to General Industry seeking support for the proposal subject to appropriate studies and rezoning applications with a specific planning report to be presented to Council.”

Resolution 374

“That Council commence consultation with landowners in the areas designated as 1A and 1B shown in Appendix 12.5.8B to facilitate the rezoning process for the area bounded by Bickley Road, Kelvin Road and Tonkin Highway, followed by Bickley Road, Kelvin Road, Tonkin Highway and Victoria Road.”

Planning for the MKSEA has since been identified as a key action of Council’s Strategic Plan and the Maddington Kenwick Sustainable Communities Partnership.

In 2005 and 2006 the City commissioned a number of technical studies (environmental, infrastructure, drainage, traffic and transport) and undertook a landowner consultation exercise to identify specific opportunities and constraints to the development of the MKSEA for industrial purposes. The findings of these technical studies were summarised in Information Sheets which were presented to landowners during a series of three information evenings held in October and November 2006. Landowners were provided with a package containing the Information Sheets and a feedback form.

Despite large attendance at the information evenings, only 14 completed landowner feedback forms were returned. It was evident from the landowner feedback that although some opposition to the future development of the MKSEA existed, there was broad support for progressing the planning for the area. Almost all landowners expressed frustration at the lack of certainty about development potential and the time taken to progress planning.

In response, City staff prepared a Draft Concept Plan based on best available information and resources, which was intended to reflect development opportunities and constraints and stimulate further landowner input into the planning process.

At its meeting held on 13 March 2007, Council considered the landowner feedback and the Draft Concept Plan for the MKSEA and resolved as follows:

Resolution 85

“That Council note the feedback provided by landowners following the October/November 2006 information evenings for the Maddington Kenwick Strategic Employment Area.”

Resolution 86

“That Council determine that the Draft Concept Plan for the Maddington Kenwick Strategic Employment Area shown in Appendix 13.5.4B is suitable for advertising and that comment on the plan be invited from all affected landowners, Bickley Road residents and those residents within the Shire of Kalamunda south of Welshpool Road for a period of 21 days.”

Resolution 87

“That Council adopt the precincts shown on Appendix 13.5.4C as a basis for detailed planning and stakeholder engagement in the Maddington Kenwick Strategic Employment Area.”

Resolution 88

“That Council formally request the Western Australian Planning Commission, through the South East District Planning Committee, to progress an amendment to the Metropolitan Region Scheme to rezone the area shown as Precinct 1 in Appendix 13.5.4C from General Rural to Industrial.”

In accordance with Council Resolution 86, City staff invited all MKSEA landowners, adjoining Bickley Road residents and those residents within the Shire of Kalamunda south of Welshpool Road to two information evenings in March and April 2007 where information on the Concept Plan was presented. Attendees were provided a copy of the Concept Plan (attached as Appendix 13.5.1A), an Information Sheet (attached as Appendix 13.5.1B) and a submission form.

In accordance with Resolution 88, City staff lodged a request and supporting report with the Western Australian Planning Commission (WAPC) for the initiation of an amendment to the Metropolitan Region Scheme (MRS) to rezone land in MKSEA Precinct 1 from Rural to Industrial. On 6 June 2007, the South East District Planning Committee resolved to express its support for the proposed amendment. The Department for Planning and Infrastructure is currently seeking technical officer comment on the proposed amendment from State Government and servicing authorities, prior to reporting to the WAPC on the matter.

DISCUSSION**Advertising of Concept Plan**

Advertising of the Concept Plan commenced on 29 March 2007 at the first information evening and closed on 26 April 2007. In total, 66 submissions were received. Of the 66 submissions, eight were submitted after the close of the advertising period. The submissions are categorised as follows:

- 13 submissions indicated no objection to the Concept Plan.
- 29 submissions indicated objection to the Concept Plan.
- 24 submissions provided only comment on the Concept Plan.

Landowners have raised numerous issues, questions and concerns in the submissions, including the following key matters:

- Objections to proposed road alignments and closures, particularly Brook Road.
- Concerns about increased traffic.
- Concerns with impacts of the plan on the development potential of certain landholdings.

- Concerns about the impact of development on the natural environment including existing Bush Forever sites, the Greater Brixton Street Wetlands and Yule Brook and on the rural amenity of the area.
- Concerns about the natural environment's impact on the development potential of the MKSEA.
- Questions regarding compensation for land identified for public purposes.
- Questions in relation to the meaning of various land uses/notations shown on the plan.
- Questions regarding the validity and consequences of the environmental features, primarily wetlands, watercourses and related buffers, that are shown on the plan.
- Concerns that Council rates will increase.
- Queries and concerns regarding potential lot sizes and permitted land uses.

A summary of the matters raised in the submissions and staff comments in response are detailed in Table 1.

A list of persons making submissions and related submission reference numbers are contained in Table 2.

A petition containing 238 signatures was also received during the advertising period. It should also be noted that 12 people signed the petition twice and one person signed it three times.

The petition has not been brought to Council previously as it was not prepared in accordance with Clause 2.26 of Council's Standing Orders. The Standing Orders outline the requirements for the format and presentation of petitions to Council. The petition convener, Roxanne Balchin, was advised of the requirements but did not subsequently seek to resubmit the petition.

The petition has raised similar objections to and comments on the Concept Plan as many of the other submissions received during the advertising period. In summary, the petition objects to the proposal on the basis that the proposed Eco-Industry designation adjacent to Brook Road, the buffers to the Greater Brixton Street wetlands and Yule Brook and the proposed closure will severely financially disadvantage landowners and detrimentally impact on lifestyle. There is also concern expressed about traffic safety impacts in the area and the lack of time to comment on the plan. The petition suggests that landowners would be happy to be zoned Industrial if the Eco-Industry designation was removed and landowners could, if they chose not to develop continue to reside on their land. These issues are common to many other submitters and have been addressed in Table 1 of this report.

The petition also suggests a working committee be formed with Council and City planners to "endeavour to satisfy the needs of the whole community". On this point, Council staff agree that it may be fruitful to establish stakeholder focus groups to inform future more detailed planning stages for the MKSEA. The establishment, purpose and composition of such groups can be considered as more detailed planning for the area progresses.

The affected properties of landowners within the MKSEA that signed the petition are marked with the letter “P” on the Consultation Plan attached as Appendix 13.5.1C.

Table 1 – Matters Raised in Submissions

Response	Submission Reference Number (SR No.)	Totals
No Objection	1, 2, 4, 18-20, 22, 24, 26, 29, 35, 56, 58	13
Objection	3, 10-16, 27, 28, 30, 31, 38-46, 50, 51, 53, 57, 60, 61, 64, 65	29
Comment	5-9, 17, 21, 23, 25, 32-34, 36, 37, 47-49, 52, 54, 55, 59, 62, 63, 66	24

Matter Raised	Staff comment	SR No.
1. Road Alignments/Closures		
<p>1.1 The following concerns and comments have been expressed in relation to the proposed closure and re-alignment of Brook Road:</p> <ul style="list-style-type: none"> Concerned with the loss of land for a new Brook Road alignment. Concerned about the drastic reduction in passing trade. The road is not old and should be left as is. Brook Road should remain as a direct through road from the Kenwick area to Welshpool Road. Uncertainty over the proposed Brook Road realignment and its connection with and impact on Welshpool Road. <p>There were related concerns expressed in the submissions in respect to the manner in which the Concept Plan outlines the development potential of land adjacent to Brook Road and Yule Brook. These concerns are further detailed in Section 5 of this table, titled “Impacts on Development Potential – Precinct 3” below.</p>	<p>The Concept Plan, in proposing the closure of Brook Road, recognised the following:</p> <ul style="list-style-type: none"> Brook Road immediately abuts the north western side of the Greater Brixton Street wetlands (Bush Forever site No. 387) in a location where environmental policy recommends the setting aside of a buffer between the wetlands and adjoining development. The Environmental significance of Yule Brook and associated environmental policy in respect of buffers to adjoining development. Brook Road currently acts as a “short-cut” for motorists moving between the Kenwick area and Welshpool Road/Tonkin Highway. It is understood from local residents that this is a cause of much nuisance, particularly during peak hours and late at night. The preliminary transport study of the MKSEA undertaken by Cardno BSD (May 2006) came to the conclusion that: <i>“the impact of the estimated study area traffic is significant and will have a major impact on existing road access from Welshpool Road.”</i> <p>In this regard, the preliminary transport study recommended that heavy vehicle access is not suitable for Brook Road given the existence of the Wattle Grove Primary School at the corner of Brook and Welshpool Roads, and that Coldwell Road be utilised for the majority of heavy traffic access to the area.</p> <p>In response to the concerns raised regarding Brook Road and the manner in which the Concept Plan outlines the development potential of land adjacent to Brook Road and Yule Brook (as a result of the indicative realignment of the road), it will be recommended that the Concept Plan be modified in the following manner:</p> <ul style="list-style-type: none"> Maintain Brook Road as a through road on its current alignment and delete the realignment and bridges over Yule Brook. Split Precinct 3 into two precincts, with the land adjacent to Brook Road and Yule Brook included within a new Precinct 3B, with the balance of Precinct 3 being included in a new Precinct 3A. 	<p>3, 7, 12, 13, 14, 17, 30, 40, 41, 42, 53, 59</p>

Matter Raised	Staff comment	SR No.
	<ul style="list-style-type: none"> Show Precinct 3B as not suitable for any form of industrial development at this time, due to the drainage, environmental and Aboriginal cultural heritage significance of the area, in particular Yule Brook and its surrounds. <p>On the latter point, it is recognised that the future road network, traffic management issues and access between the MKSEA area and Welshpool Road will be key considerations of the more detailed planning required.</p> <p>Affected landowners will have ample opportunity to comment through subsequent and more detailed planning processes.</p> <p>Summary: Modifications recommended to Concept Plan to address issues raised.</p>	
<p>1.2 There is concern that the proposed roads would have a detrimental impact on landowners' current lifestyle, options for future business and land use and property values.</p>	<p>Noted. The roads shown on the Concept Plan are indicative only. They were shown to provide a general indication of the form of future development.</p> <p>New roads will be required for access to development and it is unreasonable for landowners to expect this will not need to occur.</p> <p>The actual alignment of roads will be a key matter for more detailed planning to address. While road planning will need to have regard to design standards and traffic safety and management considerations, there is scope to also have regard to specific impacts on properties.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	<p>35, 37, 46, 49, 51, 53, 54, 55 57, 63</p>
<p>1.3 There is concern that a proposed road would sever the submitter's property and that the Concept Plan seems to disadvantage some landowners more than others. Roads should straddle lot boundaries and be shared by landowners equally for reasons of equity.</p>	<p>Noted. See staff comment in response to items 1.1 and 1.2 above.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	<p>38</p>
<p>1.4 Strongly objects to the details contained in the Information Sheet relating to traffic and transport, which suggests that a modification be made to the junction of Welshpool and Hale Roads (in the Shire of Kalamunda) to create a four-way signalised intersection. This would place a road through the submitter's property and adversely affect its value.</p>	<p>Noted. This is not a comment in regard to the Concept Plan. It relates to the Traffic and Transport Information Sheet which was made public at the MKSEA landowner information evenings held in October/November 2006.</p> <p>The Traffic and Transport Information Sheet stated that:</p> <p><i>"The northern area could be serviced either by upgrading Coldwell Road, or from the modification of the junction of Hale and Welshpool Roads to a four way junction."</i></p> <p>It should be noted that this is a preliminary recommendation which came out of the transport study commissioned for the area and was made in light of a possible intermodal freight terminal to be located within Precinct 3. This is currently not an option being pursued for Precinct 3.</p>	<p>41</p>

Matter Raised	Staff comment	SR No.
	<p>Welshpool Road is recognised as a Primary Regional Road under the Metropolitan Region Scheme (MRS) and approval from Main Roads WA would be required for any intersection upgrades in this regard. Affected landowners will have the opportunity to comment on any proposal for intersection upgrades to Welshpool Road.</p> <p>It should be noted that any future road network and traffic management issues will need to be addressed through more detailed planning.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	
<p>1.5 The submission notes that Boundary Road is to be intersected with two areas of green shading and assumes this indicates closure of the road. Road closure is objected to on the basis that it would negatively impact on the submitter's property.</p>	<p>The assumption is incorrect.</p> <p>The green shading on the Concept Plan simply reflects the extent of the Greater Brixton Street wetlands that is identified as Bush Forever site 387 and reserved for Parks and Recreation in the MRS. The Concept Plan does not propose closure of Boundary Road.</p> <p>Summary: Modification recommended to Concept Plan to clearly reflect the existing road reserve of Boundary Road.</p>	52
<p>1.6 The proposed road network would only be suitable for major industrial land use types, such as large warehousing or transport companies.</p>	<p>Noted.</p> <p>The roads shown on the Concept Plan are indicative only. They were shown to provide a general indication of the form of future development. New roads will be required for access to development.</p> <p>The proposed road network and capacity to cater for the intended development will be a key matter for more detailed planning to address.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	66
<p>1.7 Proposed roads should be suitable for B-Double traffic.</p>	<p>Noted and agreed. Planning for the proposed road network will need to cater for large vehicles, while managing traffic impacts.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	66
2. Increased Traffic		
<p>2.1 Objects to the proposed development on the basis that it will bring even more heavy industrial traffic to the area.</p>	<p>Noted.</p> <p>The State Government, through Metroplan (1990) identified the MKSEA as a future strategic industrial area for the Perth Metropolitan Region. Industrial development is considered to have merit in this location given the strategic location of the area in terms of its access to major transport networks (Albany, Tonkin and Roe Highways, freight railway and Perth Airport) and other existing and planned industrial areas (Maddington, Kewdale, Welshpool, Canning Vale, Hazelmere).</p>	27

Matter Raised	Staff comment	SR No.
	<p>Increased traffic as a result of industrial development will be inevitable. The need to address transport matters and traffic impact is recognised as a key consideration of more detailed planning.</p> <p>Summary: Increased heavy traffic as a result of industrial development will be inevitable.</p>	
<p>2.2 Concerned that Coldwell Road will not be able to handle the volume of traffic that would be directed to it, which would detrimentally impact on the rural amenity along Coldwell Road.</p>	<p>Noted. Access to the MKSEA from Welshpool Road is currently provided at two T-junctions, namely Coldwell and Brook Roads.</p> <p>The preliminary transport study was commissioned to assess:</p> <ul style="list-style-type: none"> • Traffic volumes and effectiveness of the existing road network. • Suitable access points and internal road layout for the development of the area. • Improvements in the existing road network required to accommodate the traffic generated by the development. <p>The study found that the existing major road network, with some upgrades could accommodate the traffic generated from development of the MKSEA area.</p> <p>Further to that, the study indicated that Coldwell Road was the best option as an access road for heavy traffic due to:</p> <ul style="list-style-type: none"> • The existence of the Wattle Grove Primary School at the corner of Brook and Welshpool Roads, making Brook Road a less desirable option. • The intersection of Coldwell Road is well spaced between the intersections of Welshpool Road with Roe Highway and Tonkin Highway. • Adequate width exists for upgrading the Welshpool Road/Coldwell Road intersection. <p>The future road network and traffic management issues will need to be addressed through more detailed planning.</p> <p>Summary: The existing major road network can be upgraded to accommodate the traffic generated from the MKSEA.</p>	<p>29, 39, 61</p>
<p>3. Impacts on Development Potential – Precinct 1</p>		
<p>3.1 Concerned that the wetland area shown in Precinct 1 (Victoria Road) is too large and lacking in detail. The affected properties have houses, stables, market gardens etc. Landowners in the area have never seen any water in the wetland area. Suggest that Council undertake more investigations/studies for the proposed wetland area.</p>	<p>Noted.</p> <p>It will be recommended that the Concept Plan be modified to remove this notation of wetland area and replace it with a notation for Eco-Industry and the need for the area to be subject to further investigations, including an assessment of environmental characteristics and appropriate land uses.</p> <p>Summary: Modification recommended to Concept Plan to address this issue. The matter will also be addressed at future planning phases.</p>	<p>22, 25</p>

