



CITY OF STIRLING

Local Planning Scheme No. 3

AMENDMENT NO.128

**Amend Schedule 11A 'Development Contribution
Plan for Rights of Way Improvement Works'
By Inserting Right of Way No. 22015 into the
Development Contribution Area DCA 5**

INTRODUCTION

AMENDMENT PURPOSE

The purpose of this Amendment is to amend Schedule 11A 'Development Contribution Plan for Rights of Way Improvement Works' by Inserting Right of Way No. 22015 into the Development Contribution Area DCA 5

BACKGROUND

At its meeting on 15 August 2023, Council considered the proposed amendment and resolved (Council Resolution **0823/033**):

- "1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council PREPARES (for the purpose of public advertising) Local Planning Scheme No.3 Amendment No.128 to amend Schedule 11A 'Development Contribution Plan for Rights of Way Improvement Works' by Inserting Right of Way No. 22015 into the Development Contribution Area DCA 5, as shown in Attachment 1.*
- 2. That pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council RESOLVES that, in its opinion, Local Planning Scheme No.3 Amendment No.128 is a Complex Amendment as it is an amendment to amend a Development Contribution Plan.*

RELEVANT DOCUMENTS

The following report was considered by Council on 15 August 2023:

12.1/DS1 LOCAL PLANNING SCHEME NO.3 - AMENDMENT NO.128 - INCLUSION OF RIGHT OF WAY 22015 (BETWEEN CAPE STREET AND HECTOR STREET) INTO THE CITY'S DEVELOPMENT CONTRIBUTION PLAN FOR RIGHTS OF WAY IMPROVEMENT WORKS

Business Unit:	Development Services	Service: Schemes, Policies & Heritage
Ward:	Osborne	Location: ROW 22015 located between Cape Street Hector Street, Tuart Hill
Applicant:	Not Applicable	

Role

Legislative - *Making local laws, policies and planning instruments.*

Council Resolution

0823/033

Moved Councillor Migdale, seconded Councillor Proud

1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council PREPARES (for the purpose of public advertising) Local Planning Scheme No.3 Amendment No.128 to amend Schedule 11A 'Development Contribution Plan for Rights of Way Improvement Works' by Inserting Right of Way No. 22015 into the Development Contribution Area DCA 5, as shown in Attachment 1.
2. That pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council RESOLVES that, in its opinion, Local Planning Scheme No.3 Amendment No.128 is a Complex Amendment as it is an amendment to amend a Development Contribution Plan.

The motion was put and declared CARRIED (13/0) by exception resolution.

For: Councillors Creado, Dudek, Farrelly, Hatton, Krsticevic, Lagan, Migdale, Olow, Perkov, Proud, Re, Thornton and Mayor Irwin.

Against: Nil.

Committee Recommendation

1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council PREPARES (for the purpose of public advertising) Local Planning Scheme No.3 Amendment No.128 to amend Schedule 11A 'Development Contribution Plan for Rights of Way Improvement Works' by Inserting Right of Way No. 22015 into the Development Contribution Area DCA 5, as shown in Attachment 1.
2. That pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council RESOLVES that, in its opinion, Local Planning Scheme No.3 Amendment No.128 is a Complex Amendment as it is an amendment to amend a Development Contribution Plan.

Officer's Recommendation

1. That pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015, Council PREPARES (for the purpose of public advertising) Local Planning Scheme No.3 Amendment No.128 to amend Schedule 11A 'Development Contribution Plan for Rights of Way Improvement Works' by Inserting Right of Way No. 22015 into the Development Contribution Area DCA 5, as shown in Attachment 1.
2. That pursuant to Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015, Council RESOLVES that, in its opinion, Local Planning Scheme No.3 Amendment No.128 is a Complex Amendment as it is an amendment to amend a Development Contribution Plan.

Purpose

To consider modifications to the City's Local Planning Scheme No.3 Development Contribution Plan (DCP) for the 'Rights of Way Improvement Works' programme to add Right of Way 22015 into Development Contribution Area 5.

