



**City of Kalamunda Submission – Draft Metronet East Redevelopment Scheme**

No.	Reference (e.g. Page, Ref, Appx)	Reviewer's Comments, Questions, Proposals
1.	iii Development Policies	'Development Pollicies' should be 'Development Policies'
2.	vi	'including the time take to gain comment' should be 'including the time taken to gain comments'
3.	Pg 8	Need to clarify under what 'special circumstances' is a building permit not required.
4.	Pg 21	<p>"Mitigation of Urban Heat Island Effect Conservation of existing mature trees on public and private land and new plantings within deep soil areas allows for growth and opportunities for soft landscaping via road verges, green roofs and walls"</p> <p>Agree with the principle but the way it is phrased indicates new plantings will not occur within private land. Could rephrase something to "Conservation of existing mature trees on public and private land as well as utilising new opportunities for landscaping within deep soil areas, road verges, green roofs and walls"</p>
5.	Section 3.4	To align better with the other project areas recommend the precincts are kept to short succinct names, such as Station Precinct and Creek or Poison Gully Precinct.
6.	Section 3.4	<p>Recommend adding a third Precinct to the south (southern portion of the station precinct) that generally aligns with the existing Light Industry zoned properties. See example below:</p>  <p>It is recommended that this precinct includes light industry, commercial and culture and creative industries as preferred or contemplated depending on the appropriateness and alignment with the vision. Residential may be contemplated where it can be demonstrated that it won't detrimentally affected by the industrial uses. It is recommended that retail, community and dining &amp; entertainment are not contemplated for this precinct as they would not be appropriate amongst the other proposed land uses and should be focused around the station.</p> <p>Should the third precinct be included, the remaining station precinct should remove light industry as contemplated.</p>
7.	Pg 32 – 3.4 first paragraph	High Wycombe Station by virtue of its location is technically not a 'centre'. Consider a different phrase.
8.	Pg 32 – 3.4 – first paragraph	3.4 High Wycombe



		Spelling correction - Poison 'Gulley' to Gully
9.	Page 32 – 3.4.1 – first paragraph	Community facilities have the potential to not only service and provide activation from local demand generated by the Station but also a broader catchment from the new local community in proximity to the station, surrounding suburbs of the foothills and potentially further to the hills.
10.	Page 34 – Project Area Map	Ensure Bush Forever overlay is correct, particularly for 231 Maida Vale Road which has an unusual alignment.
11.	Clause 5.14	Confirmation required as to whether there is opportunity for the local authority to seek its own technical advice i.e. Design Review Committee
12.	Clause 5.16	Should include landscape design.
13.	Page 53 – 5.23 – Reasons for Refusal	Refusal reasons should be expanded to include all 'matters to be considered' – under Clause 67 of Planning Regulations.
14.	Page 74 – Table 6.2	For the Poison Gully Precinct, community uses should be contemplated rather than preferred. Community uses should be focused around the Station Precinct.
15.	Section 7.0	<ol style="list-style-type: none"> <li>1. A Local Structure Plan has been prepared for the Residential Precinct and an Activity Centre Plan is currently being prepared for the TOD Precinct.</li> <li>2. The Local Structure Plan and Activity Centre Plan will delineate infrastructure requirements for further analysis.</li> <li>3. Traffic modelling and other technical analysis may determine that there is infrastructure which demonstrates need and nexus across the two precincts (Residential and TOD).</li> <li>4. How can the Scheme be drafted in such a way to ensure that, if need and nexus is demonstrated, the Development Contribution Plan (DCP) can operate cohesively across the two precincts? Key considerations being: <ol style="list-style-type: none"> <li>a. The administration and accounting of the two DCPs.</li> <li>b. Apportionment.</li> <li>c. Prioritisation of infrastructure.</li> </ol> </li> </ol>
16.	Page 81 – 7.4 Development Infrastructure	These clauses only cover the costs of strategic and statutory costs of the Authority. This should also cover documents prepared by the City which for the case of the Forrestfield North project area the City has fronted the majority of the costs to undertake the detailed planning of the area.
17.	Page 87 – 7.17	This section does not consider where there may be a shortfall in funds and need to obtain additional contributions.
18.	Page 103 – 9.10	Precinct Plans should also be included as per DPLH's draft SPP7.2 Precinct Design. It has been communicated to the City that the term Activity Centre Plan is to be replaced by Precinct Plans.

**Legal Review**

The City obtained a legal review on the Redevelopment Scheme to ensure that the City's and community's interests are well considered. The comments on the issues identified and recommended changes to the Metronet East Redevelopment Scheme are addressed in the table below. The full legal review is also attached (Appendix 1).

