

**13.2.3 AMENDMENT NO. 177 TO TOWN PLANNING SCHEME NO. 6 -  
FINALISATION - DEVELOPMENT CONTRIBUTION PLANS**

Director:	C Terelinck
Author's Declaration	Nil
Property Number:	Nil
Application No:	PF18/00028
Applicant:	City of Gosnells
Owner:	Various
Location:	Various
Zoning:	MRS: Various
	TPS No. 6: Residential Development
Review Rights:	Nil, however, final determination is with the Minister for Planning.
Previous Ref:	OCM 27 November 2018 (Resolution 416)
Appendices:	13.2.3A Schedule of Submissions 13.2.3B Schedule 8 with proposed amendments

**PURPOSE OF REPORT**

For Council to consider the finalisation of Scheme Amendment No. 177 to Town Planning Scheme No. 6 (TPS 6), to extend the period of operation of four Development Contribution Arrangements (DCAs) for a further five years, following the completion of public consultation.

**BACKGROUND**

TPS 6 includes provisions that allow for the use of DCAs in cases where there is a need to share the costs of common infrastructure that are required by a number of landholdings to facilitate future development. Schedule 8 of the Scheme summarises the key operative components of each DCA within the City.

Prior to 2013, TPS 6 contained provisions relating to the term of operation of DCAs as follows:

- "(a) A development contribution arrangement is to specify the period during which it is to operate, but in any event, is not to operate for more than 5 years.*
- (b) The period during which a development contribution arrangement is to operate may be extended and the development contribution arrangement may be amended accordingly.*

At that time, Council had the ability to extend the term of a DCA by a Council resolution.

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With the introduction of the new state level planning regulations in 2015 and their incremental modification over time, extending the period of operation of a DCA required the adoption of a Scheme Amendment.

In 2013, Scheme Amendment No. 122 was prepared to update the provisions relating to DCAs and to restructure the scheme text, in accordance with the requirements and direction of the Western Australian Planning Commission (WAPC).

The amendment introduced provisions into Schedule 8 of TPS 6 for the following DCAs:

- DCA 1 - Canning Vale Structure Plan DCA.
- DCA 2 - Southern River Precinct 2 Structure Plan DCA.
- DCA 3 - West Canning Vale Structure Plan DCA.
- DCA 4 - Central Maddington Structure Plan.

The changes had the effect of altering the period of operation of DCA 1, DCA 2 and DCA 3 to five years from the date of gazettal of Scheme Amendment No. 122 to TPS 6, on 1 November 2013. Therefore, the period of operation of the Canning Vale, Southern River Precinct 2 and West Canning Vale DCAs requires an extension.