Background

At its meeting held 2 August 2022, Council accepted a petition tabled by Councillor Teresa Olow containing 51 verified signatures requesting the following:

“We, the undersigned, including the landowners of properties backing on to Boom Lane (between Hector and Cape Street) Tuart Hill, respectfully request that Council upgrade the Boom Lane Way to a safe and presentable environment, due to the following reasons:

- 1. Needles and drug use items have been discarded in the lane way.*
- 2. The lane way is being used as a rubbish dumping ground for unwanted household goods.*
- 3. Stolen goods have been discarded.*
- 4. It is obscured from clear view, which gives advantage to illegal activities.*
- 5. Property owners’ access is limited.*
- 6. It is holding back new improved constructions.*
- 7. Looks very untidy and not presentable.*
- 8. Safety for all concerned especially our school kids and day care facility.*
- 9. The church has been robbed more than a few times and unwanted stolen goods have been discarded in the lane way.*
- 10. Property owners backing the lane way are ready for development.”*

This petition resulted in a report being presented on 25 October 2022 where Council resolved (Council Resolution Number 1022/020) to consult with property owners abutting Right of Way (ROW) 22015 between Cape Street and Hector Street to determine the level of support for various options including full upgrade or closure of the ROW.

The outcomes of consultation with the community were considered by Council at its meeting held 7 March 2023. At that meeting, Council resolved (Council Resolution Number 0323/016) to approve an upgrade to the ROW, that it be reclassified to a Category 2 ROW and that it be included in the ROW Development Contribution Plan (DCP). The ROW is currently classified a Category 4 ROW.

The DCP for ‘Rights of Way Improvement Works’ contained in the City’s Local Planning Scheme No.3 (LPS3) came into operation on 15 December 2015. The DCP covers the majority of Category 1, 2 and 3 Rights of Way proposed for upgrading (sealing, drainage and/or lighting) by the City under the ‘Rights of Way Management Strategy’. The DCP provides for the collection of development contributions from landowners, upon redevelopment of the abutting lots, to fund these infrastructure works.

An amendment to LPS3 is required to amend the DCP, and this report enables Council to give effect to its resolution to upgrade ROW 22015 between Cape Street Hector and Street.

Details

The ROW is located between Cape Street and Hector Street and bounded by properties facing Waterloo Street and Tyler Street, Tuart Hill, and is referred to as ROW 22015. The lots abutting the ROW are zoned Residential R40, and originally consisted of 20 lots, predominantly developed as single houses. Five of these lots are used by the adjacent St Kieran Catholic Primary School and as a monastery for a branch of the Catholic Church.

Ten of the remaining lots retain a single house use, while five have been redeveloped consistent with the R40 zoning that applies to the lots.

Council's resolution to reclassify the ROW to a Category 2 ROW will enable it to be upgraded and will provide an alternative means of vehicle access to all lots abutting the ROW. Once the ROW is reclassified, future redevelopment of these lots will need to meet the objectives of Local Planning Policy 6.5 – Developments abutting Rights of Way (ROW Policy). The ROW Policy promotes better urban design by encouraging the use of ROWs for vehicle access and creating unique streetscapes along the ROW through sympathetic building orientation and design.

To enable this to occur, the City's LPS3 will need to be amended to include the ROW into the DCP. The proposed amendment documentation is contained in Attachment 1.

Financial Assessment and Implications

The inclusion of the ROW into the City's DCP may result in some owners of land adjoining the ROW being liable for payment of development contributions towards the cost of ROW construction and/or lighting under LPS3 in the future, when development occurs.

The ROW will also be included in the City's ROW upgrade programme. The DCP identifies circumstances where a cost contribution is not required, such as where a ROW has already been constructed, where an owner has previously paid a cash contribution towards a ROW upgrade or where minor works are proposed.

As five lots abutting the ROW have already developed, and the lots used by St Kieran Catholic Primary School and the monastery may not be developed in the future, the only lots that may make a developer contribution towards the construction of the ROW when they develop are the 10 single house lots.

This may result in the City contributing a greater amount to the construction of this ROW than may be the case for other ROWs.

Stakeholder Engagement

If Amendment No.128 to LPS3 is initiated, consultation will be required in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 and the City's Local Planning Policy 6.18 Public Consultation.

Should Council resolve to proceed with the Amendment, a report detailing the outcomes of advertising of the Amendment will be presented to a future meeting of Council. It is anticipated this will occur towards the end of 2023.

