

**13.5.1 MAJOR MODIFICATION TO CANNING VALE OUTLINE DEVELOPMENT PLAN**

Author: L Langford  
Author's Declaration Nil.  
of Interest:  
Reference: 209635  
Application No: PF13/00018  
Applicant: Chris O'Neill & Associates  
Owner: Sikh Association of Western Australia  
Location: 280 (Lot 123) Shreeve Road, Canning Vale  
Zoning: MRS: Urban  
TPS No. 6: Residential Development  
Review Rights: Yes. State Administrative Tribunal or Western Australian Planning Commission against any discretionary decision of Council.  
Area: 2.0582ha  
Previous Ref: 12 February 2013 (Resolution 29)  
Appendices: 13.5.1A Current Canning Vale ODP  
13.5.1B Location Plan  
13.5.1C Draft Modified Canning Vale ODP

**PURPOSE OF REPORT**

For Council to consider whether a major modification to the Canning Vale Outline Development Plan (ODP) is satisfactory for advertising pursuant to Town Planning Scheme No. 6 (TPS 6).

**BACKGROUND**

The Canning Vale ODP has guided development in the area generally bound by Garden Street, Nicholson Road, Dumbarton Road, Campbell Road, Amherst Road and Warton Road since its adoption in April 2001. A copy of the current approved ODP is contained as Appendix 13.5.1A.

The ODP incorporates a 'Place of Worship Precinct' covering numerous lots along Warton Road, all of which contained established places of worship prior to the ODP being adopted. The Sikh Temple located at 280 (Lot 123) Shreeve Road, Canning Vale (the subject site), has not been designated as a Place of Worship Precinct site on the ODP, despite the facility being approved on 27 August 1998 and constructed in 2000, prior to the ODP's adoption. A plan showing the Canning Vale ODP area and the subject site is contained as Appendix 13.5.1B.

The Canning Vale ODP has an associated Development Contribution Arrangement (DCA) under Schedule 12 of TPS 6, which requires developing landowners to contribute to the cost of providing common infrastructure and public open space. The DCA has been formulated on the basis that lots contained within the Place of Worship Precinct will not be required to contribute to the DCA. It has however been standard practice for lots within this Precinct to contribute to the DCA when residential development is undertaken, due to the demand it places on infrastructure, services and public open space. The subject site has not been given the same exemption under the DCA and is therefore liable for contributions when any development or subdivision is undertaken.

*Item 13.5.1 Continued*

In April 2011, the landowners of the subject site lodged an application which sought retrospective approval for development on the site. On 23 August 2011, Council resolved (Resolution 390) to approve the application subject to a number of conditions, including the payment of the requisite development cost contributions applicable under the Canning Vale ODP DCA. Following discussions with the landowners on this matter, a revised application was submitted to Council for consideration, and on 12 February 2013 Council resolved (Resolution 29) to adopt the following approach to the collection of contributions for Lot 123:

1. No contributions were required to be paid at that point in time.
2. When the undeveloped portion of the site is development for residential purposes, contributions will be payable for the whole site, regardless of the extent of that residential development.

Despite the abovementioned Council resolution, the landowners are seeking to modify the Canning Vale ODP and associated Developer Contribution Plan (DCP) to have the subject site designated as a Place of Worship Precinct and made exempt from the requirement to contribute in accordance with the DCA.

A copy of the draft modified ODP is contained as Appendix 13.5.1C.

**DISCUSSION****Implications on Development Contribution Arrangement**

The proposal to modify the ODP (and in effect, concurrently modifying the DCP to exempt the landowners of the subject site from making contributions) has a number of implications for the whole ODP area. In considering the modification request, the following is relevant:

- Since its inception, the DCA has required contributions from the subject site, and as such, if Council agreed to discharge the contribution obligation against the property, the resultant shortfall in funds would need to be made up from other sources
- As a matter of principle, the original DCA did not contemplate the collection of contributions from public worship properties
- The subject site has benefited from a number of aspects of the DCA, including the upgrading of Nicholson Road and the provision of shared paths
- If the Council was to agree to exempt the Sikh property from making contributions, then the DCA would need to be reconfigured with increased levies being applied to other land owners in the DCA area.

For the reasons mentioned above, it is considered that the proposal is not satisfactory for advertising. Notwithstanding this, as previously mentioned, Council's resolution of 12 February 2013 has effectively deferred the requirement to pay contributions until such time that residential development is undertaken on the site. As such, if the landowners do not undertake residential development, they will not be liable to make a contribution under the DCA.

*Item 13.5.1 Continued*

### **Options for Council**

TPS 6 provides three options for Council in considering the draft modified ODP. Council may either:

- Determine that the proposed modified ODP is satisfactory for advertising
- Determine that the proposed modified ODP is not to be advertised until further details or modifications have been undertaken
- Determine that the proposed modified ODP is not satisfactory for advertising and give reasons for this to the proponent.

### **CONCLUSION**

It will be recommended that Council determine that the proposed ODP is not satisfactory for advertising due to the implications that the proposal would have on the final balance of the Canning Vale ODP DCA and its ability to deliver the necessary infrastructure to the ODP area.

### **FINANCIAL IMPLICATIONS**

All costs associated with the ODP modification will be borne by the applicant. Should Council resolve to progress the modified ODP to advertising and adoption, the Canning Vale ODP DCA will have a shortfall in funds which the City or other landowners within the ODP will have to cover.

### **STATUTORY IMPLICATIONS**

- Town Planning Scheme No. 6
- Local Planning Policy 3.1 - Outline Development Plans
- Canning Vale Outline Development Plan
- Canning Vale Outline Development Plan Development Contribution Arrangement
- The recommended decision is not a 'Major Policy Decision' within the context of Council Policy 5.4.39 'Elections - Caretaker Period'.

### **VOTING REQUIREMENTS**

Simple Majority required.

Item 13.5.1 Continued

STAFF RECOMMENDATION AND COUNCIL RESOLUTION
---

**398 Moved Cr R Hoffman Seconded Cr R Mitchell**

That Council, pursuant to Clause 7.4.2 (c) of Town Planning Scheme No. 6 determine that the proposed modified Canning Vale Outline Development Plan, as contained in Appendix 13.5.1C, is not satisfactory for the purposes of advertising due to the implications that it would have on the final balance of the Canning Vale Outline Development Plan Developer Contribution Arrangement and its ability to deliver the necessary infrastructure to the ODP area.

CARRIED 11/0

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

**AGAINST:** Nil.