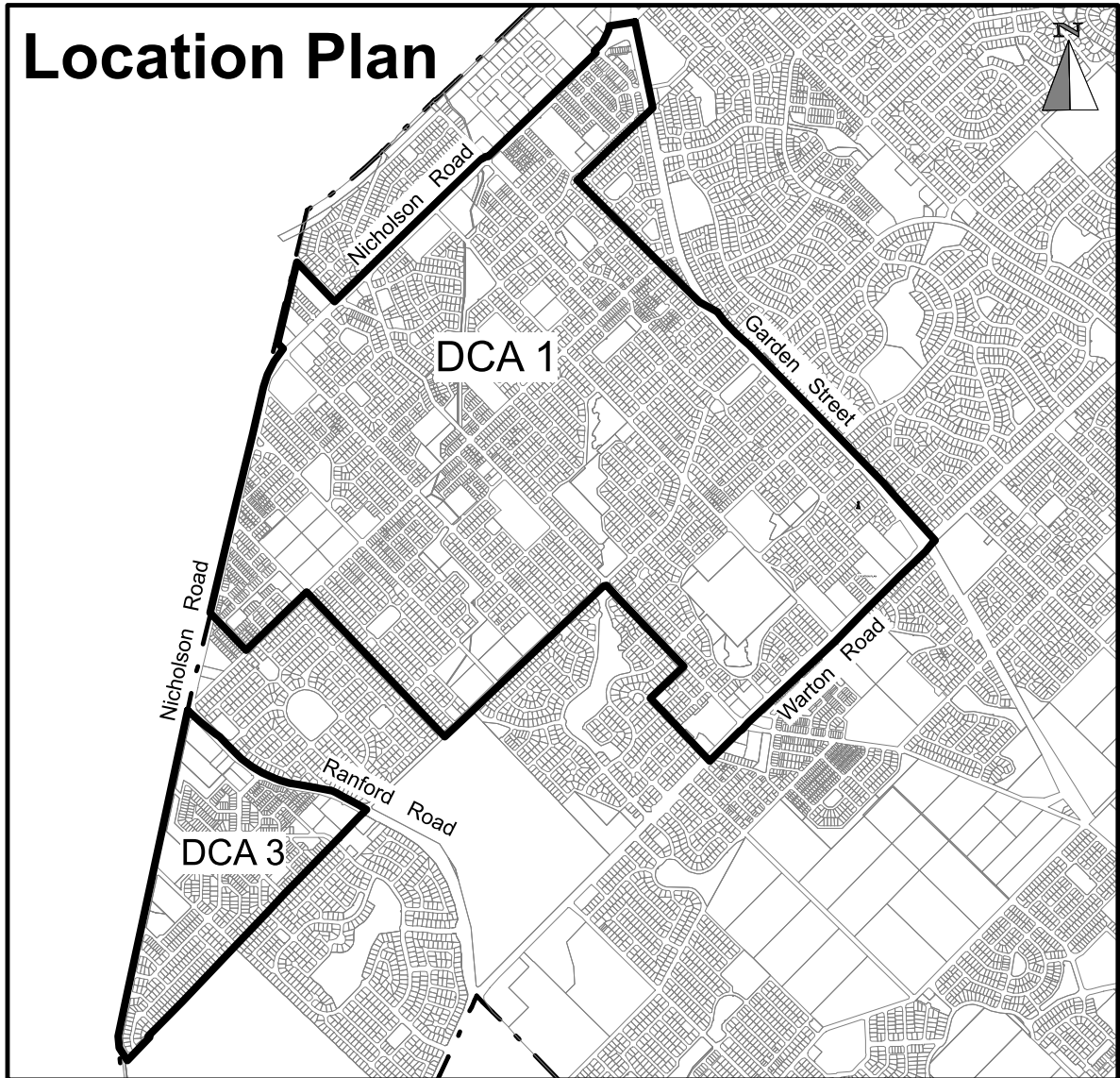
Council adopted a DCA Report for the Central Maddington Structure Plan area (DCA 4) in September 2014. This DCA is currently operational and will expire in September 2019.

As a result of these circumstances, Council initiated Amendment No. 177 to TPS 6 to extend the operation of DCAs 1-4 , in November 2018.