Amendment Type

Regulation 35 of the Planning and Development (Local Planning Schemes) Regulations 2015 requires a resolution of a Local Government to prepare or adopt an Amendment to a Local Planning Scheme. The resolution must:

- ‘(a) Specify whether, in the opinion of the local government, the Amendment is a complex Amendment, a standard Amendment or a basic Amendment; and*
- (b) Include an explanation of the reason for the local government forming that opinion.’*

Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015 identifies the various Amendment types. The proposed Amendment No.128 is considered a Complex Amendment as it is:

- e. an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;*

Recommended Action

Council has previously resolved to upgrade ROW 22015 between Cape Street and Hector Street, that it be reclassified to a Category 2 ROW and that it be included in the City’s Local Planning Scheme No.3 ROW DCP.

It is recommended that Council adopt LPS3 Amendment No.128 for the purpose of public advertising, as this will commence the necessary processes to satisfy the resolution of Council to enable the ROW to be upgraded.

Relevant Policies, Legislation and Council Resolutions

[City of Stirling Local Planning Scheme No 3.](#)

Meeting Date	Council Resolution Number	Council Resolution
25 October 2022	1022/020	<ol style="list-style-type: none"> 1. That the City UNDERTAKES consultation with property owners abutting Right of Way 22015 to determine the level of support for various options including full upgrade or closure of the ROW. 2. That a further report be PRESENTED to Council to advise of the outcome of the consultation
7 March 2023	0323/016	That Council APPROVES an upgrade to Right of Way 22015, reclassifies the Right of Way to a Category 2, includes the Right of Way in the ROW Development Contribution Plan, and that this be implemented through the Rights of Way Strategy Review.

Sustainable Stirling 2022-2032

Key Result Area: Our built environment

Objective: An accessible and connected City

Priority: Provide and maintain safe and accessible roads and parking

Strategic Risk

Strategic Risk	Risk Appetite
Community	The City will ensure that it engages with the community in accordance with its Community and Stakeholder Engagement Plan.

Relevant Documents and Information

Attachments

Attachment 1 - Local Planning Scheme No.3 - Amendment 128- Amendment to ROW Development Contribution Plan [↓](#)

Available for viewing at meeting

Nil

Linked Documents

Nil

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 128

Resolution to prepare an Amendment to Local Planning Scheme No.3

Resolved that the Council, in pursuance of Section 75 of the Planning and Development Act, 2005 amends the above Town Planning Scheme by amending the Scheme Text 'Schedule 11A Development Contribution Plan' for Rights of Way Improvement Works by:

- (i) Including ROW No. 22015 and the respective abutting lands into the development contribution area.

The Amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

it is an amendment to amend a development contribution area or to prepare or amend a development contribution plan.

Dated this day of .

CHIEF EXECUTIVE OFFICER

PLANNING & DEVELOPMENT ACT 2005



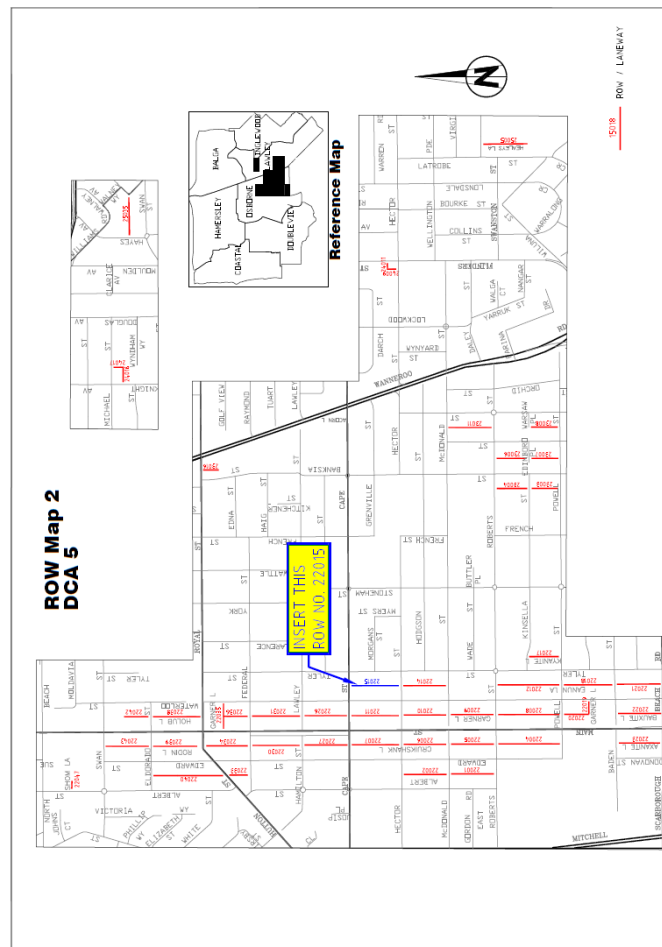
CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 128

Resolution to prepare an Amendment to Local Planning Scheme No.3

The City of Stirling Council, under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005, hereby amends the above Town Planning Scheme by:

1. Replacing '**ROW Map 2 DCA 5**' contained in Schedule 11A Development Contribution Plan of the Scheme Text with the following modified map:



Local Planning Scheme No.3
Amendment No.??[Type text]

2

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 128

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Dated this day of .