Matter Raised	Staff comment	SR No.
<p>3.2 It is suggested that the land located south of Kelvin Road should be developed as a sub-precinct of Precinct 1 as the area has no development interface problems, is clear of any environmental constraints and a number of landowners currently operate industrial land uses.</p>	<p>Noted. There is no reason land south of Kelvin Road cannot ultimately develop as a sub-precinct. However, it is considered prudent that planning for Precinct 1 be undertaken in a manner that addresses the whole of Precinct 1, particularly given the broad-level planning processes still required, including amending the MRS, establishing a framework for funding development infrastructure costs, undertaking further environmental investigations and developing urban water management plans.</p> <p>Council at its meeting of 10 June 2003 resolved to designate three precincts within MKSEA, with Precinct 1 divided into two sub-precincts (1A and 1B). Precinct 1A included all land south of Kelvin Road to the MKSEA boundary. Precinct 1B extended from Kelvin Road to the rear property boundary to the landholdings located on the southern side of Victoria Road.</p> <p>The original precinct boundaries were based on the information available at the time, prior to community consultation and technical studies having been completed.</p> <p>The technical studies completed in 2006 revealed that the land north of Victoria Road was located within the groundwater catchment area for the Greater Brixton Street wetlands (Bush Forever site 387).</p> <p>In light of the additional technical information, Council at its meeting on 13 March 2007 adopted a revised precinct plan removing the two sub-precincts (1A & 1B) within Precinct 1 and extending the Precinct 1 boundary to Victoria Road. This was based on Precinct 1 having the following characteristics:</p> <ul style="list-style-type: none"> • It is an area forming a logical extension to the existing Maddington industrial area. • The area is able to be serviced by infrastructure (water, wastewater, gas etc). • It is located outside of the groundwater catchment for the greater Brixton Street wetland area. • There are only limited interface problems with existing residential properties on the opposite side of Bickley Road. • The area is sufficiently large in size to attract quality development and provide a stimulus for the regeneration of the existing industrial area. <p>Summary: City staff do not support modifying the boundary of Precinct 1.</p>	<p>31, 49, 58</p>
<p>4. Impacts on Development Potential - Precinct 2</p>		
<p>4.1 Landowners north of Victoria Road, observing that this part of Precinct 2 is already being used for truck, bus and industrial purposes, should be made industrial as well.</p>	<p>There is currently too much uncertainty in respect of the capability of land north of Victoria Road to be developed for industrial purposes in an environmentally acceptable manner to enable this area to be identified on the Concept Plan as free from constraints for development. Further investigation of the environmental characteristics of Precinct 2 and the development of strategies to manage environmental impacts are necessary before this could possibly occur.</p>	<p>1, 60</p>

Matter Raised	Staff comment	SR No.
	<p>The operation of industrial-type activities (either with or without correct approvals) is not reason enough to include properties on the northern side of Victoria Road within Precinct 1.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	
<p>4.2 Questions when further investigations for Precinct 2 will take place.</p>	<p>There are a number of detailed technical investigations that will need to be progressed for Precinct 2. It will be recommended that the main required investigations be listed on a modified Concept Plan including:</p> <ul style="list-style-type: none"> • the extent of the buffer required to the Greater Brixton Street wetlands (BF387) • the extent of other wetlands and associated buffers that require protection • evaluating existing wetland classification and mitigation/conservation techniques required • land uses permitted within wetland buffer zones • flora and fauna spring surveys • surface and ground water monitoring • the extent and composition of land uses permitted within transitional areas • the production of a district water management strategy and management plans <p>Some of this work is already underway. The City has engaged a consultant Botanist, who commenced conducting spring surveys in the area in mid-September 2007. It is envisaged that the surveys will take approximately four months and will assist in defining the current extent of existing wetlands and the significance and condition of vegetation to inform the future planning of the area.</p> <p>Other studies underway include the formulation of a District Water Management Strategy (DWMS) and production of a surface and groundwater monitoring programme.</p> <p>It will be open to landowners to undertake their own investigations with advice from the City to progress planning of the area, ahead of the City doing so.</p> <p>Summary:</p> <p>Additional investigations will be undertaken as time and resources allow.</p>	<p>4, 5, 33, 50</p>
<p>4.3 Lots fronting Bickley Road should be residential and to the rear of that it should be industrial.</p>	<p>The suggestion for a Composite Residential/ Light Industry zone being permitted on Bickley Road is a possible scenario within the area shown on the Concept Plan as a transitional area.</p>	<p>8, 9</p>

Matter Raised	Staff comment	SR No.
	<p>It is envisaged that the transitional area will buffer the existing residential properties located along Bickley Road from future industrial development in the MKSEA. The extent and composition of land uses in the transitional area will need to be defined through subsequent and more detailed phases of planning.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	
<p>4.4 Questions whether Precinct 2, given its location, is suitable for land uses other than industrial. There is considered to be scope for commercial, residential and community uses (cinema, café, restaurants, kindergarten, dance schools, professional offices and a retirement village).</p>	<p>Noted. It is estimated that the MKSEA will potentially create employment for up to 4,000 people. With an employment base of this size, there will be the potential for a range of support facilities to co-locate with and service industrial development in the MKSEA.</p> <p>However, the potential for development in Precinct 2 will be subject to further investigation. The type and extent of future development (whether industrial or otherwise) will be dependent on a range of environmental, infrastructure and planning considerations determined through subsequent and more detailed planning processes.</p> <p>Summary: This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	<p>21, 65</p>
<p>5. Impacts on Development Potential - Precinct 3</p>		
<p>5.1 The development of Precinct 3 should occur after Precinct 1 due to the number of environmental constraints.</p>	<p>Noted. Precinct 3 is relatively more environmentally constrained than Precinct 1. It could take longer to progress planning in Precinct 3 than Precinct 1 as a result.</p> <p>While the Concept Plan defined three precincts, the numbering of the precincts does not necessarily define the order in which development may occur. While the City is giving immediate attention to progressing more detailed planning in Precinct 1 through the initiation of an amendment to the MRS, it will continue to progress broader planning in Precinct 3. It is understood that there is a significant level of landowner interest in progressing the planning for Precinct 3.</p> <p>It should be appreciated that it always has been and will remain open in future for further planning to be driven by landowners under guidance of the City and other relevant agencies.</p> <p>In the meantime, in recognition of environmental constraints, servicing requirements and comments from landowners it will be recommended that the Concept Plan be modified in respect of Precinct 3 as follows:</p> <ul style="list-style-type: none"> • Maintain Brook Road as a through road on its current alignment and delete the realignment and bridges over Yule Brook. • Split Precinct 3 into two precincts, with the land adjacent to Brook Road and Yule Brook included within a new Precinct 3B, with the balance of Precinct 3 being included in a new Precinct 3A. 	<p>2</p>

Matter Raised	Staff comment	SR No.
	<ul style="list-style-type: none"> • Show Precinct 3B as not suitable for any form of industrial development at this time, due to the drainage, environmental and Aboriginal cultural heritage significance of the area, in particular Yule Brook and its surrounds. • Show Precinct 3A for proposed industrial development. <p>This approach will potentially allow planning for the relatively unconstrained Precinct 3A to be progressed independently of Precinct 3B. It will be recommended that the Concept Plan be modified to show Precinct 3B as not being further developable at this point in time due to environmental and drainage constraints. Further complicating these matters is advice recently received from the Water Corporation (at the time of writing this report) that Yule Brook and its surrounds have important Aboriginal cultural heritage significance and should therefore be protected and enhanced. This is a departure from the advertised concept plan which showed over half of the Precinct 3B area as being required for conservation and drainage purposes, with the balance of the area being shown for Eco-Industry.</p> <p>Summary: Modifications recommended to Concept Plan to address this issue.</p>	
5.2 There is a preference for composite industrial uses to be permitted within Precinct 3 due to existence of homes on the land.	<p>Noted. The Concept Plan does not specifically condone or prevent composite industrial uses in Precinct 3. The exact nature of industrial uses will be a matter to be addressed at subsequent and more detailed planning phases.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	10, 53
5.3 Questions when planning for Precinct 3 will commence.	<p>Planning for Precinct 3 has already commenced. The completion of various technical studies and the formulation of the Concept Plan are evidence of this.</p> <p>Summary: Planning for Precinct 3 has already commenced.</p>	53

Matter Raised	Staff comment	SR No.
6. Environmental and Amenity Impacts		
<p>6.1 The MKSEA is a small pocket of largely open space amongst crowded suburbia and industry and is a natural buffer zone. The City has a golden opportunity to show commitment to conserving the natural environment and rural area so as to enrich the community of Kenwick.</p>	<p>Noted. The City appreciates the value the community places on the natural and rural environment that exists in the area. Planning for the MKSEA is focussed on delivering an appropriate scale and style of industrial development to grow the economic base of Maddington and Kenwick, while also respecting and enhancing the key environmental attributes of the area. It is the intention of the City and the Maddington Kenwick Sustainable Communities Partnership for the MKSEA to be a leading example of innovative and sustainable industrial development. To this end the City has entered into a partnership with the Swan Catchment Council (SCC) to develop model guidelines for the development of new industrial areas, using MKSEA as a case study. Additionally, through a research scholarship offered by the City, an Honours student of Murdoch University's Institute for Sustainable Technology and Policy (ISTP) has completed their research on options for integrating social, economic and environmental sustainability in planning for the MKSEA. The findings and recommendations of this research will be considered by the City during more detailed planning processes for MKSEA.</p> <p>Landowners will have numerous opportunities through further planning processes to have input on the future use and development of the area.</p> <p>Summary: This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	28
<p>6.2 It is essential that thorough environmental surveys of flora, fauna and conservation values of the area be completed prior to any decision making on development of the area. This includes both wetland and dryland areas.</p>	<p>Agreed. Spring flora surveys were commenced in mid September 2007. These surveys will inform further planning.</p> <p>Summary: This work is currently being undertaken.</p>	33
<p>6.3 Ecological corridors should link the conservation and natural areas to allow for the movement of fauna and dispersal of flora. Existing remnant vegetation should be retained and corridors mapped in the final Concept Plan.</p>	<p>Noted. The Concept Plan, recognises already identified wetland areas, particularly the Greater Brixton Street wetlands. Other ecological corridors and vegetation that could be retained will be a matter for subsequent and more detailed planning phases to address.</p> <p>Summary: This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	33

Matter Raised	Staff comment	SR No.
6.4 Questions what efforts will be given to habitat protection and the displacement of flora and fauna, which is prevalent in the area and forms an integral part of the local ecosystem.	<p>The City is cognisant of the environmental significance of the area.</p> <p>Management of impacts of development on wetlands, Bush Forever sites, significant stands of vegetation, Threatened Ecological Communities (TECs), Declared Rare Flora (DRF) and native animals are key matters that need to be addressed through subsequent and more detailed planning phases.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	36, 50, 56
6.5 If rezoning was permitted, this should include a requirement for infrastructure that protects water quality in the Canning River (via runoff from Yule Brook).	<p>With respect to water management, preliminary water investigations (July 2006) were undertaken on behalf of the City.</p> <p>The technical report was referred to the Department of Water (DoW) which in turn identified the following matters as requiring further investigation as part of the planning for the MKSEA:</p> <ul style="list-style-type: none"> • Establishment of a water quantity and quality monitoring programme. • Development of a stormwater management strategy. • Flood modelling to ensure protection of property and infrastructure for the 1:100 year Average Recurrence Interval (ARI) storm event. • Detailed groundwater and geotechnical investigations required for building foundations. <p>These issues are normally dealt with prior to the progression of rezonings and structure planning processes.</p> <p>See also response to item 6.1 above.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	39
6.6 The Brixton Street wetlands (BF387) must be fully protected by a formalised arrangement with the DEC.	<p>Noted and agreed. The Brixton Street wetlands are already afforded a degree of protection through their identification as a Bush Forever site and reservation under the MRS. Land acquisition and ongoing management of the wetlands is a State Government responsibility.</p> <p>Summary:</p> <p>This is a State Government responsibility and will be addressed at future planning phases.</p>	33
6.7 The Clifford Street wetland (BF53) should be fenced, signposted as being of conservation value and its conservation status formalised.	<p>Noted and agreed. The Clifford Street wetland is already afforded a degree of protection through its identification as a Bush Forever site and reservation under the MRS. Land acquisition and ongoing management of the wetland is a State Government responsibility.</p> <p>According to the Bush Forever document, BF53:</p> <ul style="list-style-type: none"> • is recognised as having more than 60% of its existing vegetation rated as very good to excellent 	33

Matter Raised	Staff comment	SR No.
	<ul style="list-style-type: none"> • is considered a Conservation Category Wetland (CCW) • contains areas of TEC's which are subject to protection under the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999. <p>Implementation Guideline 29 (Vol 1, pg. 47) of the Bush Forever document also states:</p> <p><i>“Conservation Category Wetlands associated with a Bush Forever site, and especially vegetated CCW's will, subject to any necessary on-site verification of their presence, conditions and boundaries, be considered a priority for protection...”</i></p> <p>Summary:</p> <p>This is a State Government responsibility and will be addressed at future planning phases.</p>	
<p>6.8 It appears in time that BF53 would be partially used for widening/overpass on Kelvin Road/Tonkin Highway. What will happen to the protected smoke bush along Kelvin Road?</p>	<p>Noted. Approximately half of BF53 is affected by the MRS primary regional road reserve for the future widening/upgrading of the Kelvin Road/Tonkin Highway intersection.</p> <p>Main Roads Western Australia is responsible for upgrading this intersection (MRWA) and has indicated that this intersection will ultimately become grade-separated to allow Tonkin Highway to have uninterrupted traffic flow similar to freeway standards.</p> <p>There are a number of triggers to ensure the protection of native vegetation located within or adjacent to Bush Forever sites, however, the Bush Forever document, Implementation Guidelines 22 – 24 and Action 15 (Vol 1, pg. 45) primarily deals with Bush Forever sites affected by road or railway reserves.</p> <p>Implementation Guideline 22 of the Bush Forever document states:</p> <p><i>“Bush Forever encourages responsible authorities to undertake a review of existing road reserves that affect Bush Forever Sites to identify the scope to accommodate bushland protection, where practical.”</i></p> <p>Implementation Guideline 22 provides assurances that the priority flora contained within BF53 and included within the MRS road reservation will be subject to rigorous environmental assessment to ensure its protection and mitigation.</p> <p>At a State level, Planning Bulletin 53 essentially requires that any proposal adjacent to or affecting a Bush Forever site requires the application to be referred to the WAPC which may in turn consult with other government agencies that it sees fit (this may include the EPA) to assist in determining the application.</p>	<p>35</p>

Matter Raised	Staff comment	SR No.
	<p>Due to the status of the flora at a Federal level, any proposal that may impact on priority flora will be the subject of an Environmental Impact Assessment (EIA) by the Commonwealth Department of Environment and Heritage.</p> <p>Summary:</p> <p>This is a State Government responsibility and will be addressed at future planning phases.</p>	
7. Impacts on Yule Brook and adjoining land		
7.1 Properties along Yule Brook should remain rural.	<p>Noted. Yule Brook is recognised as having environmental significance as well as a major drainage role.</p> <p>In response to the concerns raised in respect to Brook Road and the resultant development potential of land adjacent to Brook Road and Yule Brook, it will be recommended that that the Concept Plan be modified in the following manner:</p> <ul style="list-style-type: none"> • Maintain Brook Road as a through road on its current alignment and delete the realignment and bridges over Yule Brook. • Split Precinct 3 into two precincts, with the land adjacent to Brook Road and Yule Brook included within a new Precinct 3B, with the balance of Precinct 3 being included in a new Precinct 3A. • Show Precinct 3B as not suitable for any form of industrial development at this time, due to the drainage, environmental and Aboriginal cultural heritage significance of the area, in particular Yule Brook and its surrounds. <p>Summary:</p> <p>Modifications recommended to Concept Plan to address this issue.</p>	11, 12
7.2 Further studies should be made of the Yule Brook area to ensure its protection. A buffer should be set and its natural features retained.	<p>Noted and agreed. See staff response to item 7.1 above.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases, once more detailed investigations have been completed.</p>	33, 64
7.3 Yule Brook (which was dug by hand) should be realigned along the rear of the property boundaries of affected properties.	<p>Yule Brook is recognised as having environmental significance, despite sections being man-made, as well as a major drainage role. It is likely that Yule Brook will need to be retained, protected and environmentally enhanced.</p> <p>The General Measures of Statement of Planning Policy No. 2 – Environment and Natural Resources Policy (WAPC, 2003) states that:</p> <p><i>“Planning strategies, schemes and decision-making should:</i></p> <ul style="list-style-type: none"> • <i>Avoid development that may result in unacceptable environmental damage</i> • <i>Actively seek opportunities for improved environmental outcomes including support for development which provides for environmental restoration or enhancement”</i> 	40

Matter Raised	Staff comment	SR No.
	<p>It is not considered good environmental practice to fill in an existing water course and relocate it to another location.</p> <p>At the time of writing this report to Council, staff received advice from the Water Corporation that it had engaged Australian Cultural Heritage Management Pty Ltd (ACHM) to undertake an Aboriginal ethnographic and archaeological cultural heritage survey of part of the Yule Brook Main Drain catchment area in the MKSEA. The cultural heritage survey was undertaken on 15 September 2007 and involved representatives from Noongar families with links to the Perth metropolitan area, Water Corporation and ACHM. The findings and recommendations of this survey and its implications for the MKSEA are discussed later in this report under the heading "Aboriginal Cultural Heritage". The survey recommends (among other things) the protection of Yule Brook along its current alignment for cultural as well as environmental reasons.</p> <p>Summary:</p> <p>This suggestion is not supported due to Yule Brook's environmental and Aboriginal cultural heritage significance.</p>	
<p>7.4 Yule Brook, was constructed through properties, without written permission of or compensation to the landowners from the Shire of Kalamunda border to Grove Road bridge in Kenwick. Since this was constructed, the flow of water is constant and flooding of low lying land surrounding the brook has ceased.</p>	<p>Noted. The Water Corporation is responsible for Yule Brook and has recognised its district drainage function and the need for planning for its future use. See staff response to item 7.3 above.</p> <p>Summary:</p> <p>The Water Corporation is investigating options for flood mitigation works for the Yule Brook main drain catchment.</p>	<p>48, 53</p>
<p>8. Compensation for Land required for Public Purposes</p>		
<p>8.1 Landowners are unsure of how they will be compensated for any loss of land for public purposes and whether compensation to landowners will reflect the true value of the land.</p>	<p>The identification of necessary development infrastructure (including the acquisition or setting aside of land for public purposes), the extent and cost of the infrastructure and the manner in which this infrastructure will be provided are key matters that will need to be addressed through subsequent and more detailed planning phases for the MKSEA. Also, see staff response to item 8.2.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases.</p>	<p>15, 37, 50</p>
<p>8.2 It is understood that a form of development scheme will be implemented which means, in effect, that the owners with unconstrained land will be compensating owners with constrained land that is not able to be acquired as Bush Forever or Regional Open Space.</p> <p>This result may be that it is simply not viable to develop the Strategic Employment Area.</p>	<p>As mentioned in the staff response to item 8.1 above, the manner in which development infrastructure will be provided and acquisition of land for public purposes in the MKSEA is a key matter that is still to be determined. There are numerous options for how to fund the cost of infrastructure provision.</p> <p>One option is for Council to establish a development contribution arrangement for the shared provision of infrastructure and land acquisition. This is provided for in the Western Australian Planning Commission (WAPC) Planning Bulletin No.18 – Developer Contributions for Infrastructure, which states:</p>	<p>34, 66</p>