**DISCUSSION****Site Description and Planning Framework**

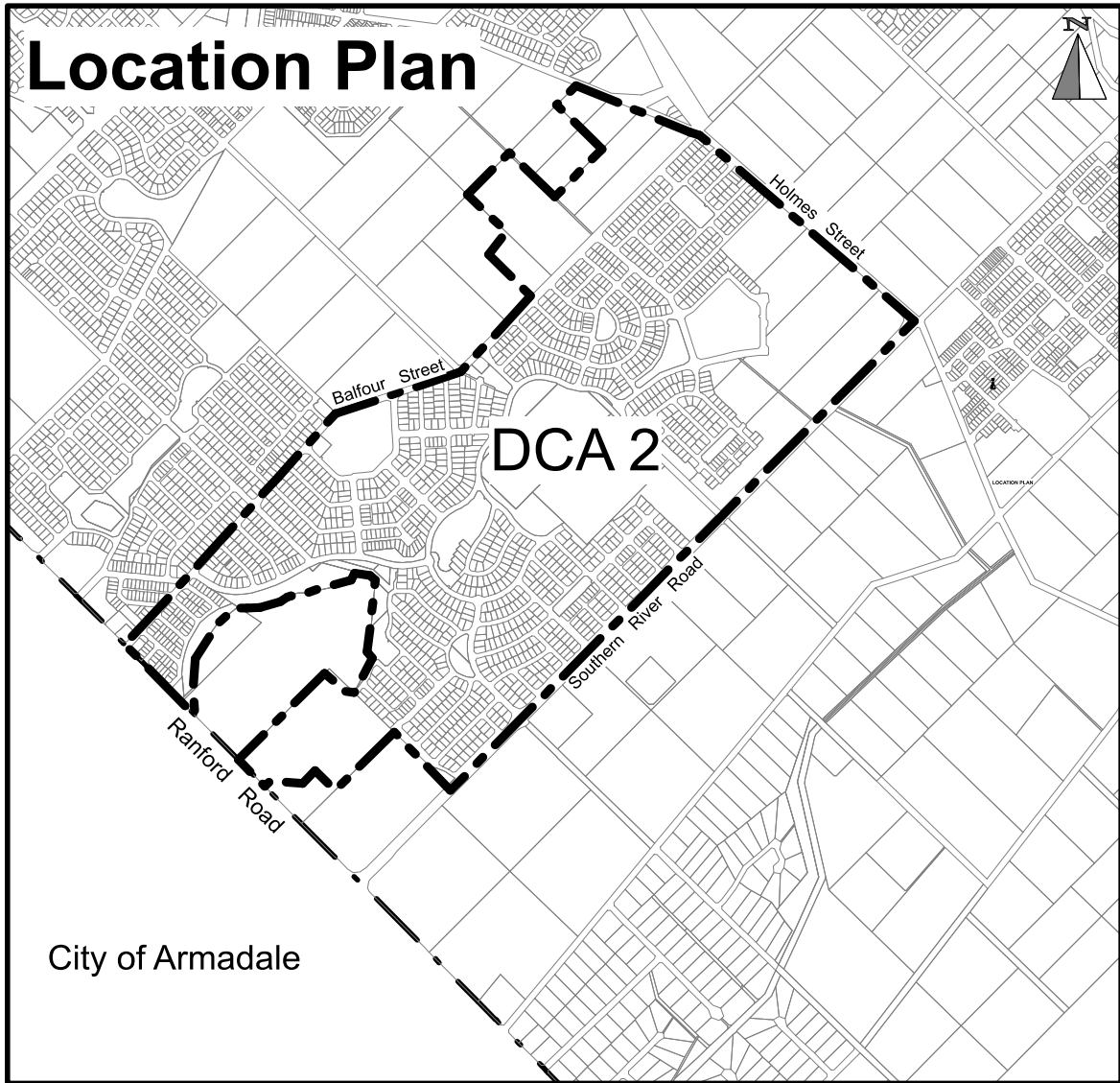
Maps identifying the location of the subject areas follow.

