

OCM175/06/12	MUNDIJONG - WHITBY DEVELOPMENT CONTRIBUTION ARRANGEMENT – PROJECT PLAN (A1913)
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Disclosure of Officers Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act if no interest OR state your interest

Proponent: Cr J Kirkpatrick

EXECUTIVE SUMMARY

Council is requested to endorse the motion put forward by Cr Kirkpatrick. The motion is:

That Council:

- 1. Facilitate Mundijong/Whitby Development Contribution Arrangement (DCA) finalisation as a priority through landowner funding of the necessary technical and staff resources to ensure equitable and robust arrangements are established ahead of any development;*
- 2. Formally approach the five main landowners/developers in Mundijong/Whitby to determine the willingness and ability to fund required works to finalise the DCA for the development area, under the premise that management and governance will be set by the Shire; and*
- 3. Should an in principle agreement be reached, this will be formalised into a Memorandum of Understanding (MOU) or other suitable legal instrument which sets out management and funding arrangements at the developers cost.*

To prepare a path forward for the establishment of a DCA for the provision of traditional and community infrastructure in the Mundijong - Whitby urban cell, Council and the Western Australian Planning Commission (WAPC) have adopted the Mundijong - Whitby District Structure Plan (DSP). This will facilitate the further detailed planning of land and ultimately provide for an estimated population of around 40,000 over the next 30 years. Local Structure Plans (LSP's) have been prepared for land in the DSP, with urban development projected to commence within two years.

In order to meet the infrastructure and community needs of this new urban area, financial and statutory planning decisions need to be made in the short term to ensure the orderly roll out of these facilities in the early stages of development. Past experience from the rapid development of Byford, resulted in inadequate facilities and infrastructure to meet the needs of the community including substandard roads and drainage, as well as the lack of active open space (ovals), change rooms and community facilities.

The Shire has worked closely with the major landowners in the Mundijong - Whitby urban cell to progress and finalise the DSP and also to discuss options for the establishment of a DCA. The major landowners' group has offered to assist the Shire in the provision of funding towards the development of the DCA, subject to acceptance of a legal agreement by all parties. It is recommended that Council enter into an agreement with the major landowners in the DSP area to facilitate the commencement of a DCA for the area.

RELEVANT PREVIOUS DECISIONS OF COUNCIL

22 August 2011 – Adoption of the Mundijong – Whitby DSP.

COMMUNITY / STAKEHOLDER CONSULTATION

The Shire has been working closely with the major landowners in Mundijong - Whitby to consider funding options to facilitate the establishment of a DCA. An amendment will be required to Council's Town Planning Scheme No. 2 (TPS 2), which will then require extensive consultation with landowners, residents, community groups and State government agencies.

Council has also recently established the Mundijong Industry Reference Group (MIRG) to facilitate detailed discussion between the Shire, Department of Planning (DoP) and major landowners in the DSP area. The first meeting was held on 8 June where the major landowners reiterated their strong desire for Council to consider the pre-funding agreement that they have submitted to the Shire.

REPORT

DCA's in the Shire

In recent years, Council has invested significant time and resources on progressing DCA's in the Byford area, including:

1. Traditional Infrastructure DCA. Adoption and advertising of an amendment to TPS 2 and adoption of a Development Contribution Plan (DCP).
2. Community Infrastructure DCA. Adoption of an amendment to TPS 2 for community infrastructure. The adoption of the supporting DCP report and commence the statutory planning process, including community consultation phase is currently before Council; and
3. Progressing Amendment 167 to incorporate model provisions into TPS 2. The Scheme Amendment will adopt the model provisions outlined in State Planning Policy 3.6 – Development Contributions for Infrastructure (SPP 3.6). The WAPC has recently granted consent to advertise the amendment.

Need for a DCA

The WAPC has adopted State Planning Policy 3.6 (SPP 3.6) relating to Developer Contributions for Infrastructure. There is increasing community expectations for the early delivery of infrastructure and facilities, especially in new urban areas. Infrastructure is essential to the health, wellbeing and long term sustainability of community facilities and services.

While there is an expectation for Local government to respond to this growth, there are significant resource implications for Council. Development contributions are being used by Local government to assist in the delivery of infrastructure such as roads, open space, drainage, community facilities and sporting facilities.

The Shire has adopted a Community Facilities and Service Plan which identified the range of community infrastructure that is required in each locality, as well as to serve the needs of the whole Shire.

A DCA for the Mundijong - Whitby urban cell is considered essential to assist in funding and an orderly roll out of facilities and infrastructure. All efforts will be made to negotiate and work with major landowners to fund major works as part of the development of their land.

Mundijong Whitby DCA

Work undertaken to date during the planning phase of the Mundijong – Whitby DCA, included a review of project risks, options to fund the project, consideration of human

resource implications and establishing a project plan. Reports that have been prepared by Council and the major landowners group include:

- Mundijong Whitby DCA Project Scoping Paper;
- Project initiation documents for community and traditional infrastructure; and
- Draft Deed of Agreement – Mundijong Whitby DSP/ DCA Seed Funding Agreement.