Matter Raised	Staff comment	SR No.
	<p><i>“Developer contributions are legally enforceable contributions that a developer is required to make for the provision of infrastructure and which are directly related to the needs arising from the development. These contributions usually take three forms:</i></p> <ul style="list-style-type: none"> <i>• The ceding of land for roads, public open space, primary school sites, drainage and other reserves.</i> <i>• Construction of infrastructure works which are transferred to public authorities upon completion.</i> <i>• Monetary contributions to acquire land or undertake works by public authorities or others.”</i> <p>The establishment of a contribution arrangement is typically formalised through either an amendment to Town Planning Scheme No. 6 in association with an Outline Development Plan or the production of a Guided Development Scheme. Both approaches will require more detailed planning to determine the type and extent of common works, their cost, the method by which costs will be levied and the necessary powers to effectively operate the arrangement.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	
9. Land Uses/Notations shown on Concept Plan		
<p>9.1 Questions what the Transitional land use shown on the Concept Plan means and may allow for. Also questions whether it is similar to the Composite zoning applied to other situations as an interface between industrial development and residential properties.</p>	<p>It is envisaged that the Transition precinct will form a buffer between existing residential properties along Bickley Road and any future industrial development within MKSEA. The precise nature of land uses permitted in this proposed Transition precinct is yet to be determined and will be the subject of more detailed planning and consultation in future.</p> <p>It will be recommended that the Concept Plan be modified to include a notation that specifies the objective of the Transition precinct and the need for more detailed investigations to be undertaken to determine the land use and development requirements.</p> <p>Summary: Modification recommended to Concept Plan to address this issue. The matter will also be addressed at future planning phases.</p>	25
<p>9.2 The reason for the Transitional land use along Clifford Street is not understood unless there are plans to make Bush Forever Site 53 more accessible for public use.</p>	<p>Transition precinct in this particular location was intended to buffer the Bush Forever Site from adjoining industrial development.</p>	35, 37

Matter Raised	Staff comment	SR No.
	<p>It will be recommended that the Concept Plan be modified to remove the Transition precinct adjacent to Bush Forever site 53 and instead include that area in an Eco-Industry precinct. It will also be recommended that a notation be included on the Concept Plan that specifies the objective of the Eco-Industry and Transition precincts and the need for more detailed investigations to be undertaken to determine the applicable land use and development requirements.</p> <p>Summary: Modification recommended to Concept Plan to address this issue.</p>	
<p>9.3 Unsure of the definitions of "Eco-Industrial" and "Transition" land uses.</p>	<p>See staff response to items 9.1 and 9.2 above.</p> <p>There is no Scheme or other statutory definition for either the Eco-industry or Transitional terms. City staff envisaged that the Eco-industry precinct would cater for benign industrial activities that present little or no risk of environmental harm or pollution, due to the nature of goods/materials stored, used or manufactured on site, the processes employed in the activity, the design of the development, and the by-products produced.</p> <p>The Eco-industry precinct shown on the Concept Plan generally applies to land that is environmentally sensitive but still developable. Importantly, in this precinct the precise nature and extent of development able to be sustained on site will need to be determined during more detailed planning phases in future.</p> <p>The Transition land use precinct is shown on the Concept Plan for areas where there is a need to create an appropriate buffer and interface between residential uses and industrial uses. The Transitional precinct might not be limited to a single class of land uses, but instead might cater for a range of business activities that are acceptable from a residential perspective, not sensitive to neighbouring industrial uses, and able to cater for the needs of residents and industrial activities alike.</p> <p>The exercise of more precisely defining the land uses permitted in each of these proposed precincts will occur at a later stage of the planning process, in consultation with affected stakeholders.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	<p>59, 66</p>
<p>9.4 Object to land being designated Eco-Industry.</p>	<p>Noted. See staff response to item 9.3 above.</p> <p>Summary: Objection is noted.</p>	<p>13, 14, 42, 46, 51, 59</p>
<p>9.5 Object to land being designated Drainage/Possible Conservation. Drainage should follow existing water courses where possible without assigning large areas of usable land for compensating basins.</p>	<p>In the MKSEA, the stormwater drainage network currently comprises a series of open unlined drains which eventually discharge to the Yule, Binley and Bickley Brooks. These in turn feed into the Canning and Swan River systems.</p> <p>Some of these drains service a catchment that lies outside of the MKSEA. Development in the catchment and the MKSEA will necessitate additional land and drainage infrastructure being provided for drainage purposes.</p>	<p>53, 64, 66</p>

Matter Raised	Staff comment	SR No.
	<p>The initial review of drainage requirements by engineering consultants, GHD, identified the need for a substantial area to be set aside for stormwater detention in Precinct 3.</p> <p>The Water Corporation has confirmed an area will be needed in Precinct 3 to accommodate drainage.</p> <p>Contemporary stormwater drainage management is aimed at not only flood avoidance, but also at a more integrated approach to water management. Water Sensitive Urban Design (WSUD) emphasises stormwater quality, health of aquatic ecosystems and public amenity. For MKSEA this will involve:</p> <ul style="list-style-type: none"> • the retention and restoration of existing valuable elements of the natural drainage system, including waterway, wetland and groundwater features and processes • minimising pollutant inputs principally by planning, organisational and behavioural techniques to minimise the amount of pollutants entering the drainage system and ultimately the Canning and Swan Rivers • infiltrating or reusing rainwater as high in the catchment as possible • the use of vegetative measures such as swales and riparian zones. <p>The City has already committed resources to addressing water management requirements of the MKSEA. Work is underway to scope the requirements and process involved in the preparation of a District Water Management Strategy, undertake further assessment of environmental features and develop a programme for surface and ground water monitoring.</p> <p>See staff response to item 5.1 earlier in this table.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	
<p>9.6 Landowner objects to the designation of wetland/ possible conservation area.</p>	<p>Noted. The wetland area referred to was shown on the Concept Plan on Victoria Road in Precinct 1 to reflect the findings of the initial wetland and vegetation condition assessment undertaken by Cardno BSD, which identified a Resource Enhancement category wetland containing areas of very good vegetation with listed priority flora in this area. It was recommended by Cardno BSD that this wetland be reclassified to a Conservation Category wetland.</p> <p>No formal proposal has been made for the change in wetland classification.</p> <p>It will be recommended that the Concept Plan be modified to remove the notation of wetland area and replace it with a notation for Eco-Industry and the need for the area to be subject to further investigations, including an assessment of environmental characteristics and appropriate land uses.</p> <p>Summary: Modification recommended to Concept Plan to address this issue.</p>	<p>57</p>

Matter Raised	Staff comment	SR No.
<p>9.7 Questions whether all other possible land uses for the MKSEA have been considered, such as residential, composite industrial or special rural into 2,000-4,000m² lots.</p> <p>Believes composite industrial and special rural uses would provide a good buffer between current residential and future industrial and commercial land uses.</p> <p>Questions that if the above options have been considered, when were they considered and why this has not been discussed with landowners.</p> <p>Individual views of all landowners should be obtained in writing and considered on a one on one basis and then made public and discussed in an open forum.</p>	<p>Metroplan (1990) and the Foothills Structure Plan (1992) identified the MKSEA as future strategic industrial area. The development of the MKSEA to expand the City's employment base has since been adopted as a key initiative of the Maddington Kenwick Sustainable Communities Partnership between the City, the State Government and the Community.</p> <p>For these reasons, the City is undertaking investigations and planning of the area for industrial development.</p> <p>While, it is open to the community to question whether land uses other than industrial could be developed in the area, this is not a matter that City staff have been directed to pursue at this stage. It will be recommended that planning for MKSEA continue on the basis that land in the area that is ultimately proven as being suitable for development be developed for industrial purposes.</p> <p>All landowners were invited to comment on the Concept Plan and 66 submissions were received, representing a substantial level of feedback and a divergence of views expressed.</p> <p>The composition of industrial uses will be a matter for subsequent and more detailed planning processes to address. There will be potential for composite industrial uses to be investigated through these processes, which will involve further consultation with the community.</p> <p>Summary: Investigations to date have focussed on future industrial development.</p>	<p>32, 65</p>
<p>9.8 Supports the transitional land use shown along Bickley Road. Questions how access to lots behind the transitional area will be obtained.</p>	<p>Noted.</p> <p>It is recognised that access to future development in and adjacent to the Transition precinct will be a key matter to be addressed and will be of particular interest to Bickley Road residents.</p> <p>Road network, traffic management and site access issues will need to be addressed through subsequent and more detailed planning phases. Affected landowners will have ample opportunity to comment on any proposed roads or access arrangement through these processes.</p> <p>It will be recommended that the Concept Plan be modified to reflect that these matters need to be addressed for the Transition precinct.</p> <p>Summary: Modification recommended to Concept Plan to address this issue. The matter will also be addressed at future planning phases.</p>	<p>37</p>

Matter Raised	Staff comment	SR No.
<p>9.9 All of the current landowners, including ourselves, purchased land in this area to enjoy a lifestyle of value whilst living in the City. The majority of the area should be rezoned to Composite "A". This would allow all landowners to start small businesses. There could be eco-friendly businesses as well as nurseries and even B & B's. These would provide a vast array of employment and be diverse enough to be viable in our ever changing financial environment.</p>	<p>Noted.</p> <p>While Town Planning Scheme No.6 provides for land to be zoned for Composite Residential/Light Industry purposes and such a zoning may be appropriate where Transition or Eco-Industrial land uses are identified on the Concept Plan, the rezoning of the majority of the area in this way is not considered to be appropriate.</p> <p>There is anecdotal evidence that existing Composite zoned areas in the City have limited market appeal. It is questionable whether development of the MKSEA almost exclusively for Composite uses would be financially feasible or would generate a significant enough level of employment to justify the considerable effort needed to properly plan for the area.</p> <p>See also staff response to item 9.7.</p> <p>Summary:</p> <p>This matter will be addressed at future planning phases.</p>	45
10. Environmental Buffers		
<p>10.1 The buffer to the Greater Brixton Street wetlands seems odd.</p>	<p>It is acknowledged that the buffer has an unusual shape, but this only reflects the wetland mapping and related environmental policies of the State Government for wetland buffers. The summary of wetlands and key recommendations map provided to all landowners that attended the October/November 2006 landowner information evenings outlined the current extent of existing wetlands within MKSEA.</p> <p>It is noted however that the Concept Plan showed a notional 100m buffer (dashed blue line) to the south east of the Greater Brixton Street wetlands, but not to the north west.</p> <p>There are some uncertainties regarding required buffer widths, particularly in instances where existing roads are located within notional buffers but in effect define a practical wetland edge.</p> <p>Given that Precinct 2 is still subject to further planning and investigations, it will be recommended that the Concept Plan be modified to delete the notional 100m buffer to the south-east of the Greater Brixton Street wetlands and in its place a notation be added that details the range of matters requiring further investigation in Precinct 2. One of the matters is the determination of the extent of the Greater Brixton Street wetlands and other significant wetlands.</p> <p>Summary:</p> <p>Modification recommended to Concept Plan to address this issue.</p>	4, 11, 16, 65
<p>10.2 The buffer to Yule Brook seems odd.</p>	<p>The advertised Concept Plan showed Yule Brook on its current alignment with a 50m buffer reserve on either side for part of its length before widening in the area between Coldwell Road and Roe Highway.</p> <ul style="list-style-type: none"> • Maintain Brook Road as a through road on its current alignment and delete the realignment and bridges over Yule Brook. 	48

Matter Raised	Staff comment	SR No.
	<ul style="list-style-type: none"> • Split Precinct 3 into two precincts, with the land adjacent to Brook Road and Yule Brook included within a new Precinct 3B, with the balance of Precinct 3 being included in a new Precinct 3A. • Add notations on the plan for Precincts 3A and 3B to better outline the development potential of these areas and the matters that need to be further investigated and addressed through more detailed planning. • Show Precinct 3B as not suitable for any form of industrial development at this time, due to the drainage, environmental and Aboriginal cultural heritage significance of the area, in particular Yule Brook and its surrounds. <p>Summary: Modifications recommended to Concept Plan to address this issue.</p>	
10.3 Object to the buffer zones as shown.	<p>See responses to items 10.1 and 10.2 above.</p> <p>The buffers on the Concept Plan relate to wetlands and watercourses.</p> <p>The (then) Water and Rivers Commission Position Statement: Wetlands (2001) provides that based on the management category of an existing wetland (Conservation, Resource Enhancement or Multiple Use) and the quality of its surrounding vegetation, buffers of varying distances will be required to:</p> <p><i>“...protect wetlands from potential deleterious impacts while helping safeguard and maintain ecological processes and functions within the wetland and, wherever possible, in the buffer.”</i></p> <p>Buffers are likely to be required around existing wetlands to ameliorate any impact of the surrounding land uses on those wetlands although a case by case assessment may be required to determine wetland extent, value, function and appropriate buffer widths within individual landholdings.</p> <p>Summary: Modifications recommended to Concept Plan to address this issue.</p>	12, 13, 14, 42, 43
10.4 The 100m buffer to the greater Brixton Street wetlands is grossly inadequate.	<p>Noted. See the staff response to items 10.1, 10.2 and 10.3.</p> <p>Summary: Modifications recommended to Concept Plan to address this issue.</p>	54
10.5 The 100m notional buffer shown on the concept plan is considered generally acceptable. The buffer should extend from the edge of the scientifically mapped wetland.	<p>Noted. Modifications are recommended to the Concept Plan, as described in response to items 10.1, 10.2 and 10.3.</p> <p>Summary: Modifications recommended to Concept Plan to address this issue.</p>	33

Matter Raised	Staff comment	SR No.
<p>10.6 The 100m CCW buffer should be removed and a general note added to the plan to the effect that the buffers to the CCW's are to be determined at a local structure planning stage based upon case by case assessment.</p> <p>It is not appropriate to simply apply a generic 100m setback to protect the wetlands core functions and attributes.</p> <p>There is scope to significantly reduce the 100m generic buffer.</p>	<p>Noted and agreed in part.</p> <p>The Water and Rivers Commission Position Statement: Wetlands (2001) provides a guide to the wetland buffer requirements for a range of land uses. Buffer distances range from 50m to 1,000m, dependant on land use.</p> <p>It will be recommended that the Concept Plan be modified to delete the notional 100m buffer south-east of the Greater Brixton Street wetlands and in its place a notation be added that details the range of matters requiring further investigation in Precinct 2. One of the matters is the determination of the extent of the Greater Brixton Street wetlands and other significant wetlands and the related buffers.</p> <p>It will be open to landowners at the more detailed planning stage, to seek to demonstrate that proposed development would result in no nett loss of wetland values and function as a basis for justifying a buffer of lesser width than 100m.</p> <p>Summary:</p> <p>Modifications recommended to Concept Plan to address this issue. This matter will also be addressed at future planning phases.</p>	<p>34</p>
<p>10.7 Suggests that land included within the 100m Conservation Category wetland buffer zone be zoned Composite "A".</p>	<p>It is questionable whether any form of development (composite uses or otherwise) in buffer areas associated with Conservation or Resource Enhancement Category wetlands would accord with State Government policy.</p> <p>The Water and Rivers Commission Position Statement: Wetlands (2001) states the Conservation Category Wetlands (CCW's) should be "...accorded the highest priority for protection and conservation."</p> <p>The objective is the preservation of CCW attributes and functions through various mechanisms as they "...are the most valuable wetlands and the Commission will oppose any activity that may lead to further loss or degradation."</p> <p>Also "...there is a presumption against approving any activity likely to impact on priority management wetlands, including developments that are likely to require, cause or result in the following: filling, clearing, mining, drainage into or out of, effluent discharge into, pollution of, and degradation to the wetland."</p> <p>It will be recommended that the Concept Plan be modified to delete the notional 100m buffer south-east of the Greater Brixton Street wetlands and in its place a notation be added that details the range of matters requiring further investigation in Precinct 2. Among the matters to be addressed are the determination of the extent of the Greater Brixton Street wetlands and other significant wetlands, related buffers and acceptable land uses.</p> <p>Summary:</p> <p>Modifications recommended to Concept Plan to address this issue. This matter will also be addressed at future planning phases.</p>	<p>40, 62</p>