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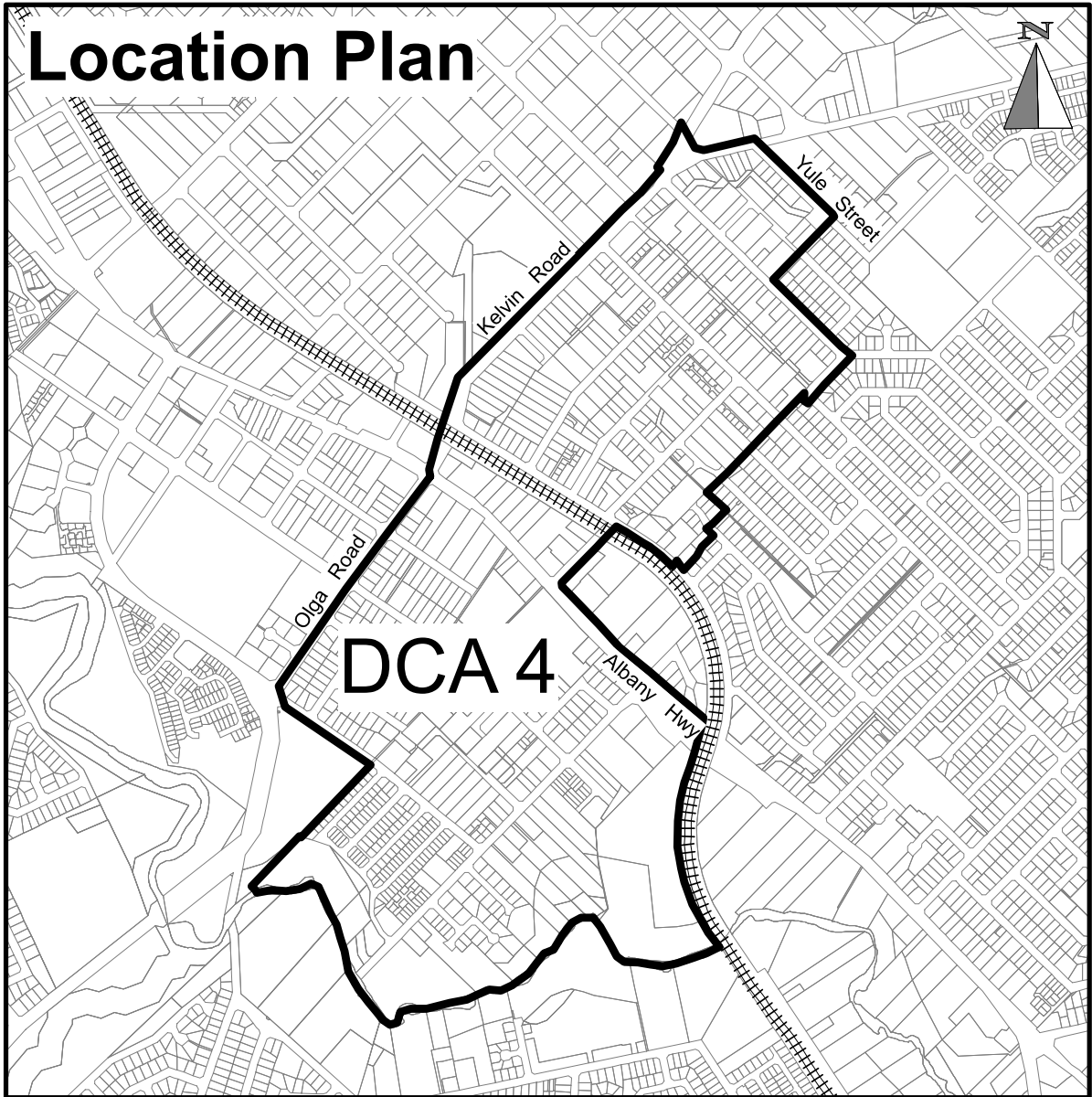


Canning Vale and West Canning Vale

Item 13.2.3 Continued



Item 13.2.3 Continued



Central Maddington

*Item 13.2.3 Continued*

### **Proposal**

It is proposed to amend the Scheme to extend the period of operation of the Canning Vale, West Canning Vale and Southern River Precinct 2 DCAs for a further five years, until 1 November 2023.

The Central Maddington Structure Plan DCA whilst currently operational, will expire in September 2019. It is proposed to extend the expiry date of this DCA to 1 November 2023, which would provide consistency with the expiry dates of the other three DCAs.

### **Consultation**

In accordance with Council's Resolution of 27 November 2018, Scheme Amendment No.177 was referred to the Environmental Protection Authority (EPA) for comment, and the EPA determined that no environmental assessment was required.