CHIEF EXECUTIVE OFFICER

PLANNING & DEVELOPMENT ACT 2005



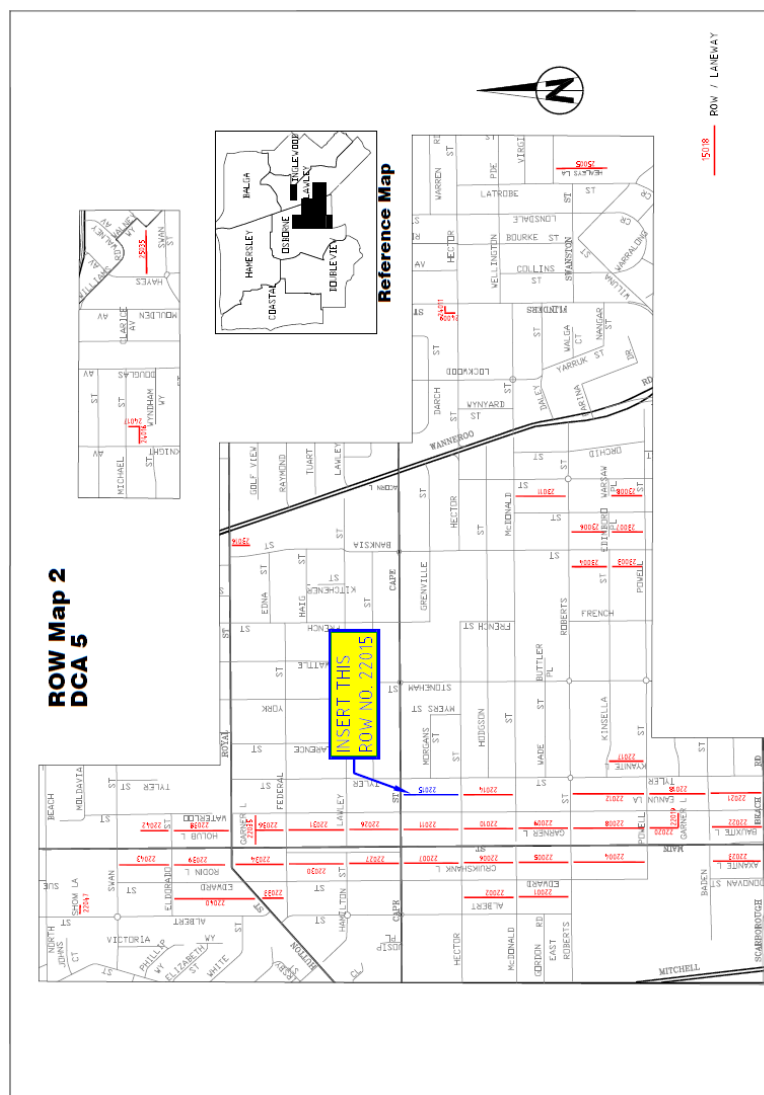
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CHIEF EXECUTIVE OFFICER

PLANNING & DEVELOPMENT ACT 2005



CITY OF STIRLING

LOCAL PLANNING SCHEME NO 3 - AMENDMENT NO. 128

Adopted by resolution of the Council of the City of Stirling at the meeting
of the Council held on the _____ day of _____ 20__.

MAYOR

CHIEF EXECUTIVE OFFICER

Adopted for final approval by resolution of the City of Stirling at the
Meeting of the Council held on the _____ day of _____ 20__ and the
Common Seal of the City of Stirling was hereunto affixed by the authority
of a resolution of the Council in the presence of:

MAYOR

CHIEF EXECUTIVE OFFICER

Recommended/Submitted for
Final Approval

Delegated under S.16 of PD Act 2005

Date_____

Final Approval granted

MINISTER FOR TRANSPORT;
PLANNING; PORTS

Date_____