Matter Raised	Staff comment	SR No.
<p>10.8 The proposed 100m Conservation Category Wetland buffer zone is of concern. Questions what land uses would be allowed in these buffer zones and whether access to continue rural pursuits, home business and recreational pursuits would be maintained if industrial development is not possible.</p>	<p>There is a presumption against the approval of any land use that would detrimentally impact upon a Conservation Category wetland, regardless of whether the activity is located in a wetland buffer zone.</p> <p>Among the matters to be addressed through subsequent and more detailed planning phases is the definition of required buffers and appropriate land uses within and adjacent to the buffers.</p> <p>Once the precise wetland buffer requirements have been determined through more detailed planning, the City will be in a better position to advise landowners of the uses that can occur on those affected lots until the land is required for buffer purposes. Generally, if land is identified for a public purpose, such as wetland buffer, then it will need to be acquired for that purpose at some time during development of the area when funds become available. Experience elsewhere in the City suggests that land affected in this way typically continues to be used for existing purposes until such time as it is required and acquired for public purposes.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	41
<p>10.9 Is 100% in favour of developing the area provided the submitter's land is included in the development without buffers or other restrictions.</p>	<p>Noted. However, given the location of the submitter's landholding immediately adjacent to the Greater Brixton Street wetlands, the future development of the land is likely to be constrained by wetland buffer requirements. The size and extent of the buffer is a matter to be determined through subsequent and more detailed planning.</p> <p>Summary: More detailed studies will be required to determine the development potential of the submitter's land.</p>	43
<p>10.10 Land on the northern side of Victoria Road in Precinct 2 is rural in character and should stay that way.</p>	<p>Noted. It is appreciated that some landowners value the rural character of the area.</p> <p>The Concept Plan, as advertised and as proposed to be modified, states that Precinct 2 is subject to further investigation. Land use change is not identified on the Concept Plan for Precinct 2 for this reason.</p> <p>Summary: More detailed studies will be required to determine the development potential of land in Precinct 2.</p>	6, 16
<p>10.11 Precinct 3 should remain rural.</p>	<p>See staff response to item 5.1 earlier in this table.</p> <p>Summary: Modifications recommended to Concept Plan for part of Precinct 3 to remain rural.</p>	61

Matter Raised	Staff comment	SR No.
11. Validity and Consequences of Environmental Areas shown on Concept Plan		
<p>11.1 The environmental details shown over the submitters' land are wrong.</p> <p>The validity and accuracy of the identified environmental constraints identified needs to be questioned.</p> <p>Requests this be investigated and the error corrected.</p>	<p>Noted. The preliminary environmental mapping prepared by Cardno BSD (wetlands and vegetation condition) informed the preparation of the Concept Plan. This information was made public at the landowner information evenings held in October/November 2006.</p> <p>The environmental mapping was conducted by a qualified Botanist through a field based assessment. Remnant vegetation was surveyed on foot, using a compass and GPS unit. The fauna assessment is classified as a "Level 1 survey" which includes a "desk top" analysis and a reconnaissance survey.</p> <p>In order to determine the adequacy and accuracy of the "management category" attached to wetlands mapped in the Department of Environments (DoE) geomorphic wetland dataset, a field survey was undertaken to ground truth the wetland's management category.</p> <p>As outlined in the Information Sheets provided to landowners, the Concept Plan shows existing environmental attributes and some possible land use scenarios for the area such as:</p> <ul style="list-style-type: none"> • Conservation Category Wetlands and the greater Brixton Street wetlands (with notional 100m buffer) otherwise recognised as Bush Forever 387 • Yule Brook (with buffer) • Clifford Street Wetland – Bush Forever 53 • Possible multiple use corridors and Public Open Space areas • Possible areas to be set aside for drainage and/or conservation • Current drainage flows/directions <p>There are a number of detailed technical investigations that will need to be progressed for Precinct 2. It will be recommended that the main required investigations be listed on a modified Concept Plan including:</p> <ul style="list-style-type: none"> • the extent of the buffer required to the Greater Brixton Street wetlands (BF387) • the extent of other wetlands and associated buffers that require protection • evaluating existing wetland classification and mitigation/conservation techniques required • land uses permitted within wetland buffer zones • flora and fauna spring surveys • surface and ground water monitoring • the extent and composition of land uses permitted within transitional areas • the production of a district water management strategy and management plans 	<p>23, 34, 47, 57, 65</p>

Matter Raised	Staff comment	SR No.
	<p>Some of this work is already underway. The City has engaged a consultant Botanist, who commenced conducting spring surveys in the area in mid-September 2007. It is envisaged that the survey will take approximately four months and is intended to help define the current extent of existing wetlands and the significance and condition of vegetation to inform the future planning of the area.</p> <p>Other studies underway include the formulation of a District Water Management Strategy (DWMS) and production of a surface and groundwater monitoring programme.</p> <p>Summary: Further detailed studies are currently being undertaken. This mater will be addressed at future planning phases.</p>	
<p>11.2 The concept plan provides very little detail in respect to the extent of industrial and employment activity proposed. At this stage the concept plan is little more than an environmental constraints mapping exercise. The majority of the study area comprises CCW, <i>Bush Forever</i>, POS, drainage reserves and an area identified as “subject to further investigations”.</p> <p>Whilst the environmental qualities of the site cannot be ignored, they should not outweigh the prime objective to create a strategic employment area.</p>	<p>Noted.</p> <p>The environmental characteristics of the MKSEA are significant, cannot be ignored and will largely shape the ultimate extent and form of development in the area.</p> <p>Additional investigations of environmental characteristics are required for much of the MKSEA, before development can proceed.</p> <p>The planning process will ultimately provide the means for decisions to be made on the extent and form of development that may be permitted. The objective to create a viable and sustainable strategic employment area will need to be weighed up against the objective (and legislative requirement) to protect environmental values.</p> <p>Summary: The environmental attributes of the area must be respected and will, to a great extent, determine the development potential of land in the MKSEA.</p>	<p>34, 64, 66</p>
<p>11.3 The land immediately adjacent to the submitter’s land is marked as Conservation Category Wetland and Bush Forever. The submitter notes that they have walked through this land on many occasions and never seen any flora or fauna of significance and the land is certainly not wetland. There is no influx of birdlife at any time of the year. It would seem a very arbitrary decision to grab this small piece of land which has only minute value ecologically but will be very damaging to a proposed development situation.</p>	<p>Noted. The land that the submission is referring to immediately abuts land reserved in the MRS for Parks and Recreation as part of the regional reserve for the Greater Brixton Street wetland area. The Concept Plan does not represent a land “grab”, but rather a reflection of environmental values and related State Government policy positions on wetlands.</p> <p>While the submitter’s observations are noted, according to the Australian Heritage Database (2004):</p> <p><i>“Brixton Street and associated wetlands is an outstanding place of high botanical and educational significance...”</i></p> <p>Also, the Bush Forever document (Part B) describes the Greater Brixton Street wetlands (BF387) as vegetated wetland, creek and vegetated uplands with more than 75% of the existing vegetation rated as excellent to very good.</p> <p>It also states that it has outstanding flora diversity with at least 518 native species (a third of the species recorded on the Swan Coastal Plain) having been identified within the site.</p>	<p>43</p>

Matter Raised	Staff comment	SR No.
	<p>41 bird species, one native mammal, 19 reptile and five amphibian species have also been recognised.</p> <p>The site is also listed on the Directory of Important Wetlands in Australia and it has been entered in the Interim List of the Register of the National Estate.</p> <p>It is therefore considered that the Greater Brixton Street wetlands are high in environmental value and all measures should be taken to encourage the protection, enhancement and rehabilitation of these environmental assets.</p> <p>Summary:</p> <p>The environmental attributes of the area must be respected and will, to a great extent, determine the development potential of land in the MKSEA.</p>	
<p>11.4 On the summary of Vegetation Condition Map provided at the October 2006 information evenings, our property was covered with black shading denoting threatened ecological communities.</p> <p>The submission points out that the submitter's property and several others on the same side of the street were all originally part of an old sand quarry and contain only regrowth. The submitter notes that there is no mention of any threatened ecological communities designation on the concept plan, which they support and, presume is no longer relevant.</p>	<p>Noted. Threatened Ecological Communities (TEC), regardless of whether their existence is noted on the Concept Plan or not (they are not) are protected under Commonwealth environmental legislation.</p> <p>The environmental mapping released to landowners made certain inferences about the existence of TECs.</p> <p>The City has engaged a consultant Botanist, who commenced conducting spring surveys in the area in mid-September 2007, which will provide information on the accuracy of the earlier identification of TECs.</p> <p>Summary:</p> <p>Detailed studies are currently underway that will investigate a range of issues, including this.</p>	47
12. General Support for Concept Plan		
<p>12.1 Fully and totally support proposed Concept Plan. Would appreciate if Council could expedite the process for rezoning of the land.</p>	<p>Noted.</p> <p>Rezoning processes can take considerable time to complete.</p> <p>Work towards rezoning Precinct 1 of the MKSEA is underway. On 24 May 2007, the City requested the WAPC to amend the MRS to rezone Precinct 1 from Rural to Industrial. On 6 June 2007, the South East District Planning Committee resolved to express its support for the proposed amendment. The Department for Planning and Infrastructure is currently seeking technical officer comment on the proposed amendment from State Government and servicing authorities, prior to reporting to the WAPC on the matter.</p> <p>Summary:</p> <p>Support is noted.</p>	18, 22, 23, 29, 35, 56

Matter Raised	Staff comment	SR No.
12.2 The proposal is appropriate in view of the need for more industrial land/economic growth/employment. The land has lost its rural qualities and there is already a substantial industrial conflict either complying or non-complying. The area is almost a liability to residents in terms of safety and environmental concerns. The proposal will benefit the WA economy and local needs as well as providing all affected residents with alternatives, certainty and the opportunity to relocate/re-establish in an appropriate locality.	Noted. Summary: Support is noted.	19, 24
12.3 Development should happen soon as we have Roe Highway at the rear of our block and the noise is getting worse by the week.	Noted. Summary: Support is noted.	20
12.4 Congratulations. I would like to see something of value in the area. Good reputation for the Council. Go for it. Don't delay.	Noted. Summary: Support is noted.	21
13. General Objection to Concept Plan		
13.1 We would like to have a new Concept Plan drawn up which zones the whole of the area in question to industrial. The current residents should also be allowed to continue living in the area as they do now.	The planning for the area (particularly between the greater Brixton Street wetlands and Yule Brook) is complex and will require many issues to be resolved through subsequent stages of investigation, planning and design. Without a full understanding of the environmental values and attributes of the area it is not considered appropriate to rezone the whole area to industrial. The Concept Plan does not oblige or compel landowners to sell or develop their land. If landowners choose to continue living in the area if and when it is ultimately rezoned, subdivided and developed for industrial purposes then that is their prerogative. Summary: Objection is noted.	44
14. Impact on Council Rates		
14.1 Questions whether Council Rates are anticipated to increase.	The adoption of the Concept Plan is unlikely to have any impact on Council Rates. A change in the zoning of rural zoned land is only one factor that can contribute to rates changing. The Valuer-General reviews the value of all Gross Rental Value (GRV) property every three years and Unimproved Value (UV) property every year in the metropolitan area.	25, 50

Matter Raised	Staff comment	SR No.
	<p>The City also reviews all rural zoned properties as required, usually within a three year period, to determine the predominant use of the property and if a change in rating methodology is required. The valuation of land takes into account a range of matters including improvements on the property and zoning that generally reflect the value of the land in the open property market and the rent that could reasonably be obtained for lease of the premises in the open market.</p> <p>The rates charged for a particular property can be expected to increase if the Valuer General determines that the value of the property has increased.</p> <p>Summary: Council rates are likely to increase if property values increase.</p>	
15. Concerns regarding Lot Sizes		
<p>15.1 The overall concept of the rezoning and development of the region to become a strategic employment area suitable for high employment will require lot sizes to be small enough to facilitate a high concentration of mixed industries.</p>	<p>Noted and agreed in part, although a mix of lot sizes (small and large) would be required to cater for a range of businesses.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	52
<p>15.2 Broad mix of lot sizes required. In order for the proposal to be viable, it is necessary that a good mix exists between small, medium and large businesses. The trend of developing only high value small lots must be overcome.</p>	<p>Noted and agreed.</p> <p>Summary: This matter will be addressed at future planning phases.</p>	66
16. Concerns regarding impact on Development Potential		
<p>16.1 The proposal and its supporting information will devalue our property and will result in a financial loss, a loss of amenity/lifestyle and loss of future development potential of my land.</p>	<p>It has been reiterated to landowners at every opportunity that the Concept Plan is just that – a concept, which is intended to reflect what is known about the area at this point in time in terms of its environmental characteristics and its location and strategic context to stimulate meaningful discussion and landowner input on the planning and design of the area.</p> <p>The planning for this area is complex and requires many issues to be addressed through subsequent stages of investigation, planning and design. As more detailed information becomes available (whether through landowner feedback or additional technical studies) so too will more certainty and clarity be provided to landowners about the future development potential of their land.</p>	15, 27, 34, 36, 39, 53

Matter Raised	Staff comment	SR No.
	<p>City staff are acutely aware of the uncertainty that a concept planning exercise such as this can have for many landowners. For this reason staff are endeavouring to progress the planning of the MKSEA as a priority project, to reduce the term of uncertainty that may be experienced by some landowners during the complex and time consuming planning process.</p> <p>Summary: Concern regarding impact on landowners is noted.</p>	
16.2 The Concept Plan has cost the sale of property.	<p>The Concept Plan is just that – a concept, which is intended to reflect what is known about the area in terms of its environmental characteristics and its location and strategic context to stimulate meaningful discussion and landowner input on the planning and design of the area. Sale contracts between individuals are beyond the City's control.</p> <p>Summary: Concern regarding impact on landowners is noted.</p>	40, 42

Table 2 – Submitter Details

Submission Reference No.	Name and Postal Address	Affected Property
1.	R Macey 78 Victoria Road Kenwick WA 6107	78 (Lot 12) Victoria Road Kenwick
2.	D Downing PO Box 323 Forrestfield WA 6058	41 (Lot 41) Edward Street Kenwick
3.	G D'Orazio 89 Stafford Road Kenwick WA 6107	89 (Lot 35) Stafford Road Kenwick
4.	Y Teh 88 Ten Seldom Circle Winthrop WA 6150	61 (Lot 252) Clifford Street Maddington
5.	G Shan 182 High Road Riverton WA 6148	97 (Lot 225) Brentwood Road Kenwick
6.	A Mattner 142 Victoria Road Kenwick WA 6107	142 (Lot 101) Victoria Road Kenwick
7.	B Simeon 49 Coldwell Road Kenwick WA 6107	49 (Lot 10) Coldwell Road Kenwick
8.	V Fong 19 Eckersley Heights Winthrop WA 6150	410 (Lot 223) Bickley Road Kenwick
9.	S Fong 19 Eckersley Heights Winthrop WA 6150	410 (Lot 223) Bickley Road Kenwick
10.	H Cassey 16 Edward Street Kenwick WA 6107	16 (Lot 5) Edward Street Kenwick
11.	R & L Osborne 41 Brook Road Kenwick WA 6107	41 (Lot 8) Brook Road Kenwick
12.	H Moniewski 25 Brook Road Kenwick WA 6107	25 (Lot 7) Brook Road Kenwick

Submission Reference No.	Name and Postal Address	Affected Property
13.	R Balchin 66 Brook Road Kenwick WA 6107	66 (Lot 66) Brook Road Kenwick
14.	M Wisby 143 Brook Road Kenwick WA 6107	143 (Lot 69) Brook Road Kenwick
15.	E Lederer 68 Coldwell Road Kenwick WA 6107	68 (Lot 67) Coldwell Road Kenwick
16.	F Sharp 48 Boundary Road Kenwick WA 6107	48 (Lot 6) Boundary Road Kenwick
17.	G Farr PO Box 390 Welshpool WA 6986	25 (Lot 7) Coldwell Road Kenwick
18.	A Teh PO Box 28 Applecross WA 6154	61 (Lot 252) Clifford Street Maddington
19.	M & K Sayer 117 Victoria Road Kenwick WA 6107	117 (Lot 16) Victoria Road Kenwick
20.	J & T Hayes 15 Edward Street Kenwick WA 6107	15 (Lot 40) Edward Street Kenwick
21.	V Sinagra 19A St Michael Terrace Mt Pleasant WA 6153	32 (Lot 129) Brentwood Road Kenwick
22.	E Teh 88 Ten Seldam Circle Winthrop WA 6150	61 (Lot 252) Clifford Street Maddington
23.	R Hibble 8 Gell Court Kelmescott WA 6109	52 (Lot 105) Clifford Street Maddington
24.	M Sayer 117 Victoria Road Kenwick WA 6107	117 (Lot 16) Victoria Road Kenwick
25.	G Sartori 458 - 466 Bickley Road Maddington WA 6109	458 – 466 (Lot 237) Bickley Road Maddington
26.	C & J Smith 54 Edward Street Kenwick WA 6107	54 (Lot 17) Edward Street Kenwick
27.	D & J Reynolds 12 Coldwell Road Wattle Grove WA 6107	12 Coldwell Road Wattle Grove
28.	M Durston 126 Brentwood Road Kenwick WA 6107	126 (Lot 136) Brentwood Road Kenwick
29.	W & M Thomas 58 Coldwell Road Kenwick WA 6107	58 (Lot 68) Coldwell Rd Kenwick
30.	M Bidstrup 70 Brook Road Kenwick WA 6107	70 (Lot 18) Brook Road Kenwick
31.	E Davies 624 Bickley Road Maddington WA 6109	624 (Lot 3) Bickley Road Maddington
32.	F & M Rechichi 329 Kenwick Road Maddington WA 6109	558 (Lot 307) and 582 (Lot 500) Bickley Road and 329 (Lot 1) Kenwick Road Maddington