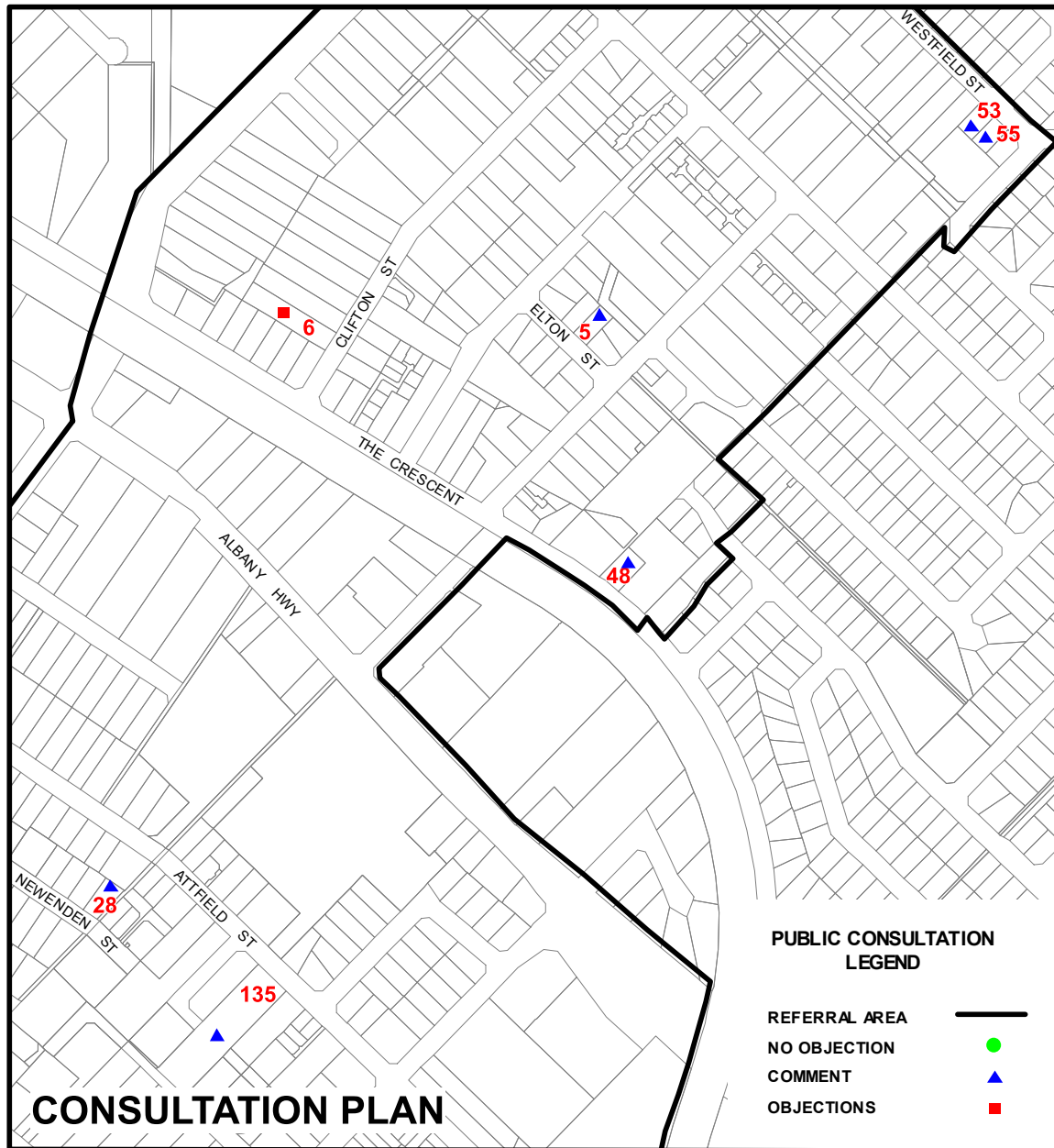
The Amendment was then advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, for a period of 42 days with an additional time allowance provided to accommodate Christmas holidays (from 21 December 2018 to 19 February 2019), by way of:

- Letters being sent to all landowners within the amendment area that have yet to subdivide or develop their land;
- An advertisement placed in The West Australian newspaper;
- A notice on the City's website; and
- Public notices at the City's Civic Centre and libraries.

The City received seven submissions during the advertising period, including one objection and six comments.

A map identifying the consultation area and the origin of the submissions follows. All of the public submission originated from owners of land within DCA 4 - Central Maddington.

Item 13.2.3 Continued



A summary of the submissions received and comments thereon are included in the Schedule of Submissions contained as Appendix 13.2.3A. The relevant issue raised in the submissions related to the implementation of the DCAs.

This matter is discussed later in the report.

