

# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**THURSDAY, 8 JULY 2010**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 8 JULY 2010 AT 7:00 PM

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## **CITY OF COCKBURN**

### **AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 8 JULY 2010 AT 7:00 PM**

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**1. DECLARATION OF MEETING**

**2. APPOINTMENT OF PRESIDING MEMBER (If required)**

**3. DISCLAIMER (To be read aloud by Presiding Member)**

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

**5. APOLOGIES AND LEAVE OF ABSENCE**

**6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**7. PUBLIC QUESTION TIME**

**8. CONFIRMATION OF MINUTES**

**8.1 (OCM 08/07/2010) - ORDINARY COUNCIL MEETING - 10/06/2010**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 10 June 2010, as a true and accurate record.

**9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE**

**10. DEPUTATIONS AND PETITIONS**

**11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (If adjourned)**

Nil

**12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

**13. COUNCIL MATTERS**

**13.1 (OCM 08/07/2010) - SCHEDULED AUDIT AND STRATEGIC FINANCE COMMITTEE MEETING - 15 JULY 2010 (5009) (S DOWNING)**

**RECOMMENDATION**

That Council reschedule the Audit and Strategic Finance Committee Meeting for \_\_\_\_\_, commencing at 6.00 pm.

**COUNCIL DECISION**

## **Background**

Part 7 of the Local Government Act, 1995 prescribes matters dealing with Audits and financial accounts in local government and requires all Councils to establish an Audit Committee and appoint at least three persons to the Committee. Council established its Audit and Strategic Finance Committee in November 2009.

The current scenario is that the meeting is held on the third Thursday in March, July and November commencing at 6.00 pm.

## **Submission**

N/A

## **Report**

The Committee consists of five (5) members. Three (3) of the Committee's members will not be in attendance due to leave of absence, resulting in a lack of a quorum for the July 2010 meeting.

Therefore, a recommendation to postpone the meeting to an alternative date in August 2010 has been requested to allow a quorum to be present and the business of the meeting to be conducted.

A notice will be published in the local newspaper of this date change.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

## **Budget/Financial Implications**

N/A

## **Legal Implications**

Sec.5.3 of the Local Government Act, 1995 refers.

## **Community Consultation**

N/A

## **Attachment(s)**

N/A

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM 08/07/2010) - CONSENT FOR EASEMENT OVER RESERVE 30861, MUNSTER - OWNER: STATE OF WESTERN AUSTRALIA - APPLICANT: COCKBURN CEMENT LIMITED (3300016) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) as the holder of the Management Order for Reserve 30861 gives consent for a Crown easement to be established to protect the existing shellsand pipeline in favour of Cockburn Cement Ltd, subject to Cockburn Cement Limited granting a non exclusive access easement over Lot 28 McGrath Road, Munster (in order to connect Reserve 30861 Lake Coogee to McGrath Road); and
- (2) having care control and management of the road reserve (proposed Fremantle-Rockingham controlled access highway), also enter into an agreement with the State of Western Australia and Cockburn Cement Limited to ensure that the shellsand pipeline is relocated away from Lake Coogee prior to the construction of the controlled access highway.

**COUNCIL DECISION**

**Background**

Cockburn Cement has for many years operated a dual pipeline that connects their Munster plant with an inlet/outlet facility at Woodman Point. The purpose of this report is to formalise easements and other arrangements in relation to this dual pipeline.



## **Submission**

Solicitors Minter Ellison acting for Cockburn Cement Limited have written to the City of Cockburn requesting that the City gives consent to a Crown easement in favour of Cockburn Cement to allow legal access and maintenance of its shellsand pipeline that traverses Reserve 30861 (Lake Coogee).

## **Report**

The draft easement document was provided to the City for consideration. This seeks to formalise the current practice whereby Cockburn Cement maintains the dual pipelines that connect their Munster processing plant with the Cockburn Sound inlet/outlet facility at Woodman Point.