Submission Reference No.	Name and Postal Address	Affected Property
33.	R Drummond Friends of Brixton Street Wetlands 87 Kenwick Road Kenwick WA 6107	Various
34.	Gray and Lewis – Land Use Planners On behalf of N and M Kanair Suite 5, 2 Hardy Street South Perth WA 6151	142 (Lot 138) Brentwood Road Kenwick
35.	A Busslinger 33 Clifford Street Maddington WA 6109	33 (Lot 2551) Clifford Street Lot 256 Kenwick Road Maddington
36.	C & S Caruso 49 Edward Street Kenwick WA 6107	49 (Lot 53) Edward Street Kenwick
37.	J & J Deane PO Box 104 Cannington WA 6987	64 (Lot 23) Clifford Street Maddington
38.	M Woods 34 Courtney Place Wattle Grove WA 6107	34 Courtney Place Wattle Grove
39.	M & K Haq 12 Coldwell Street Kenwick WA 6107	12 (Lot 72) Coldwell Street Kenwick
40.	G & S Palmer 101 Brook Road Kenwick WA 6107	101 (Lot 73) Brook Road Kenwick
41.	L & G Turpin 111 Boundary Road Kenwick WA 6107	111 (Pt Lot 21) Boundary Road Kenwick
42.	K Agar PO Box 7 Cloverdale WA 6985	109 (Lot 70) Brook Road Kenwick
43.	A Leighton 14 Hallin Court Ardross WA 6153	Lot 133 Brentwood Road Kenwick
44.	Van Dongen (WA) Pty Ltd PO Box 661 Gosnells WA 6990	268 (Lot 6) Brook Road Kenwick
45.	L Begg and S Moss 111 Grove Road Kenwick	111 (Lot 102) Grove Road Kenwick
46.	N Keswick PO Box 8197 Perth Business Centre WA 6849	532 (Lot 4) Bickley Road Kenwick
47.	M & J McLeod Lot 107 Clifford Street Maddington WA 6109	Lot 107 Clifford Street Maddington
48.	F Betts 38 Coldwell Road Kenwick WA 6107	38 (Lot 71) Coldwell Road Kenwick
49.	J Farano 69B Fremantle Road Gosnells WA 6990	592 (Lot 51) Bickley Road Maddington
50.	K Turner 165 Brentwood Road Kenwick	165 (Lot 220) Brentwood Road Kenwick
51.	R Keswick 528 Bickley Road Maddington	528 (Lot 5) Bickley Road Maddington
52.	G Curnow 31 Edward Street Kenwick WA 6107	31 (Lot 11) Edward Street Kenwick

Submission Reference No.	Name and Postal Address	Affected Property
53.	I & D Bae 59 Central Park Avenue Canning Vale WA 6155	260 (Lot 4) Bickley Road Kenwick
54.	J Norman 570-574 Bickley Road Maddington WA 6109	570-574 (Lot 11) Bickley Road Maddington
55.	M Gledich 28 Grove Road Kenwick WA 6107	28 (Lot 76) Grove Road Kenwick
56.	S Karu 48 Edward Street Kenwick WA 6107	48 (Lot 101) Edward Street Kenwick
57.	J & M Butcher 67 Victoria Road Kenwick WA 6107	67 (Lot 20) Victoria Road Kenwick
58.	T McDonald On behalf of Orange Grove Brickworks, Ganesh and Coote Industrial Ltd PO Box 270 Maddington WA 6989	626 (Lot 6) and 627 – 635 (Lot 47) Bickley Road Maddington
59.	Burgess Design Group Town Planning – Urban Design PO Box 374 Northbridge WA 6865	Affected property details withheld
60.	B & C Jancey 128 Victoria Road Kenwick WA 6107	128 (Lot 14) Victoria Road Kenwick
61.	Dr A McManus 76 Grove Road Kenwick WA 6107	76 (Lot 14) Grove Road Kenwick
62.	S Khose 149 Brentwood Road Kenwick WA 6107	149 (Lot 221) Brentwood Rd Kenwick
63.	K & M Baxter 162 Kelvin Road Maddington WA 6109	162 (Lot 305) Kelvin Road Maddington
64.	TPC Urban - The Planning Coordinators On behalf of Secure Storage Holdings and Van Lee Construction Pty Ltd 5 Coolgardie Terrace Perth WA 6000	268 (Lot 6) Brook Road Kenwick
65.	Whelans – Town Planning On behalf of E & E Bertolini 133 Scarborough Beach Road Mount Hawthorn WA 6016	113 (Lot 9) Brentwood Road Kenwick
66.	Royal View Pty Ltd PO Box 1065 Canning Bridge WA 6153	31 (Lot 2008) Grove Road Kenwick

Aboriginal Cultural Heritage

The Water Corporation has recently provided City staff with a copy of a report that it commissioned (prepared by Australian Cultural Heritage Management Pty Ltd (ACHM)), outlining the results of an Aboriginal cultural heritage survey of Yule Brook and its surrounds.

The survey was undertaken to determine the extent to which drainage upgrades, such as widening the existing brook and stormwater storage in the Yule Brook Main Drain catchment at Kenwick, would be possible without disturbing Aboriginal heritage. It is understood that the drainage upgrades are required to reduce the risk and incidence of

flooding along Yule Brook, particularly in the area denoted on the advertised MKSEA Concept Plan (see Appendix 13.5.1A) in Precinct 3 as "Possible Conservation and Drainage", generally between Brook Road, Bickley Road and the railway/Roe Highway. The survey area covers that part of the MKSEA.

The survey was carried out in mid September 2007 and involved representatives from Noongar families with links to the Perth metropolitan area, Water Corporation and ACHM.

Some of the key findings and recommendations of the survey are summarised as follows:

- One new archaeological site has been discovered adjacent to Yule Brook towards the railway/Roe Highway and the cul-de-sac end of Bickley Road. The presence of another site has been identified away from Yule Brook (to the north), also towards the railway/Roe Highway. High levels of vegetation across the survey area prevented full identification of this latter site and as such, additional survey work should be conducted there in summer.
- No work should be done by Water Corporation which would disturb either of the above sites, either directly, or by causing them ultimately to be flooded by the construction of an artificial drainage area.
- Damage to the sites would be unavoidable if drainage upgrades proceeded (such as widening of the brook and stormwater storage in the brook's catchment). As such, Water Corporation should look elsewhere (than the survey area) to undertake any drainage upgrade works for the Yule Brook catchment.
- Although the survey area in general has long since been cleared for rural purposes, there is considered to be no justification to widen Yule Brook, which inevitably would result in the destruction of the remnant vegetation on its banks and in its bed. For this reason, and because of the brook's mythological significance in terms of the Waugal, the indigenous informants requested that the entire length of Yule Brook be declared a site under the Aboriginal Heritage Act 1972.
- It would be acceptable if the Water Corporation were to carry out drainage works for flood mitigation on part of the brook that is already massively disturbed (downstream of the study area, i.e. from Roe Highway westward), even if the entire brook is declared as an Aboriginal heritage site.
- Yule Brook's banks and bed should be cleared of introduced plant species and weeds and exclusively revegetated with local Western Australian plant varieties.

The implications of these survey findings and recommendations for the MKSEA Concept Plan are two fold. Firstly, it will no longer be appropriate to illustrate the southern corner of Precinct 3 (as shown on the plan attached as Appendix 13.5.1A) for "Possible Conservation and Drainage". Instead it will be recommended that the Concept Plan be modified to generally disallow further development of land adjoining Yule Brook due to its environmental and Aboriginal cultural heritage significance, until or unless further investigations warrant a change to this position. This proposed change has been reflected in the draft modified Concept Plan attached as Appendix 13.5.1D.

It should be noted that this recommendation to maintain the status quo of rural zoning and to avoid intensification of development on land adjoining Yule Brook, is at odds with earlier community feedback on MKSEA, which generally opposed the creation or retention of rural areas between new industrial land. Staff consider that the proposal to now include land adjoining Yule Brook (northwest of Brook Road) in a new Precinct 3B (remaining as rural) is not entirely inconsistent with this earlier feedback, because that precinct would not actually be situated between industrial land, it would be between a conservation area (Greater Brixton Street wetlands) and possible future industrial area.

Maintaining Precinct 3B as a rural precinct would recognise the environmental and Aboriginal cultural heritage significance of Yule Brook and could serve as an appropriate land use transition between the Greater Brixton Street wetlands and possible future industrial area in Precinct 3A to the northwest.

The second implication of the ACHM survey commissioned by the Water Corporation follows from the first; and that is that detailed drainage studies will need to be undertaken for Precinct 3A, given that the area around Yule Brook, Brook Road, Bickley Road and the railway/Roe Highway will no longer be suitable for accommodating stormwater drainage from Precinct 3A. Options for relocation of this drainage function for Precinct 3A would need to be closely examined and could include directing or retaining stormwater runoff from Precinct 3A into or adjacent to Yule Brook, further downstream of the MKSEA (for example through Mills Park) or through the section of Yule Brook that was re-routed as part of the construction of Roe Highway. This option is consistent with the City's draft Mills Park Master Plan, which provides for the creation of artificial water bodies for irrigation purposes.

The above recommended changes have been incorporated in the draft modified Concept Plan attached as Appendix 13.5.1D.

Recommended Modifications to the Concept Plan

The submissions received during the advertising period on the Concept Plan have raised numerous issues. In response, City staff will recommend that a series of modifications be made to the Concept Plan, as already outlined throughout the report. A draft modified Concept Plan incorporating these recommended modifications is attached as Appendix 13.5.1D.

The following table details the recommended modifications and provides explanations as to why the changes are considered necessary.

Table 3 - Schedule of Recommended Modifications to Concept Plan

Rev No.	Recommended Modification	Reason
1	Designate land located on both sides of Kelvin Road between Tonkin Highway and Bickley Road as a precinct where planning guidelines will be required to ensure appropriate arrangements are made for vehicular access and that the built form and presentation of development is of high quality.	Given the strategic location of Kelvin Road and the fact that it will act as the major entry point for vehicles accessing the MKSEA from Tonkin Highway, development adjacent to Kelvin Road is seen as critical to establishing the tone for the desired standard of development in the MKSEA. Arrangements for appropriate access will be necessary due to the high volume of traffic on this section of Kelvin Road and the proximity of the precinct to Tonkin Highway, where there will be a substantial upgrade to the Tonkin Highway and Kelvin Road intersection in future.
2	Adjust the indicative location of new roads so that they, where possible, straddle existing property boundaries.	To endeavour to address concerns expressed in submissions that the location of new roads may advantage some landowners and disadvantage others.
3	Remove the "Transitional Land Use" designation from the land on Clifford Street (opposite Bush Forever Site No.53) and include the same land, in addition to abutting land located on the western side of the Bush Forever site, within an "Eco-Industry Precinct" and add a notation that specifies the objective of the Eco-Industry precinct and the need for more detailed investigations to be undertaken to determine the applicable land use and development requirements.	To ensure development and land use adjacent to the Bush Forever site will have no detrimental impact on the site's environmental values.
4	Delete the portion of Clifford Street connecting to Kelvin Road, which was previously proposed to be closed.	Rather than proposing the closure of portion of Clifford Street, it is recommended that Clifford Street be maintained and that the need for closure be further investigated in the context of the planned upgrade to the Tonkin Hwy and Kelvin Road intersection and appropriate development guidelines relating to the Eco-Industry precinct.
5	Remove the designation of "Wetland Area" from land adjacent to Victoria Road in Precinct 1 and replace it with the designation of "Eco-Industry Precinct" and a notation that specifies the objective of the precinct and outlines matters requiring further investigation. These matters include assessment of environmental characteristics and determination of appropriate land uses.	To endeavour to address submissions that objected to the proposed wetland area designation and expressed concerns in relation to how it would affect the development potential of their landholdings.
6	Modify the extent of the "Transitional Land Use" area along Bickley Road within Precincts 1 and 2, change the term for the area to "Transition Precinct" and add a notation that outlines the objectives of the precinct and matters requiring further investigation.	To locate the "Transition Precinct" so that it lies immediately opposite all existing residential zoned land on Bickley Road adjacent to the MKSEA and clarify the objectives of the precinct and provide an outline of matters requiring further investigation.

Rev No.	Recommended Modification	Reason
7	Remove the "Area Subject to Further Investigations" notation relating to Precinct 2 and add a new notation stating that the type and extent of future development in the precinct is dependent upon a range of environmental, infrastructure, drainage and planning considerations, including wetland evaluation, flora and fauna protection, water management and land use options.	To provide an outline of matters requiring further investigation prior to determining the type and extent of future development.
8	Modify the MKSEA and Precinct 3 boundaries in the vicinity of the intersection of Roe Highway and Welshpool Road.	The western extent of the MKSEA and Precinct 3 should be defined by the Kwinana-Kewdale freight railway rather than the City's municipal boundary. The railway forms a logical western boundary. The area falling outside of the new boundary contains re-created wetland and drainage areas established as part of the construction of Roe Highway and there is no purpose of including it in the Concept Plan.
9	Delete the 100m Conservation Category Wetland buffer associated with the Greater Brixton Street wetlands and other wetlands in Precinct 2.	<p>To address submissions from affected landowners who objected to the buffer (as shown) and who also expressed concern over the impact it may have on the development potential of their landholdings.</p> <p>It should be noted that deletion of the buffer from the Concept Plan does not change the fact that State Government policies will still apply to environmental buffers.</p> <p>It should also be noted that determination of required environmental buffers as part of further planning is a matter included in the recommended new notation proposed for Precinct 2 (see recommended modification No. 8).</p>
10	Show the existing road reserves for Brentwood Road and Boundary Road within Precinct 2.	The road reserves for Brentwood Road and Boundary Road were shown on the original Concept Plan, but only in faint detail. Some submissions interpreted this as a proposal to close these roads. This is not the case. The road reserves are shown in bolder detail to reflect the current situation.
11	Reflect Brook Road and Coldwell Road on their existing alignments (that is, delete the proposed closure of Brook Road and the deviation of Coldwell Road and the two road bridges over Yule Brook) and modify the resultant road pattern accordingly.	To address submissions from affected landowners and concerns expressed in a petition that objected to the proposal to close and realign Brook Road.
12	Delete the notional buffer adjacent to Yule Brook.	<p>To address submissions from affected landowners who objected to the buffer proposed on Yule Brook and expressed concern over the impact on development potential.</p> <p>It should be noted that deletion of the buffer from the Concept Plan does not change the fact that State Government policies will still apply to environmental buffers.</p>

Rev No.	Recommended Modification	Reason
		It should also be noted that determination of required environmental buffers as part of further planning is a matter included in the recommended new notation proposed for Precinct 2 (see recommended modification No. 8).
13	Divide Precinct 3 into two new precincts as follows: <ul style="list-style-type: none"> • Precinct 3A, with the notation “Proposed industrial development, subject to drainage issues being addressed, including determination of the amount and location of land required for drainage purposes.” • Precinct 3B, with the notation “Yule Brook Precinct 3B – The main feature of the Yule Brook Precinct is the brook which runs between Welshpool Road and Roe Highway. Yule Brook and its surrounds have environmental, drainage and Aboriginal cultural heritage significance and it is therefore not considered appropriate at this time to provide for any form of industrial development in the precinct. As such the status quo should remain (ie the area being use for semi-rural living purposes until or unless further investigations warrant a review of this position. 	To recognise the environmental constraints and servicing requirements in Precinct 3 and comments from landowners.
14	Expand the Legend to include the new precincts and explanation of various features shown on the Concept Plan.	For improved clarity.

Path forwards

Given the number and significance of the recommended modifications to the Concept Plan, it will be recommended that Council require the draft modified Concept Plan be advertised to landowners for further comment. It will also be recommended that the Concept Plan be forwarded to various Government and servicing agencies for comment. Additional advertising would provide further opportunities for landowners to have input into and for the City to engage State Government and servicing agencies on the planning for the MKSEA.

At the conclusion of the advertising period a report would again be submitted to Council to consider submissions received and to consider adopting the Concept Plan, with or without further modifications, as the basis for subsequent and more detailed planning.

The report to Council on 13 March 2007 outlined the intended path forward for progressing planning for the MKSEA. Details in the previous report in this respect are still relevant. As has been mentioned throughout this report, there are several planning matters that are currently being progressed in tandem with preparation of the Concept Plan. These are as follows:

- The City has engaged a consultant Botanist, who commenced conducting spring surveys in the area in mid-September 2007. It is envisaged that the surveys will take approximately four months and will assist in defining the current extent of existing wetlands and the significance and condition of vegetation to inform the future planning of the area.
- The City engaged an environmental consultant to scope the work involved in the formulation of a District Water Management Strategy. This scoping exercise is now complete.
- The City is currently seeking quotations from consultants to produce a surface and ground water monitoring programme, which will capture data on the nature of hydrological conditions in the MKSEA to inform water management plans.
- The City is providing additional detail and justification to support the proposed MRS amendment for rezoning Precinct 1 from Rural to Industrial, including an interim District Water Management Strategy.
- Tenders have been called for the production of Model Guidelines for Industrial Development. This work will have a specific MKSEA focus.