Draft Deed of Agreement

The major landowners of Mundijong - Whitby have sought to provide funds to assist in the preparation of the DCA, through the provision of seed funding to the value of \$230,000. The preparation of the draft Deed of Agreement was initiated during the preparation of the Mundijong - Whitby DSP in 2010 and with a final draft of the document reviewed by the major landowners group in June 2011. The major landowners are seeking to provide funding to enable the timely delivery of the DCAs and ultimately seek to recover these costs when the respective DCAs become operational.

The draft Deed of Agreement highlights that the DSP outlines an implementation strategy, where the principal component of which is the introduction of equitable cost sharing arrangements for the funding and provision of Common Infrastructure by the preparation of a DCP. If the Deed is signed by all parties, Council will be legally bound to deliver on the project milestones. Timeframes that were identified as follows:

- a) The Shire Council will engage a consultant or consultants to prepare the draft Development Contribution Plan on the Shire's behalf by no later than sixty (60) days from the date of this Deed;*
- b) Preparation of a preliminary list of items of Common Infrastructure including the indicative cost of such items, within six (6) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a);*
- c) Preparation of draft Development Contribution Plan, within twelve (12) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a);*
- d) Arranging for the draft Development Contribution Plan to be endorsed by the Shire Council within fifteen (15) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a);*
- e) Arranging for the draft Development Contribution Plan to be advertised within eighteen (18) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a);*
- f) Arranging for the draft Development Contribution Plan to be referred to the Planning Commission within twenty four (24) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a); and*
- g) Ensuring that the draft Development Contribution Plan is approved by the Planning Commission within twenty seven (27) months of the date the Shire engaged the consultant or consultants referred to in clause 5.2(a).*

The draft Deed details that the Shire will not be provided with funding should it fail to meet the prescribed timeframes.

Resourcing Implications

There are cost and resource implications associated with establishing and then managing any DCA on an on-going basis. Due to the multi-disciplinary nature of DCAs, various professional staff in the organisation are required to collaborate together to produce and administrate DCAs. External consultants are also engaged as required to assist staff in the project including engineers, land valuers and town planners. Current resources have

focused on the two Byford DCA's, but some preliminary work has occurred on the draft DCA for Mundijong – Whitby.

The offer by the major landowners group to assist in pre-funding the costs of the DCA and DCP would assist Council to be able to commence the work earlier than is currently planned. The current timeline was that a DCA for this area would not commence until early 2013 and would be subject to Council providing funds in the 2012/13 budget.

Risk Assessment

At present, a Scoping Paper has been prepared to detail the requirements associated with the preparation of a DCA for Mundijong Whitby. A risk assessment is required for this project based on the following headings and to assist in consideration of various options:

- Legal Risks
 - Legality
 - Equity
- Political Risks
 - External credibility (against Community, Government and Development Industry)
 - Timeframes
- Financial Risks
 - Resources for developing the option
 - Resources for implementing the option

Project Plan

A detailed project plan will be prepared, based upon the agreed timelines in the Deed of Agreement. The major tasks include preparation of the DCA and DCP, initiating an amendment to TPS 2, stakeholder consultation, finalisation of the amendment by the WAPC, final approvals and gazettal. The timeline for the project is estimated to take around 27 months, upon the engagement of the consultants by the Shire, however, the aim will be to reduce this timeline wherever possible.

Options and Implications

The options available to Council are:

- Option 1: Accept the principles and timelines of the Deed of Agreement for finalisation and signing; or
- Option 2: Not accept the principles and timelines of the Deed of Agreement for finalisation and the Shire consider funding in the 2012/13 budget to commence the preparation of the DCA in 2013.

Option 1 is recommended.

Conclusion

It is recommended that Council agree to the prefunding offer from the major landowners group in the Mundijong Whitby DSP area, to facilitate the commencement of a DCA. The draft legal agreement will need to be finalised and signed by all parties.

ATTACHMENTS

- [OCM175.1/04/12](#) - Motion on notice by Cr Kirkpatrick
- **Confidential** – [OCM175.2/06/12](#) - Draft Deed of Agreement

ALIGNMENT WITH OUR PLAN FOR THE FUTURE

The project aligns with the objectives of asset management, long term financial planning, partnerships and strategic direction.

STATUTORY ENVIRONMENT

- SPP 3.6 – Developer Contributions for Infrastructure
- TPS 2

FINANCIAL IMPLICATIONS

Funds are proposed in the draft 2012/13 budget for DCA's in the Shire. Acceptance of the terms of the Deed of Agreement will reduce Council's up front contribution to undertake this work in 2012/13.

VOTING REQUIREMENTS Simple Majority

OCM175/06/12 COUNCIL DECISION/Officer Recommendation

**Moved Cr Kirkpatrick, seconded Cr Urban
That Council:**

- 1. Endorse the principles and timeline of the draft Deed of Agreement: Mundijong-Whitby District Structure Plan Development Contribution Plan Seed Funding Agreement as prepared by the major landowners group as per confidential attachment OCM175.2/06/12.**
 - 2. Authorise the Chief Executive Officer to finalise the Deed of Agreement with the major landowners in the Mundijong - Whitby District Structure Plan area, subject to the following modifications:**
 - (a) All costs including officer time that are incurred by the Shire in the preparation of the Development Contribution Arrangement shall be reimbursed by the major landowners group; and**
 - (b) The issue of an invoice by the Shire on a monthly basis for officer time incurred on this project for payment by the landowners.**
 - 3. The final Deed of agreement being presented back to Council for final approval.**
- CARRIED 8/0**