Minter Ellison has advised Council officers that pursuant to a state agreement between Cockburn Cement and the State Government, Cockburn Cement have a right to construct a pipeline between the Munster plant and Cockburn Cement. It was this State Agreement that facilitated the construction of the dual pipelines within the Lake Coogee Reserve at the time of establishing the Cockburn Cement Plant.

Cockburn Cement has now sought added security for protection of the dual pipelines by way of a Crown easement over Reserve 30861. The State Government agency responsible for the administration of Crown reserves requires the consent from the body that has the Management Order of the Crown Reserve before granting the easement interest. The City of Cockburn is that body in the case of Reserve 30861 (Lake Coogee).

On review of the location of the pipeline, it was noted that the line also traverses the future Fremantle-Rockingham controlled access highway road reserve. It is not known at this time when the road will be constructed (if ever) but it is obvious that the pipeline will be impacted on and would need to be relocated if the road eventuated. In this regard, Cockburn Cement has agreed to move the pipeline away from the shoreline of Lake Coogee (rather than close) if the road eventuated. Main Roads WA has informed Council officers that they are entering into a similar agreement with Cockburn Cement.

The draft agreement initially prepared by Minter Ellison was referred to the City's solicitors for review. The amendments suggested by McLeods have been incorporated into the proposed agreement.

Cockburn Cement has given an undertaking to negotiate an access easement to follow the existing asphalt path along the northern boundary of Lot 28 McGrath Road to be protected. This path which continues into Reserve 30681 provides access to Cockburn Cement for the maintenance of the pipeline, as well as providing access for the

general public to the reserve. This is an important link as there is limited access to the southern end of Lake Coogee. The easement envisaged would allow access to the general public but not to the exclusion of Cockburn Cement.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Infrastructure Development**

- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

*Land Administration Act 1997*

### **Community Consultation**

N/A

### **Attachment(s)**

1. Plan of proposed easement
2. Location Plan

### **Advice to Proponent(s)/Submissioners**

The Proponent has been advised that this matter is to be considered at the 8 July 2010 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.2 (OCM 08/07/2010) - FINAL CONSIDERATION OF AMENDMENT NO. 78 TO CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3 - MODIFYING CLAUSE 5.5 OF THE SCHEME TO ALLOW FOR THE VARIATION OR EXTINGUISHMENT OF RESTRICTIVE COVENANTS, EASEMENTS AND RIGHT OF WAYS - OWNER: N/A - APPLICANT: CITY OF COCKBURN (93078) (M CARBONE)**

**RECOMMENDATION**

That Council adopt Amendment No. 78 for final approval without modifications and in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission.

**COUNCIL DECISION**

**Background**

Council at its meeting held on 11 February 2010 resolved to initiate Amendment No. 78 to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of advertising. The amendment involves the following:

- deleting existing Clause 5.5 and replacing it with a new Clause 5.5 which enables the extinguishment or variation of any restrictive covenant, easement or right of way as allowed for by Clause 11(1) of Schedule 7 of the *Planning and Development Act 2005*; and
- adding a new Schedule 13 'Schedule of Extinguished or Varied Covenants' to the Scheme Text.

**Submission**

The amendment has been advertised for the required period and is being presented to Council for final consideration.

**Report**

The Scheme amendment was referred to the Environmental Protection Authority ("EPA") in accordance with Section 7 of the *Environmental Protection Act 1986*. The EPA advised that the overall environmental impact of the amendment would not be severe enough to warrant formal assessment under the *Environmental Protection Act 1986*. The

amendment was subsequently advertised seeking public comment in accordance with the *Town Planning Regulations 1967* for 42 days. The scheme amendment attracted no submissions.

This scheme amendment will ensure that appropriate clauses are incorporated into the scheme which enables the extinguishment or variation of any restrictive covenant, easement or right of way, consistent with the intention of Clause 11(1) of Schedule 7 of the *Planning and Development Act 2005*.