It is recognised that in addition to those planning tasks outlined in the 13 March 2007 report to Council, the submissions have drawn attention to the need to address other key issues. Most of these issues are now detailed in the draft revised Concept Plan. There are also some broader issues that will need attention as part of further planning, including the following:

- Traffic Impact Assessment – The Concept Plan (when finalised) needs to be tested in respect to the appropriateness of the proposed road network and its potential impact on local roads and its ability to connect to the regional road network.
- Framework for Infrastructure provision – A framework needs to be developed outlining the servicing needs of MKSEA and manner in which development infrastructure will be provided and land for public purposes acquired. This may, in part, ultimately require the establishment of development contribution arrangements for equitably sharing the cost of infrastructure provision and land acquisition.
- Aboriginal cultural heritage survey – Consideration could be given to commissioning a separate Aboriginal cultural heritage survey of Yule Brook and its surrounds, independent of the study undertaken on behalf of the Water Corporation, to further examine the implications of any newly identified Aboriginal heritage sites and spiritual significance of Yule Brook, for the planning of MKSEA.

CONCLUSION

Submissions from landowners on the Concept Plan indicate a range of different views on, attitudes to and concerns with future land use change and development of the MKSEA. These submissions have been vital in refining the plan and informing future planning of the area. It will be recommended that Council note the submissions received during the advertising period.

The submissions have been carefully reviewed and many have resulted in recommended modifications being made to the Concept Plan. It will be recommended that the draft modified Concept Plan (attached as Appendix 13.5.1D) be advertised to the following persons/agencies for comment until Thursday 28 February 2008 by way of:

- i) Letters to:
 - Landowners within the Maddington Kenwick Strategic Employment Area
 - Owners of land adjacent to Bickley Road and abutting the Maddington Kenwick Strategic Employment Area
 - Owners of land within the Shire of Kalamunda south of Welshpool Road, between Roe Highway and Tonkin Highway; and
 - Government and Servicing agencies, as deemed appropriate by the Director Planning and Sustainability
- ii) An advertisement twice in a local newspaper.
- iii) Display at the Kenwick Library.
- iv) Display on the City's website.

FINANCIAL IMPLICATIONS

Funding has been set aside under the operational budget of the City Planning branch and Maddington Kenwick Sustainable Communities Partnership to undertake the various tasks of planning for MKSEA. Additional planning will likely require additional resources, which will be the subject of future budget processes.

STAFF RECOMMENDATION (1 of 2) AND COUNCIL RESOLUTION
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549 Moved Cr J Brown Seconded Cr B Wiffen

That Council note the submissions received during the advertising of the Concept Plan for the Maddington Kenwick Strategic Employment Area.

CARRIED 10/0

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

AGAINST: Nil.

STAFF RECOMMENDATION (2 of 2) AND COUNCIL RESOLUTION**550 Moved Cr J Brown Seconded Cr B Wiffen**

That Council advertise the draft modified Concept Plan for the Maddington Kenwick Strategic Employment Area, attached as Appendix 13.5.1D, for public comment until Thursday 28 February 2008:

- i) Letters to:
- Landowners within the Maddington Kenwick Strategic Employment Area
 - Owners of land adjacent to Bickley Road and abutting the Maddington Kenwick Strategic Employment Area
 - Owners of land within the Shire of Kalamunda south of Welshpool Road, between Roe Highway and Tonkin Highway; and
 - Government and Servicing agencies, as deemed appropriate by the Director Planning and Sustainability
- ii) An advertisement twice in a local newspaper.
- iii) Display at the Kenwick Library.
- iv) Display on the City's website.

CARRIED 10/0

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

AGAINST: Nil.

13.5.2 AMHERST VILLAGE COMMUNITY CENTRE - LOT 8 HOLMES STREET, SOUTHERN RIVER

Author:	L Kosova
Reference:	208829
Application No:	DA07/02631
Applicant:	City of Gosnells
Owner:	City of Gosnells
Location:	Lot 8 Holmes Street, Southern River
Zoning:	MRS: Urban
TPS No. 6:	Residential Development
Review Rights:	Yes. State Administrative Tribunal against any discretionary decision of Council.
Area:	5.8887ha
Previous Ref:	OCM 9 October 2007 (Resolutions 471-474) OCM 10 April 2007 (Resolution 134) OCM 13 March 2007 (Resolutions 82-84) OCM 24 October 2006 (Resolution 540) OCM 13 June 2006 (Resolution 264(ii)) OCM 9 May 2006 (Resolution 211 (ii)) OCM 28 February 2006 (Resolution 89) OCM 20 December 2005 (Resolution 624) OCM 24 May 2005 (Resolution 227–288)
Appendices:	13.5.2A Proposed Southern River Precinct 1F Outline Development Plan Map 13.5.2B Design Development Plans for Amherst Village Community Centre

PURPOSE OF REPORT

For Council to consider options for progressing the development of the Amherst Village Community Centre at Lot 8 Holmes Street, Southern River, in light of provisions under the Planning and Development Act (2005) and tender submissions received for construction of the facility.

BACKGROUND**Concept Plans for the Amherst Village Community Centre**

Concept plans for the Amherst Village Community Centre were presented and discussed at a Councillor workshop on 20 March 2007, and at its meeting of 10 April 2007, Council resolved:

Resolution 134

“That Council approve the Concept Design Plans attached as Appendix 13.4.1A for the purpose of proceeding to the Design Development stage for the Amherst Village Community Centre project, the construction of which is estimated to cost \$6,168,300, as outlined in Appendix 13.4.1B.”

Council's approval of the Concept Design Plans has enabled the Project Architect to complete the Design Development stage of the project (see plans attached as Appendix 13.5.2B). This in turn has enabled tenders to be called for construction of the facility. A report on tender submissions received is included as a separate item in this Agenda, under the Infrastructure Directorate Reports.

Outline Development Plan

The subject land is zoned Residential Development under Council's Town Planning Scheme No. 6 (TPS 6) and is contained within the area referred to as Southern River Precinct 1F.

Under clause 7.2.1 of TPS 6 an Outline Development Plan (ODP) is required for land zoned Residential Development, prior to Council supporting any subdivision or granting any planning approval for development. Accordingly, Council at its meeting on 9 October 2007 considered a draft ODP for Southern River Precinct 1F (after advertising for public comment) and resolved, among other things, to note the submissions received during advertising of the ODP and adopt the ODP (Resolution 472) and to refer the ODP to the Western Australian Planning Commission (WAPC) for approval (Resolution 473). To date a response has not yet been received from the WAPC.

DISCUSSION

Statutory Considerations

Development of the Amherst Village Community Centre is classed as a "public work" under the Planning and Development Act (2005) and Public Works Act (1902).

Section 6(1) of the Planning and Development Act provides that (among other things) nothing in the Act interferes with the right of a local government to undertake, construct or provide any public work. The effect of this is that a local government proposing to carry out a public work (such as the Amherst Village Community Centre) does not need to comply with the Metropolitan Region Scheme (MRS) or its own Local Planning Scheme (in this instance TPS 6). However, under Section 6(2) of the Act, in exercising this right a local government must have regard to:

- The purpose and intent of any planning scheme that has effect in the locality.
- The orderly and proper planning, and the preservation of the amenity of the locality.

Additionally, Section 6(3) of the Act states that the "responsible authority" is to be consulted at the time when a proposal for any public work is being formulated to ensure that the public work will comply with Section 6(2). In this regard, City staff referred the plans for the community facility to the Department for Planning and Infrastructure (DPI) for comment on 30 October 2007 because the site abuts Warton Road, which is classified as an "Other Regional Road" under the MRS. To date no response has been received from DPI.

Staff sought legal advice from Council's solicitors, McLeods, in relation to the above section of the Act. In summary McLeods advised that:

- The proposed Community Centre is considered to fall within the scope of the term "public work".
- A local government proposing a public work is not bound by the provisions of its own planning scheme or the MRS, except to the extent that it must have regard to the matters outlined under Section 6(2) of the Act.
- It would be a wise and public spirited gesture for the City to apply to the WAPC for approval of the proposal under the MRS, even though the City makes it clear that it does not consider itself bound to do so.

The implications of these provisions of the Act for development of the Amherst Village Community Centre are discussed in the following sections of this report.

Purpose and intent of any Planning Scheme

The two planning schemes in effect in the City of Gosnells are the MRS and TPS 6.

Staff consider that development of the proposed Community Centre would be consistent with the purpose and intent of the Urban zoning of the land under the MRS.

With regard to TPS 6, clause 1.5 identifies the purpose of the Scheme and includes sub-clause (d) to:

"(d) control and guide land use and development;"

In this context it could be argued that, given the Residential Development zoning of the subject land, an ODP is required to control and guide land use and development on the subject lot. However, an opposing argument could be put that the development of the Community Centre only needs to "have regard" to (rather than comply with) the purpose and intent of the Scheme and to this end, the development does not disregard the above purpose.

The following aims of TPS 6 under clause 1.6 are relevant to this development:

- "(b) to provide for convenient, attractive and viable commercial centres, which serve the needs of the community and are accessible to pedestrians, cyclists and public transport users as well as motorists.*
- (e) To protect and enhance the quality of the urban and rural living environments of the District, and to provide for such expansion as is consistent with the maintenance of the services and amenities of the District required by the community.*
- (f) To promote the health, safety, convenience and the economic and general welfare of the community.*
- (g) To ensure the use and development of land does not result in significant adverse impacts on the physical and social environment."*

Council staff have assessed the proposed development and consider that it would have regard to the above-mentioned purpose and aims of TPS 6 if the following changes were incorporated into its design:

- a. All proposed car parking bays are to be in accordance with Table No. 3B : Parking Design Requirements of Town Planning Scheme No. 6.
- b. Bicycle parking facilities are to be provided in close proximity to the east and west entrances of the building in highly visible locations in accordance with Clause 5.13.8 of Town Planning Scheme No. 6.
- c. The width of the access ramp for the disabled car parking bays is to be extended to the full width of the disabled car parking bays.
- d. A direct pedestrian access point is to be provided between the car parking area and a paved path providing access to the building.
- e. A dual-use path is to be provided within the Warton Road and Holmes Street reserves where it is required to allow for access to the building in accordance with the proposed Southern River Precinct 1F Outline Development Plan.
- f. The design of the service yard is to be revised to allow for pedestrian movement and sightlines along the northern side of the building.
- g. The width of the service yard opening is to be increased to 2m.
- h. The width of the service yard access bay is to be increased to 4m.
- i. The car parking bay located between the service yard access bay and the Warton Road reserve is to be deleted.
- j. Vehicular access to the subject site is to be provided from Holmes Street in accordance with the proposed Southern River Precinct 1F Outline Development Plan.
- k. The proposed car parking area, indicated as “future carpark”, on the site plan is to be constructed and made accessible to vehicles from Holmes Street prior to occupancy of the facility.
- l. Bin pads are to be provided for the collection of recycling bins from a street verge abutting the subject site.

Orderly and Proper Planning and Preservation of Amenity

In forming an opinion on whether development of the Community Centre will have regard to the orderly and proper planning and preservation of the amenity of the locality, Council should consider the following:

- The subject land is zoned Residential Development under TPS 6. Under the Scheme an ODP is required for this zone prior to Council supporting any subdivision or approving any development. In this instance Council has adopted the Southern River Precinct 1F ODP although it has not yet been approved by the WAPC. It could therefore be argued that development of the Community

Centre should not proceed until the ODP has been finally approved, given that the ODP is required to provide a framework for the orderly and proper planning of the area.

- Conversely, it could be argued that development of the Community Centre would not prejudice the orderly and proper planning of the area, even though the ODP is not yet finally approved. A reason for this view could be that the City owns the entire subject land (Lot 8) and no further subdivision or development (other than for the Community Centre) will occur until the ODP has been approved and relevant approvals granted. Future subdivision and development of the balance of Lot 8 will therefore need to accommodate and have regard for the proposed Community Centre, not vice versa.
- In accordance with Section 6(2) of the Act, in carrying out the public work Council is required to “have regard to” the purpose and intent of any Schemes. However, that does not mean that Council necessarily needs to comply with the provisions of TPS 6, such as the need for an ODP, but rather that it have regard to those provisions.
- Council has adopted the Southern River Precinct 1F ODP and is awaiting approval from the WAPC. Therefore, for all intents and purposes the ODP is classed as a “seriously entertained proposal”.
- The Amherst Village Community Centre, as a civic use, will comply with the land use classification of “Civic and Cultural” as proposed by the Southern River Precinct 1F ODP which relates to the site.
- If the WAPC requires any modifications to the Southern River Precinct 1F ODP, those modifications are more likely to relate to the design of the proposed residential subdivision on the balance of Lot 8, than to the designated “Civic and Cultural” site, upon which the Community Centre will be built.
- The Community Centre is required to cater for the growing populations of Canning Vale and Southern River and will significantly contribute to the vibrancy of the Amherst Village Centre. Staff are therefore of the view that development of the centre would positively contribute to the amenity of the locality.
- The legal advice received from McLeods which provides an opinion that it would be a wise and spirited gesture for the City to apply to the WAPC for approval of the proposal under the MRS even though it is not bound to do so. In this regard, Council should also consider that (as mentioned earlier) plans for the development were actually referred to the WAPC for comment because the development adjoins Warton Road, which is classed as an “Other Regional Road” under the MRS. It could be argued that this referral and consultation with the “responsible authority” is sufficient and satisfies the obligations of Section 6(3) of the Act and therefore seeking approval per se from the WAPC is unnecessary.
- If the WAPC requires any modification to the design of the development as a result of the referral regarding Warton Road, then there will be ample opportunity to discuss and if necessary incorporate such modification into the development either during the construction process or at some later date.

In view of the above, there are three main options for Council in dealing with the development of this facility in light of the provisions of Section 6 the Act and the fact that Council will now need to consider awarding a tender for construction of the facility. These options and their related implications are discussed below.

Option 1 – Proceed immediately with the development

Under this option Council can exercise its right under Section 6(1) of the Act to provide the public work (Amherst Village Community Centre) without the need for any planning approval under the MRS or TPS 6. In accordance with Section 6(2) of the Act, Council should only pursue this option if it is satisfied that the development has regard to the following stipulations of the Act, as discussed in the preceding sections of this report:

- The purpose and intent of any planning scheme that has effect in the locality.
- The orderly and proper planning, and the preservation of the amenity of the locality.

Pursuing this option will enable a tender to be awarded for construction of the Community Centre without awaiting final approval of the Southern River Precinct 1F ODP and without seeking approval from the WAPC under the MRS.

This option could give rise to the argument that development of the Community Centre is premature and prejudicial to the orderly and proper planning of the area in the form of the Southern River Precinct 1F ODP, which has not yet been finally approved. Council will therefore need to be satisfied that there is a stronger, more defensible case for proceeding with the development now than waiting until the ODP is adopted.

Option 2 – Await final approval of the ODP

Under this option Council can await final approval of the Southern River Precinct 1F ODP prior to exercising its right under Section 6(1) of the Act to provide the public work (Amherst Village Community Centre) without the need for any planning approval under the MRS or TPS 6.

If Council selects this option the awarding of a tender for construction of a facility should be deferred until the ODP is finalised. This will impact on the timing of the construction of the centre, which is intended to be operational by the end of 2008.

Option 3 – Seek approval from the Commission

Under this option Council can seek planning approval for the development from the WAPC under the MRS. By doing so Council could avoid any risk or argument arising, as discussed in respect of Option 1. If this option is pursued, it cannot be guaranteed that the WAPC would approve the development, and if approved, when this would occur (before or after final approval of the ODP) and the nature of any conditions that might be imposed.

Although this approach is offered by Council's solicitors as being a "wise and public spirited gesture" the fact remains that the same legal advice concluded that Council in developing the proposed Community Centre is not bound by and therefore does not need to comply with either the MRS or TPS 6.

If Council pursues this option a tender for construction of the Community Centre should not be awarded until approval is obtained from the WAPC.

CONCLUSION

On balance and after considering the many issues relating to this matter, staff consider that Option 1 is an appropriate option for Council to pursue in this instance. This opinion has been reached after careful consideration of the legal and planning merits of each of the three options presented and has not in any way been influenced by the Infrastructure Directorate's consideration of tenders for construction of the facility.

Option 1 will be recommended to Council because Section 6 of the Planning and Development Act provides an express right to local government to carry out public works (such as the Community Centre) without being bound by the Act (including any local Scheme or the MRS), providing that in carrying out the works the local government has regard to –

- the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised; and
- the orderly and proper planning, and the preservation of the amenity, of that locality at that time.

Staff consider that development of the proposed Community Centre will have regard to the above provisos, subject to certain changes being incorporated into the design of the development, as discussed earlier in this report.