No.	Comments, Questions, Proposals
1.	S.18 and 19 of the MRA Act provide support for the City's objective of achieving from the Metronet East Redevelopment Area (Redevelopment Area) cost contributions for infrastructure provided in the Residential Precinct, but which provide benefit for development in the Redevelopment Area. S.19(3) of the MRA Act provides that the Authority may pay for the carrying out of any work on land that is contiguous with a Redevelopment Area if the work is, in the opinion of the Authority, directly related to the improvement of the Redevelopment Area or the functions of the Authority. It may be possible for the Residential Precinct to be treated as 'land' within the sense of that term in s.19(3), and as such it could be regarded as land that is contiguous with the Redevelopment Area, which is a Redevelopment Area under the MRA Act.
2.	There is nothing in the MRA Act or in the draft Metronet East Redevelopment Scheme (Redevelopment Scheme) that would prevent provision being made under the Redevelopment Scheme for contribution to be made to the City for the benefit of a DCP prepared for the Residential Precinct, providing contribution to the cost of infrastructure works provided in the Residential Precinct, but which benefit the Redevelopment Area. In fact, s.19(3) gives support for the notion.
3.	While s.19 of the MRA Act offers support for the notion of reciprocity in contributions between the Redevelopment Area under the control of the Authority (through a DCP or otherwise), and a DCP in the Residential Precinct, under the control of the City, the potential for the City to extend its influence beyond the Scheme Area of Local Planning Scheme 3 (LPS 3) into the Redevelopment Area is restricted.
4.	The fact that the City is not able to impose a contribution obligation on land in the Redevelopment Area does not prevent the Authority from making provision, pursuant to the power given in s.19(3) of the MRA Act and s.7.4(h) of the Redevelopment Scheme, to help pay for the carrying out of work within the City's Residential Precinct that in the opinion of the Authority directly relates to the improvement of the Redevelopment Area.



5.	The City's DCP would need to make provision for the DCP to receive contributions from the Authority in consideration of infrastructure benefits to the Redevelopment Area (or more appropriately, provided to a DCA established for the whole or a part of the Redevelopment Area). The value of the infrastructure benefits provided and the amount of the contribution received should directly or indirectly be related.
6.	Having regard to s.19(3) of the MRA Act, a significant degree of reciprocity between parallel DCPs can be achieved, though it is likely to be in the form of: a) the City preparing the scope and costing for mutually beneficial common infrastructure works; and b) the City carrying out the mutually beneficial common infrastructure works within the Residential Precinct; and c) the City demonstrating to, and satisfying the Authority, as to the value of the work done by the City under its DCP that benefits the Redevelopment Area, having regard to need/nexus, and consistency /uniformity, and equity, considerations (as per LPS 3, cl. 6.5.6; and SPP 3.6, para 5.2 and model text cl. 6.3.6 principles).
7.	It is possible that the City may provide further contribution for a DCP prepared under the Redevelopment Scheme, by carrying out work, possibly under contract for the Authority, within the Redevelopment Area. From the time of the coming into operation of the Redevelopment Area amendments in the Redevelopment Scheme, the City's LPS 3 will no longer apply in the Redevelopment Area, and the City will have no authority under its LPS 3 to carry out work in the Redevelopment Area. If the City carries out work on common infrastructure works, in particular in regard to common drainage issues, and common roads, it makes sense from a planning and administrative point of view for the City to continue its work into the Redevelopment Area. Any work carried out by the City in the Redevelopment Area will likely need to be under a contract between the Authority and the City. Should this be pursued, the City will obtain further advice on the specific elements of any proposed contract.
8.	It is recommended that consideration be given to the expansion of the equity and consistency principle so as to allow for the principles of equity and consistency to be considered across DCP boundaries, including boundaries between the City's DCP under LPS 3, and the Authority's DCP under the Redevelopment Scheme. Consideration as to whether that can and should be done, and how it should be done is a matter that would need to be discussed with the DevelopmentWA representatives, and perhaps between lawyers representing both bodies.
9.	S.7.3(4)(h) of the Redevelopment Scheme – It is recommended in regard to that provision that consideration be given to specifically allowing for sharing of infrastructure costs and administration costs with a contiguous DCP within the Residential Precinct, under the City's LPS 3.
10.	S.7.6 of the Redevelopment Scheme, dealing with consultation - the interrelationship and reciprocity between any DCP under the Redevelopment Scheme, and a DCP under the City's LPS 3, is a fundamental issue. The interrelationship and reciprocity issues should be discussed and settled between the City and the DevelopmentWA representatives, during the consultation phases on the City's and the Authority's DCPs. Every possible opportunity for discussion of the interrelationship and reciprocity issues should be undertaken at the time the DCPs are prepared. There is presently an opportunity for consultation during the public consultation phase on the draft Redevelopment Scheme, it seems appropriate that the discussion of the interrelationship and reciprocity issues be advanced as far as possible at this stage, and before the Redevelopment Scheme provisions are finalised. Provisional arrangements should be worked out before publication of the MRA draft DCP for general public comment, but as suggested above, it would seem desirable for the provisional arrangements to be worked out prior to the finalisation of the Redevelopment Scheme. In this regard, it is noted that on-going discussions are occurring between the City and DevelopmentWA in relation to apportionment analysis to inform future decisions concerning the DCP.
11.	It would be desirable for the Authority to give advance notification to the City of any part of its proposed resolution on a DCP that may affect the interrelationship with a DCP under the City's LPS 3. It may be appropriate for there to be a right of review to the SAT in the event of there being any element of the Authority's resolution that the City perceives as detrimental to a corresponding DCP under the City's LPS 3. If the Authority is receptive to the proposal for such a right of review to the SAT in the Redevelopment Scheme, that change should be made prior to the finalisation of the Redevelopment Scheme.
12.	It is recommended in regard to both the amending and the rescinding of a DCP under the Redevelopment Scheme, that there should be prior consultation with the City, while it has in its LPS 3 a related DCP for the Residential Precinct. It seems appropriate there should be prior consultation with the City, and appropriate arrangements made to ensure protection of the City's interest in recovering outstanding contributions from a Redevelopment Scheme DCP, particularly in regard to the balancing of the burden of contributions between the Authority's DCP and the City's DCP if there is a proposal for amending or rescinding a DCP for the Redevelopment Area. It is recommended that provision should be made for such consultation in the Redevelopment Scheme when adopted, and therefore this matter should be pursued during the finalisation of the Redevelopment Scheme.
13.	S.7.10 of the Redevelopment Scheme – It is recommended that provision should be made to ensure that liability can arise under the Redevelopment Scheme or under a Local Planning Scheme which has a contiguous DCP (such as the DCP to be prepared for the Residential Precinct under the City's LPS 3). At least that possibility should be considered.
14.	The Redevelopment Scheme should ensure that there will be no discharge of liability under the Redevelopment Scheme DCP until all contribution liability has been met, including an owner's liability under a local government DCP, in respect of any common or overlapping infrastructure costs or administration costs.
15.	S.7.13 of the Redevelopment Scheme provides for interest on outstanding development contributions. There is an issue in regard to the incurring of interest on outstanding contributions under a Redevelopment Scheme DCP, in that there is no corresponding provision for interest to be payable on outstanding contributions under the City's LPS 3 DCP. The City will consider how to deal with this matter in its LPS 3 to better align with the corresponding provisions under the Redevelopment Scheme.