*Item 13.2.3 Continued*

## **Referrals**

In addition to the above, the City referred the proposal to the following government agencies for comment:

- Alinta Gas
- ATCO Gas Australia
- Department of Transport
- Department of Education
- Department of Water and Environmental Regulation
- Department of Fire and Emergency Services
- Heritage Council of Western Australia
- Main Roads Western Australia (MRWA)
- Department of Biodiversity, Conservation and Attractions
- Telstra
- Water Corporation
- Western Power

In response, the City received eight submissions which raised no objections.

## **DISCUSSION**

### **Implementation of the DCAs**

One submission relating to DCA 4 (Central Maddington Structure Plan) objected to the proposal on the basis that they are required to give up land free of cost for a future road. They are also concerned about the requirement to contribute towards the costs of Common Infrastructure Works (CIWs) and Public Open Space (POS).

The Maddington Central Outline Development Plan proposes the construction of new roads across the area. Adjoining landowners are required to cede land as road reserves upon development of their land. It is a normal planning requirement that when land is required as a road reserve, it is ceded free of cost by the landowner without compensation.

The adopted Central Maddington DCA requires that when landowners develop their land, they are required to make a contribution towards CIWs and POS.

### **Local Planning Scheme No. 24 (LPS 24)**

Council's draft LPS 24 incorporates the same provisions relating to DCAs as exists in TPS 6, but with an expiry date of *"five years from the gazettal of LPS 24"*. LPS 24 is currently being assessed by the WAPC. The City will recommend that LPS 24 be modified to provide for an expiry date of 1 November 2023, to ensure consistency with the proposed Scheme Amendment.



*Item 13.2.3 Continued*

### **Statutory Process**

In accordance with Regulation 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the local government must, before the end of the consideration period for a complex amendment to a local planning scheme, or a later date approved by the Commission, pass a resolution:

- "(a) to support the amendment to the local planning scheme without modification; or*
- (b) to support the amendment to the local planning scheme with proposed modifications to address issues raised in the submissions; or*
- (c) not to support the amendment to the local planning scheme."*

Following the assessment of the proposal by the local government and the passing of a Council resolution, the proposal is to be forwarded to the WAPC for review and to provide a recommendation to the Minister for Planning for consideration and final determination.

### **CONCLUSION**

The Amendment will ensure that a number of existing DCAs in TPS 6 can continue to operate in Canning Vale, Southern River and Maddington. The DCAs will enable landowners to develop at a time that suits them and for the equitable sharing of development costs by landowners as they develop their land. Funds received from DCA contributions are then invested in these new residential areas to provide for public open space, roads and infrastructure.

As such, it is recommended the Amendment be supported without modification.

### **FINANCIAL IMPLICATIONS**

The costs of the proposed amendment can be met from Councils approved budget.

### **STATUTORY IMPLICATIONS**

- TPS 6.
- Draft LPS 24.
- *Planning and Development Act 2005.*
- *Planning and Development (Local Planning Schemes) Regulations 2015.*

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.2.3 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (1 OF 2)

**57 Moved Cr O Searle Seconded Cr D Goode**

That Council, pursuant to Section 41(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, notes the submissions received in respect of Scheme Amendment No. 177 to Town Planning Scheme No. 6 and endorses the responses to the submissions as contained in Appendix 13.2.3A.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr C Brett, Cr J Brown, Cr D Goode, Cr D Griffiths, Cr J Jones, Cr T Lynes, Cr R Mitchell, Cr O Searle, and Cr G Dewhurst.

**AGAINST:** Nil.

STAFF RECOMMENDATION AND COUNCIL RESOLUTION (2 OF 2)

**58 Moved Cr O Searle Seconded Cr D Goode**

That Council, pursuant to Section 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, supports Scheme Amendment No. 177 to Town Planning Scheme No. 6 (without modification) and forwards the amendment to the Western Australian Planning Commission for determination by the Minister for Planning.

CARRIED 10/0

**FOR:** Cr P Abetz, Cr C Brett, Cr J Brown, Cr D Goode, Cr D Griffiths, Cr J Jones, Cr T Lynes, Cr R Mitchell, Cr O Searle, and Cr G Dewhurst.

**AGAINST:** Nil.