Furthermore, Section 6(3) of the Act requires the responsible authority to be consulted at the time when a proposal for any public work is being formulated to ensure that the work will comply with Section 6(2). Arguably the City is the responsible authority in this instance, although the proposal was still referred to the WAPC for comment, because it adjoins an "Other Regional Road" under the MRS (Warton Road). A response has not yet been received from the WAPC although it is anticipated that if any changes are suggested to the development they can be addressed at the more detailed planning or construction phase in future.

It will therefore be recommended that Council pursue Option 1 as presented earlier in this report and exercise its right under Section 6 of the Act, subject to certain modifications being made to the design of the development, as outlined in the Staff Recommendation.

FINANCIAL IMPLICATIONS

Nil.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

551 Moved Cr R Hoffman Seconded Cr J Brown

That Council exercise its right under Section 6 of the Planning and Development Act (2005) and authorise development of the Amherst Village Community Centre at Lot 8 Holmes Street, Southern River substantively in accordance with the plans attached as Appendix 13.2.5 B, subject to the following modifications being incorporated into the design of the development to the satisfaction of the Director Planning and Sustainability:

- a. All proposed car parking bays are to be in accordance with Table No. 3B : Parking Design Requirements of Town Planning Scheme No. 6.
- b. Bicycle parking facilities are to be provided in close proximity to the east and west entrances of the building in highly visible locations in accordance with Clause 5.13.8 of Town Planning Scheme No. 6.
- c. The width of the access ramp for the disabled car parking bays is to be extended to the full width of the disabled car parking bays.
- d. A direct pedestrian access point is to be provided between the car parking area and a paved path providing access to the building.
- e. A dual-use path is to be provided within the Warton Road and Holmes Street reserves where it is required to allow for access to the building in accordance with the proposed Southern River Precinct 1F Outline Development Plan.
- f. The design of the service yard is to be revised to allow for pedestrian movement and sightlines along the northern side of the building.
- g. The width of the service yard opening is to be increased to 2m.
- h. The width of the service yard access bay is to be increased to 4m.
- i. The car parking bay located between the service yard access bay and the Warton Road reserve is to be deleted.
- j. Vehicular access to the subject site is to be provided from Holmes Street in accordance with the proposed Southern River Precinct 1F Outline Development Plan.

- k. The proposed car parking area, indicated as “future carpark”, on the site plan is to be constructed and made accessible to vehicles from Holmes Street prior to occupancy of the facility.
- l. Bin pads are to be provided for the collection of recycling bins from a street verge abutting the subject site.

CARRIED 10/0

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

AGAINST: Nil.

12. MINUTES OF COMMITTEE MEETINGS

12.1 AUDIT COMMITTEE – 6 NOVEMBER 2007

Author: R Bouwer

Previous Ref: Nil

Appendix: 12.1A Minutes of the Audit Committee Meeting held 6 November 2007

PURPOSE OF REPORT

For Council to receive the Minutes of the Audit Committee meeting held Tuesday 6 November 2007.

BACKGROUND

The Audit Committee meets on the first Tuesday in the months of February, May, August and November of each year, or as required.

The Minutes of the City of Gosnells Audit Committee meeting held Tuesday 6 November 2007 are attached as Appendix 12.1A.

DISCUSSION

There were a total of two recommendations made at the Audit Committee meeting which require the consideration of Council. The following is a discussion on each recommendation.

Audited Annual Financial Report

The Audited Annual Financial Statements were presented to the Audit Committee and explained by the Manager Financial Services and Director Corporate Services with Council's auditor, Michael Hillgrove, in attendance to answer questions from members of the committee.

Committee Recommendation 10:

"That Council receive the Audited Annual Financial Report for the year ended 30 June 2007."

Bond and Retention Moneys

A report was presented to the Audit Committee on 6 November 2007, outlining the process undertaken to reconcile the outstanding Bond and retention monies. The remaining number and value of bonds and retentions left to enter into the new business system are 369 and \$964,816 respectively.

It is anticipated that once the new Liabilities Officer is appointed that the remainder of the bonds and retentions can be reconciled.

Committee Recommendation 12:

"That the Audit Committee recommend to Council that the report on the review of outstanding Bond and Retention monies be received."

FINANCIAL IMPLICATIONS

Nil.

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

552 Moved Cr J Brown Seconded Cr D Griffiths

That Council receive the Minutes of the City of Gosnells Audit Committee meeting held Tuesday 6 November 2007 attached as Appendix 12.1A.

CARRIED 10/0

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

AGAINST: Nil.

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

553 Moved Cr J Brown Seconded Cr D Griffiths

That Council adopt Recommendation 10 of the Audit Committee meeting held on Tuesday 6 November 2007, which reads:

“That Council receive the Audited Annual Financial Report for the year ended 30 June 2007.”

CARRIED 10/0

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

AGAINST: Nil.

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

554 Moved Cr J Brown Seconded Cr D Griffiths

That Council adopt Recommendation 12 of the Audit Committee meeting held on Tuesday 6 November 2007, which reads:

“That the Audit Committee recommend to Council that the report on the review of outstanding Bond and Retention monies be received.”

CARRIED 10/0

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

AGAINST: Nil.

13. REPORTS**13.1 CHIEF EXECUTIVE OFFICER’S REPORT**

13.2 COMMUNITY ENGAGEMENT

Cr W Barrett, due to being a member of the Australia Day Citizenship Awards Committee, disclosed at Item 2 of the Agenda "Declarations of Interest", an Impartiality Interest in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.

13.2.1 PREMIER'S AUSTRALIA DAY ACTIVE CITIZENSHIP AWARDS - DELEGATION OF AUTHORITY

Author: A Cochran

Previous Ref: Special Meeting of Council 22 October 2007 - Resolution 482

PURPOSE OF REPORT

For Council to delegate authority for the selection of winners of the Premier's Australia Day Active Citizenship Awards.

BACKGROUND

The City of Gosnells has for several years participated in the Australia Day Council of Western Australia's Active Citizenship Awards programme.

At the Special Meeting of Council held on 22 October 2007 the Mayor, Cr D Griffiths, Cr W Barrett and Cr E Griffiths were appointed as members of Council's Australia Day Awards Selection Panel.

Council will be requested to delegate authority to select award winners for Australia Day 2008 ceremony so that the Australia Day Council can be notified of awards recipient's details within the required time frame.

DISCUSSION

The Australia Day Council of Western Australia determines the selection criteria for the Premier's Australia Day Active Citizenship Awards and specifies that one selection should be made in each category on the basis of outstanding service to the local community in any field considered appropriate by the local government. The Australia Day Council categories for the Premier's Australia Day Active Citizenship Awards are:

- Active Citizenship Award
- Active Citizenship Award for a person under 25 years
- Active Citizenship Award for a Community Group or Event.

Advertisements calling for nominations for the awards will be placed in the local community newspapers and the COG News. Additionally, community organisations within the City have been invited to submit nominations for the Awards.

The Selection Panel will be required to use the following criteria as specified by the Australia Day Council to assist in determining winners:

- Significant contribution to the local community

- Demonstrated leadership on community issues resulting in the enhancement of community life
- A significant initiative which has brought about positive changes and added value to community life
- Inspiring qualities as a role model for the community.

A requirement of the awarding of the Premier's Australia Day Active Citizenship Awards for the City of Gosnells is that the winner from each category is embargoed until the official announcement which occurs on Australia Day.

As such, it is recommended that delegation of authority being provided to the Chief Executive Officer to determine, in consultation with the Australia Day Awards Selection Panel, the winners of the Australia Day Council of Western Australia's Premier's Australia Day Active Citizenship Awards. This will be undertaken in accordance with the selection criteria as specified by the Australia Day Council. For this to occur, it will require Council to grant such authority in accordance with Section 5.42 Division 4 of Part 5 of the Local Government Act (1995).

FINANCIAL IMPLICATIONS

Costs associated with the selection process and awards presentations have been included within the Operating Budget for the Leisure Services Branch.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
--

555 Moved Cr J Brown Seconded Cr R Mitchell

That Council, pursuant to Section 5.42 of Division 4 of Part 5 of the Local Government Act (1995), delegate the exercise of its powers and duties to the Chief Executive Officer to determine on the recommendation of the Australia Day Awards Selection Panel, the selection of the winners of the Premier's Australia Day Active Citizenship Awards for the City of Gosnells in accordance with the selection criteria as specified by the Australia Day Council.

CARRIED BY ABSOLUTE MAJORITY 10/0

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

AGAINST: Nil.

13.3 CORPORATE SERVICES

13.3.1 PAYMENT OF ACCOUNTS

Author: L Blair
Previous Ref: Nil
Appendix: Nil

PURPOSE OF REPORT

To advise Council of payments made for the period 1 October 2007 to 31 October 2007.

DISCUSSION

Payments of \$6,805,680.93 as detailed in the cheque and EFT payment listing for the period 1 October 2007 to 31 October 2007 which was circulated to Councillors under separate cover and will be tabled at the meeting, have been approved by the Director Corporate Services under delegated authority.

Notation

The Mayor tabled the cheque and EFT payment listing for the period 1 October 2007 to 31 October 2007.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

556 Moved Cr J Brown Seconded Cr J Henderson

That Council note the payment of accounts as shown in the cheque and EFT payment listing for the period 1 October 2007 to 31 October 2007.

CARRIED 10/0

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

AGAINST: Nil.

13.3.2 FINANCIAL ACTIVITY STATEMENTS – OCTOBER 2007

Author: F Sullivan

Previous Ref: Nil

Appendix: 13.3.2A Financial Activity Statement Report – October 2007

PURPOSE OF REPORT

For Council to adopt the Financial Activity Statement Report for the month of October 2007.

BACKGROUND

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

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

DISCUSSION

The Financial Activity Statement Report for the month of October 2007 is attached as Appendix 13.3.2A.

FINANCIAL IMPLICATIONS

Nil.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION**557 Moved Cr D Griffiths Seconded Cr R Hoffman**

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations, adopt the following reports, contained in the Financial Activity Statement Report for the month of October 2007, attached as per Appendix 13.3.2A.

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

CARRIED 10/0

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

AGAINST: Nil.

13.3.3 BUDGET VARIATIONS

Author: R Bouwer
 Previous Ref: Nil
 Appendix: Nil

PURPOSE OF REPORT

To seek approval from Council to adjust the 2007/2008 Municipal Budget.

DISCUSSION

In accordance with Section 6.8 of the Local Government Act 1995 a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- is incurred in a financial year before the adoption of the annual budget by the local government
- is authorised in advance by Council resolution
- is authorised in advance by the Mayor or President in an emergency

Approval is therefore sought for the following budget adjustments for the reasons specified.

FINANCIAL IMPLICATIONS

Account Number	Type	Account Description	Debit \$	Credit \$
GL71-1417-3000	Increase Expenditure	Salaries and wages – Financial Services	10,360	
GL71-1417-3021	Increase Expenditure	Annual Leave – Financial Services	1,020	
GL71-1417-3020	Increase Expenditure	Long Service Leave – Financial Services	260	
GL71-1417-3030	Increase Expenditure	Superannuation – Financial Services	3,690	
GL71-1417-3031	Increase Expenditure	Workers Compensation – Financial Services	240	
JL91-92500-3000-000	Decrease Expenditure	Salaries and wages – Leisure Services		10,360
JL91-92500-3021-000	Decrease Expenditure	Annual Leave – Leisure Services		1,020
JL91-92500-3020-000	Decrease Expenditure	Long Service Leave – Leisure Services		260
JL91-92500-3030-000	Decrease Expenditure	Superannuation – Leisure Services		3,690
JL91-92500-3031-000	Decrease Expenditure	Workers Compensation – Leisure Services		240
	Reason:	Transfer of staff from Leisure Services to Financial Services.		

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

558 Moved Cr J Henderson Seconded Cr W Barrett

That Council approve the following adjustments to the Municipal Budget:

Account Number	Account Description	Debit \$	Credit \$
GL71-1417-3000	Salaries and wages – Financial Services	10,360	
GL71-1417-3021	Annual Leave – Financial Services	1,020	
GL71-1417-3020	Long Service Leave – Financial Services	260	
GL71-1417-3030	Superannuation – Financial Services	3,690	
GL7-1417-3031	Workers Compensation – Financial Services	240	
JL91-92500-3000-000	Salaries and wages – Leisure Services		10,360
JL91-92500-3021-000	Annual Leave – Leisure Services		1,020
JL91-92500-3020-000	Long Service Leave – Leisure Services		260
JL91-92500-3030-000	Superannuation – Leisure Services		3,690
JL91-92500-3031-000	Workers Compensation – Leisure Services		240

CARRIED BY ABSOLUTE MAJORITY 10/0

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

AGAINST: Nil.

13.4 INFRASTRUCTURE

13.4.1 TENDER 23/2007 – CONSTRUCTION OF THE AMHERST VILLAGE COMMUNITY CENTRE

Author: P McAllister
 Previous Ref: OCM 24 May 2005 (Resolution 227 and 228)
 OCM 20 December 2005 (Resolution 624)
 OCM 28 February 2006 (Resolution 89)
 OCM 09 May 2006 (Resolution 211 (ii))
 OCM 13 June 2006 (Resolution 264 (ii))
 OCM 10 April 2007 (Resolution 134)
 Appendix: Nil

PURPOSE OF REPORT

To advise Council of submissions received in relation to Tender 23/2007 Construction of the Amherst Village Community Centre, and to recommend the most advantageous tender for the purpose of awarding a contract for the works.

BACKGROUND

At the Ordinary Council Meeting of 10 April 2007, Council adopted Resolution 134, which reads:

“That Council approve the Concept Design Plans attached as Appendix 13.4.1A for the purpose of proceeding to the Design Development stage for the Amherst Village Community Centre project, the construction of which is estimated to cost \$6,168,300, as outlined in Appendix 13.4.1B

Accordingly, the City’s project architect, Holton Connor, completed the design development works for the proposed Amherst Village Community Centre in October 2007.

A pre-tender cost estimate for the construction works was prepared by the City’s Quantity Surveyor, Currie and Brown, which valued the works at \$4,950,000. As the pre-tender estimate is within the approved budget of \$6,168,300, (as detailed in Council Resolution 134) the City subsequently invited tenders for the construction of the Amherst Village Community Centre. The tender was advertised in The West Australian on Saturday 13th October 2007 and closed on 8 November 2007, with tenders being received from the following organisations:

No	Company Name	Company Address
1.	Gavin Construction	571 Canning Highway, Alfred Cove WA 6154
2.	Lakis Construction	72B Irvine Drive, Malaga WA 6090
3.	Niche Construction	3/17 Macadam Place, Balcatta WA 6021
4.* See note	George Rydell Construction	64 Bridge Road, Keysborough Vic 3173

* **Note:** The tender from George Rydell Construction was not received in accordance with the tender compliance criteria, that is, it was not received

within the time set out in the tender. Therefore, the City acting in accordance with the *Local Government (Functions and General) Regulations*, (which states: "A tender not submitted at a place, and within the time set out in the Invitation for Tenders must be rejected"), did not consider the tender from George Rydell Construction. The City will formally advise George Rydell Construction of the rejection of its tender upon completion of the tender process.

DISCUSSION

The table below details the tender proponent's lump sum price and the variance with the pre-tender estimate as prepared by the City's Quantity Surveyor, Currie and Brown.

Company Name	Price (Excluding GST)	Variance from pre-tender estimate of \$4,950,000
Gavin Construction	\$4,297,408	-\$652,592
Lakis Construction	\$4,456,747	-\$493,253
Niche Construction	\$4,261,451	-\$688,549

The less than expected tender pricing can be attributed in part to the timing of the tender (Construction companies generally seek work for commencement early in the new calendar year), and the nature of the work which is "a green field site" rather than refurbishment works which are traditionally more complex.

The following matrix details the submissions received and their subsequent evaluations in accordance with the tender documentation.

A qualitative assessment was conducted by the tender evaluation panel and scores were allocated for each criterion according to the selection criteria detailed in the tender documentation.

Criteria	Weighting	Gavin Construction	Lakis Construction	Niche Construction
Relevant experience in completing similar projects	30%	29%	20%	22%
Key personnel and resources	15%	14%	11%	10%
Occupational health and safety	5%	4.3%	4%	4%
Price	50%	49.6%	47.8%	50%
TOTAL	100%	96.9%	82.8%	86%

The tender submission from Gavin Construction scored the highest on the evaluation matrix and this can be attributed to its experience in completing projects of a similar nature to those proposed at Amherst Village. Gavin Construction has recently completed the construction of Karrynup Sports Centre for the City of Stirling and is currently constructing the Cockburn Youth Centre for the City of Cockburn. Reports

from officers at the City of Stirling confirmed that Gavin Construction completed the works on time, to specification and to budget and would be engaged by the City should the opportunity arise in the future.

In addition to the evaluation performed by the City, Holton Connor, the City's project Architect completed an evaluation report. Holton Connor concluded that Gavin Construction scored the highest on the evaluation matrix and recommended it as the preferred tenderer for the project.

The tender submission from Gavin Construction included a number of qualifications, only one of which was of significance, and that referred to the exclusion of an allowance for structural steel members. The steel members in question relate to a superseded design and are no longer required. Gavin Construction has since withdrawn that qualification making its tender fully conforming in nature. The tender submission from Gavin Construction was the most comprehensive, addressing all of the City's tender requirements including the provision of management systems for occupational health and safety, a detailed company profile including resumes of personnel offered for the works and a work breakdown structure for the construction process.