16.	Subs.(2) of s.5.14 goes on to provide that no decision shall be made on a development application or other application until comment from 'all referred government bodies' has been received, or 'until after the expiration of 42 days, whichever occurs first'. Subs.(3) goes on to provide that if a development application or other application is subsequently significantly revised, the Authority may again refer the application to the referred local government and public authorities for consideration and comment. Subs.(3) only provides that the Authority may refer the application again to the referred local government. The word 'may' should be replaced with the word 'shall', corresponding with the same term in subs.(1).
17.	S.5.18 of the draft Redevelopment Scheme, dealing with matters to which due regard are to be given in the determination of any application under the Scheme, reference is made in s.5.18(1)(c) in a fairly confused way, to any Structure Plan, Activity Centre Plan, etc. That provision is unclear. Ideally there should be a requirement for due regard to be given to any Structure Plan or Activity Centre Plan, and that should be done in a provision which is clear and unequivocal, which cannot be said for para.(c) as it presently stands. As the City will most likely be giving careful consideration to an Activity Centre Plan for the Redevelopment Area, the least that Chapter 5 of the Redevelopment Scheme should do is to ensure that due regard will be given to an Activity Centre Plan that is produced.
18.	Reference is made in s.5.18(1)(d) to 'any relevant planning document adopted under the Scheme', including amongst other things, 'Development Contribution Plan'. That provision should be amended so as to refer to a Development Contribution Plan under the Redevelopment Scheme and a DCP under a local government scheme dealing with a DCA in a contiguous area, in a local government planning scheme.
19.	The provisions under s.7.4 should be strengthened in regard to contributions needing to be provided to the City's DCP in respect of common infrastructure works provided by the City but which benefit the Redevelopment Area.
20.	The draft Redevelopment Scheme does not provide the City an appropriate opportunity to review designs for future infrastructure that will, upon the inevitable termination of the Redevelopment Scheme, be handed over to the City for ongoing maintenance. It seems obvious that the City, as the body which will have the obligation of maintenance in perpetuity of infrastructure provided within the Redevelopment Area, should be consulted as to design, and the requirement of consultation should be incorporated in the provisions of Chapter 7 of the Redevelopment Scheme, and should also be recognised in the provisions of any DCP prepared for the Redevelopment Area under the Redevelopment Scheme.