The pricing schedule submitted by Gavin Construction is the second most economical at \$4,297,408, as compared to the lowest tender from Niche Construction of \$4,261,451, a cost difference of some \$35,957 or less than 1%. The pre-tender estimate from the City's Quantity Surveyor, Currie and Brown, valued the works at \$4,950,000.

The tender evaluation panel concluded that, based on the experience of Gavin Construction on completing projects of a similar nature to those proposed in this tender and its comprehensive response to the City's tender requirements, Gavin Construction be recommended as the preferred tenderer for the construction of Amherst Community Centre.

In regards to the tender submission from Niche Construction, it scored the second highest on the evaluation matrix and offered the most economical pricing schedule. Niche Construction demonstrated less relevant experience in completing projects of a similar nature to those of this tender as compared to Gavin Construction. Generally, Niche Construction demonstrated experience in constructing commercial facilities. Notwithstanding the aforesaid, the tender evaluation panel and Holton Connor both concluded that Niche Construction whilst not being the preferred tenderer for the works has the capacity and experience to undertake the construction of the Amherst Village Community Centre.

The tender submission from Lakis Construction offered no qualifications and is therefore fully conforming. The tender pricing schedule from Lakis Construction was the most expensive tender. Lakis Construction demonstrated the capacity and the experience to undertake the proposed works at Amherst Village albeit to a lesser degree than the other two tenderers.

FINANCIAL IMPLICATIONS

The financial commitment for Tender 23/2007 is included in the 2007/2008 capital budget for the City Facilities Branch.

In addition to the contract sum of \$4,297,408, the City's quantity surveyor Currie and Brown made provision in its total project budget estimate of \$6,168,700, for a construction contingency sum of \$250,000, to be utilised for unforeseen contract variations. The tender evaluation team and Holton Connor recommend that this contingency sum be allowed for in the approved construction sum.

Additional to the constructed works under this tender will be landscaping, car parking, consultant fees, public art and loose furniture and fittings.

STAFF RECOMMENDATION (1 of 2) AND COUNCIL RESOLUTION
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559 Moved Cr J Brown Seconded Cr D Griffiths

That Council award Tender 23/2007 Construction of Amherst Village Community Centre to Gavin Construction of 571 Canning Highway, Alfred Cove WA 6154, for the sum of \$4,297,408, excluding GST, less the cost of minor variations which are to be agreed to by both parties prior to entering into a contract.

CARRIED 10/0

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

AGAINST: Nil.

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

560 Moved Cr J Brown Seconded Cr D Griffiths

That Council approve the contingency sum of \$250,000, to be utilised as required during the construction of the Amherst Village Community Centre for variations to the scope of works that may arise from time-to-time.

CARRIED 10/0

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

AGAINST: Nil.

13.4.2 RIVERS REGIONAL COUNCIL - NEW ESTABLISHMENT AGREEMENT AND DEED OF AMENDMENT

Author:	D Harris
Previous Ref:	Nil
Appendix:	13.4.2A Establishment Agreement of the Rivers Regional Council
	13.4.2B Deed of Amendment of the Establishment Agreement of the South East Metropolitan Regional Council
	13.4.2C Explanatory Memorandum

PURPOSE OF REPORT

To seek Council agreement to the adoption of a new Establishment Agreement and a Deed of Amendment of the Establishment Agreement of the Rivers Regional Council (formerly the South East Metropolitan Regional Council).

BACKGROUND

As part of the proposed expansion of the Regional Council and as the Regional Council's Resource Recovery Facility Feasibility Study comes to its conclusion, it has become evident that the current Establishment Agreement requires substantial amendment. Initially, consideration was given to amending the current Agreement, however on advice from solicitor Mr John Woodhouse, the deficiencies in the current Agreement are of such significance that it is considered preferable to have a new Establishment Agreement which takes into consideration the issues which have arisen in the context of development and activities of other Regional Councils.

Additional to the preparation of a new Establishment Agreement it has been necessary to prepare a Deed of Amendment to enable the admission to the Regional Council of the City of Mandurah, the Shire of Murray and the Shire of Serpentine Jarrahdale.

The South East Metropolitan Regional Council at its meeting of 18 October 2007 resolved to adopt the following recommendations:

"The Draft New Establishment Agreement, as follows, together with the Explanatory Memorandum prepared by Mr John Woodhouse of Woodhouse Legal, be forwarded to the Cities of Armadale, Gosnells and South Perth with a recommendation that the member councils ADOPT the new Agreement.

That the Draft Deed of Amendment as follows, dealing with the admission of City of Mandurah, Shire of Murray and Shire of Serpentine-Jarrahdale to the Regional Council, be forwarded to member councils for adoption."

At the same meeting the Regional Council gave consideration to a change in name of the Regional Council and resolved to adopt the following recommendation:

"That

- 1. The South East Metropolitan Regional Council be re-named the Rivers Regional Council;*
- 2. The Draft Establishment Agreement reflect this change; and*

3. *The Chief Executive Officer formally advise the Member Councils, the City of Mandurah and the Shires of Murray and Serpentine-Jarrahdale."*

DISCUSSION

During the course of the Regional Resource Recovery Facility Feasibility Study the project participating councils, being the City of Mandurah, and the Shires of Murray and Serpentine-Jarrahdale, were invited to join the Regional Council. Given that the main function of the Regional Council over the last 12-18 months has been the Resource Recovery Facility Feasibility Study, and the cost difference between being a full member or a project participating member is minimal, the project participating councils have all resolved to join the Regional Council.

A workshop was held with representatives of the member councils and the project participating councils in the Resource Recovery Facility Feasibility Study to explain the reasoning behind the need for the Draft New Establishment Agreement and the Draft Deed of Amendment. There were no significant issues raised at the workshop and general agreement was reached on the following key points:

- Representation would remain at two elected members per council
- Funding would relate directly to waste generation
- Asset/liability distribution at winding up would be based on the previous five years of waste generation to take into account growth changes in proportional waste generation
- Withdrawal would be by agreement only. (The reasoning for this is related directly to the need for some security for all participants in the event of the Regional Council entering into a long-term agreement with a supplier of a resource recovery facility.)

It is important to note that entering into a new Establishment Agreement does not bind the member councils to entering into a resource recovery agreement. It will not be possible however for the Regional Council to realistically call for tenders for the provision of such services without a revised Establishment Agreement.

The further issue of note is that the Draft New Establishment Agreement is in the first instance adopted only by the three existing members. At the same time, an amendment to that Draft New Establishment Agreement would need to be presented concurrently to each member council to enable the three new councils to join the Regional Council.

While it may seem unduly complicated to adopt a New Establishment Agreement and immediately adopt an amendment to that Establishment Agreement, the only other way to enable the three additional Councils to join would be to wind up the existing Regional Council and establish a new Regional Council. This process would be fraught with potential problems, including distribution of assets and liabilities, paying out of existing staff and re-registering the new entity.

Under the New Establishment Agreement the Rivers Regional Council is established for the following regional purposes:

- (a) To undertake the processing, recycling, treatment, sale and disposal of Waste delivered by the Participants.
- (b) To investigate and assess the possibilities and methodology of carrying out and to identify funding opportunities for, any service or facility on a regional basis.
- (c) To influence and liaise with local, State and Federal Governments in the development of policies and legislation for the benefit of the region.
- (d) To provide advice, information and education to Participants and the communities of the Participants in relation to the functions of the Participants.
- (e) To carry out and do all other acts and things which are reasonably necessary for the bringing into effect of the purposes referred to in paragraphs (a) to (d) inclusive of this clause

In consideration of withdrawal under the existing Establishment Agreement, *“A Participant may, at any time between 1 July and 31 December in any year, give to the SEMRC notice of its intention to withdraw from the SEMRC”*. Under the proposed New Establishment Agreement, *“A Participant may only withdraw from the RRC by agreement in writing between the Participants”*.

Copies of the Establishment Agreement of the Rivers Regional Council, the Deed of Amendment of the Establishment Agreement of the South East Metropolitan Regional Council and the Explanatory Memorandum are attached as 13.4.2A, 13.4.2B and 13.4.2C respectively.

The Establishment Agreement may need to be amended from time-to-time to accommodate any agreed activities that do not accord with the current definition of regional purposes.

FINANCIAL IMPLICATIONS

The involvement of the additional councils in the Regional Council will reduce the City of Gosnells financial exposure to future activities of the Regional Council.

STAFF RECOMMENDATION (1 of 2)

Moved Cr R Hoffman Seconded Cr R Mitchell

That Council resolve to adopt the Draft New Establishment Agreement of the Rivers Regional Council (formerly South East Metropolitan Regional Council) as outlined in Appendix 13.4.2A.

STAFF RECOMMENDATION (2 of 2)

Moved Cr R Hoffman Seconded Cr R Mitchell

That Council resolve to adopt the Draft Deed of Amendment to the Establishment Agreement of the Rivers Regional Council (formerly South East Metropolitan Regional Council) as outlined in Appendix 13.4.2B.

Foreshadowed Motion

During debate Cr J Brown foreshadowed that she would move the following motion:

“That Council advise the South East Metropolitan Regional Council that it supports in principle the New Establishment Agreement for the Council, attached as Appendix 13.4.2A, subject to”:

- 1) *further amendment to address the following (but not limited to) issues:*
 - a) *the election of Chairman and Deputy Chairman following the “operative date”*
 - b) *the election of a presiding member when the Chairman and Deputy Chairman are not available*
- 2) *a further report being presented to Council following the incorporation of those amendments to the Agreement.”*

if the motions under debate were defeated, providing the following written reason:

“Following discussion with the Solicitor it was deemed appropriate for all amendments to be referred to other members of the Agreement prior to adoption of Council.”

At the conclusion of debate the Mayor put the staff recommendations, which read:

STAFF RECOMMENDATION (1 of 2) AND COUNCIL DECISION **(LOST)**

561 Moved Cr R Hoffman Seconded Cr R Mitchell

That Council resolve to adopt the Draft New Establishment Agreement of the Rivers Regional Council (formerly South East Metropolitan Regional Council) as outlined in Appendix 13.4.2A.

CARRIED 0/10

FOR: Nil

AGAINST: Cr D Griffiths, Cr B Wiffen, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr J Henderson, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

STAFF RECOMMENDATION (2 of 2) AND COUNCIL DECISION **(LOST)**

562 Moved Cr R Hoffman Seconded Cr R Mitchell

That Council resolve to adopt the Draft Deed of Amendment to the Establishment Agreement of the Rivers Regional Council (formerly South East Metropolitan Regional Council) as outlined in Appendix 13.4.2B.

CARRIED 0/10

FOR: Nil

AGAINST: Cr D Griffiths, Cr B Wiffen, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr W Barrett, Cr J Henderson, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

As the staff recommendations were lost the Mayor invited Cr J Brown to put her foreshadowed motion, which Cr D Griffiths seconded.

COUNCIL RESOLUTION

563 Moved Cr J Brown Seconded Cr D Griffiths

That Council advise the South East Metropolitan Regional Council that it supports in principle the New Establishment Agreement for the Council, attached as Appendix 13.4.2A, subject to”:

- 1) further amendment to address the following (but not limited to) issues:
 - a) the election of Chairman and Deputy Chairman following the “operative date”
 - b) the election of a presiding member when the Chairman and Deputy Chairman are not available
- 2) a further report being presented to Council following the incorporation of those amendments to the Agreement.

CARRIED 10/0

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

AGAINST: Nil.

13.5 PLANNING AND SUSTAINABILITY

13.5.1 PLANNING FOR THE MADDINGTON KENWICK STRATEGIC EMPLOYMENT AREA – CONSIDERATION OF LANDOWNER SUBMISSIONS ON CONCEPT PLAN (*ITEM BROUGHT FORWARD – REFER TO ITEM 11*)

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 1998 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the first report in these Minutes.

**13.5.2 AMHERST VILLAGE COMMUNITY CENTRE - LOT 8 HOLMES STREET,
SOUTHERN RIVER (ITEM BROUGHT FORWARD – REFER TO ITEM 11)**

The above item was brought forward in accordance with paragraph (9) of Sub-Clause 2.15.4 of the City of Gosnells Standing Orders Local Law 1998 and is relocated under Item 11 “Items Brought Forward for the Convenience of those in the Public Gallery” as the second report in these Minutes.

13.6 GOVERNANCE

13.6.1 MEETING DATES FOR 2008

Author: T Perkins
Previous Ref: Nil
Appendix: Nil

PURPOSE OF REPORT

For Council to adopt a schedule of meeting dates for Standing Committees and Council Meetings, for the year 2008.

BACKGROUND

Ordinary Council Meetings are held on the second and fourth Tuesday of each month, with the exception of January which is a recess period for Council.

As it is a requirement of the Local Government Act 1995 to advertise meeting dates at least annually, it is appropriate at this stage to establish a schedule to enable the advertisement to be placed in a local newspaper in January 2008.

Another meeting to be taken into consideration is the Strategic Planning Committee, which is conducted on the third Tuesday of February, May, August and November.

DISCUSSION

A review of the calendar has revealed there are no standard public holidays in 2008 that clash with meeting dates.

For 2007 Council, due to the proximity of the fourth Tuesday to Christmas Day, resolved to conduct one meeting on the third Tuesday of December, thus enabling staff a three week opportunity in that month to prepare reports for consideration by Council.

It will therefore be recommended that only one Ordinary Council Meeting be convened in December 2008 with that meeting to be held on the third Tuesday (16 December) of the month.

In relation to the Strategic Planning Committee schedule of dates for 2008, they do not conflict with any public holidays and as such it is proposed that they be held on the 19 February, 20 May, 19 August and 18 November 2008.

FINANCIAL IMPLICATIONS

The cost for advertising the 2008 Meeting dates can be met from the Governance operational budget.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION

564 Moved Cr R Hoffman Seconded Cr J Brown

That Council adopt and give Local Public Notice of the following schedule of meetings for 2008 -

1. Ordinary Council Meetings will be conducted on the following dates, commencing at 7.30pm:
 - 1.1 The second and fourth Tuesdays of the months of February, March, April, May, June, July, August, September, October and November; and
 - 1.2 The third Tuesday of December.
2. Strategic Planning Committee meetings will be conducted on the third Tuesday of the months of February, May, August and November 2008, commencing at 4.30pm.

CARRIED 10/0

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

AGAINST: *Nil.*

14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr D Griffiths, Cr C Fernandez, Cr L Griffiths and Cr B Wiffen due to their names being proposed for inclusion on a name plaque in the Avenue of Trees disclosed at Item 2 of the Agenda "Declarations of Interest", an Impartiality Interest in the following item in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996.

14.1 ADDITIONAL NAME PLAQUES – AVENUE OF TREES

The following motion was proposed by Cr R Mitchell in accordance with Clause 2.27 of the City of Gosnells Standing Orders for inclusion in "Motions for Which Previous Notice Has Been Given" of the 27 November 2007 Ordinary Council Meeting.

PROPOSED MOTION

That Council approve the inclusion of name plaques for the following persons in the Avenue of Trees situated in the Administration grounds to recognise the individuals involvement as Councillors in the City's Centennial year:

Cr Liz Griffiths
Cr Chris Fernandez
Cr Bill Wiffen
Cr Dave Griffiths
Cr Rod Croft

COUNCILLOR COMMENT

Cr Mitchell provided the following written comment in relation to the proposed motion:

"Council Policy 2.1.9 – Plaques on City of Gosnells Facilities – makes provision for names of all elected members in office at the time of commemoration of a facility to be placed on plaques on new facilities. However on this occasion in order to recognise the contribution by all Councillors in our Centennial year it is considered appropriate to list all those that held the office of Councillor."

STAFF COMMENT

The Director Governance provides the following comment in relation to the proposed motion:

"Council Policy 2.1.9 relates specifically to plaques commemorating the establishment of Council owned facilities.

It requires the plaque to be inscribed with the name of the facility, date upon which it was commemorated, person or persons opening the facility and names of all elected members in office at the time of the commemoration.

The Avenue of Trees was established as part of the centennial celebrations and was commemorated on 2 October 2007.

The initial intent, as it formed part of the centennial celebrations, was to place a plaque at the base of each tree depicting the name of a Councillor in office 100 years after the election of the first Council on 1 June 1907.”

COUNCIL RESOLUTION

565 Moved Cr R Mitchell Seconded Cr D Griffiths

That Council approve the inclusion of name plaques for the following persons in the Avenue of Trees situated in the Administration grounds to recognise the individuals involvement as Councillors in the City's Centennial year:

Cr Liz Griffiths
Cr Chris Fernandez
Cr Bill Wiffen
Cr Dave Griffiths
Cr Rod Croft

CARRIED 9/1

FOR: Cr D Griffiths, Cr B Wiffen, Cr J Brown, Cr R Hoffman, Cr C Fernandez, Cr J Henderson, Cr R Mitchell, Cr L Griffiths, and Cr O Searle.

AGAINST: Cr W Barrett,

15. NOTICES OF MOTION FOR CONSIDERATION AT THE FOLLOWING MEETING

Nil

16. URGENT BUSINESS
(by permission of Council)

Nil

17. CONFIDENTIAL MATTERS

Nil

18. CLOSURE

The Mayor declared the meeting closed at 8:26pm.