This will allow for the extinguishment or variation of restrictive covenants and easements where appropriate circumstances exist and where suitable consultation and process is undertaken. The City has sought legal advice on the most appropriate method of incorporating these provisions into the scheme, and this amendment is consistent with the legal advice provided by the City's Solicitors.

The proposed changes and additions to Clause 5.5 of the City's scheme are summarised below:

- Clarify and simplify the existing provisions which relate to restrictive covenants applying to residential density.
- New clauses allowing Council to vary other restrictive covenants, easements and rights of ways where there is suitable justification and it is in accordance with orderly and proper planning.
- The process for varying or extinguishing the restrictive covenant, easement or rights of ways. This includes Council's resolution to extinguish or vary the advertising process and requirements to undertake a separate scheme amendment to list the extinguishment or variation in Schedule 13 of the City's scheme.
- The ability for Council to recover the costs of varying or extinguishing the restrictive covenant, easement or right of way.

It should be noted that this proposed amendment only involves incorporating the relevant clauses into the Scheme to enable the variation or extinguishment of restrictive covenants, easements and rights of ways. Any subsequent proposal to vary or extinguish would be subject to specific Council consideration, advertising and then a Scheme amendment to include the details into the Scheme. The process to vary or extinguish is subject to extensive consultation and consideration by Council and ultimately the WAPC and the Minister for Planning. Therefore, adequate checks are included within the process to ensure that only suitable restrictive covenants, easements and rights of ways are varied or extinguished.

## **Conclusion**

The proposed Scheme amendment will ensure that appropriate clauses are incorporated into the Scheme which enables the extinguishment or variation of any restrictive covenant, easement or right of way, consistent with the intention of Clause 11(1) of Schedule 7 of *Planning and Development Act 2005*.

It is recommended that Scheme Amendment No. 78 be adopted by Council, and forwarded to the WA Planning Commission for final approval.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

*Planning and Development Act 2005*  
City of Cockburn Town Planning Scheme No. 2  
*Town Planning Regulations 1967*

### **Community Consultation**

Following receipt of advice from the EPA, the amendment was advertised for a 42 day period. This concluded on the 4 June 2010 and the Scheme amendment attracted no submissions.

### **Attachment(s)**

N/A

### **Advice to Proponent(s)/Submissioners**

N/A

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.3 (OCM 08/07/2010) - CONSIDERATION OF IMLAH COURT TRAFFIC STUDY - OWNER: N/A - APPLICANT: CITY OF COCKBURN (93027) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) undertake community consultation in relation to the proposed location of the road treatments to Imlah Court and The Lakes Boulevard, in accordance with Agenda Attachments 2 and 3 and review the street lighting in conjunction with the road treatments to ensure the provision of adequate illumination; and
- (2) provided no significant objection is received, program the works for completion in the 2010/11 financial year.

**COUNCIL DECISION**

**Background**

Council approved Scheme Amendment No. 27 in December 2008 which involved increasing the residential density along the southern side of Imlah Court. As part of the final consideration of the amendment, Council also resolved that:

*“The City’s Strategic Planning Department engage Engineering consultants to explore the opportunity of treating Imlah Court and The Lakes Boulevard to effectively restrict large trucks using these roads as a short cut and the City’s officers reporting back to Council.”*

Following the advertising of a project brief, the City engaged Porter Consulting Engineers to undertake the traffic study in November 2009. The traffic study was recently completed and the recommendations of this study are the subject of this report.

**Submission**

N/A

**Report**

The following is a summary of the key findings and recommendations of the Imlah Court Traffic Study:

- The function of Imlah Court is to provide local traffic access to the abutting properties which are mainly residential.
- The recorded traffic volume exceed standard rates for anticipated trips generated by abutting development, suggesting externally generated traffic movements are travelling through this street.
- Recorded weekday truck movements occurring on this street exceed the anticipated normal volume and class of truck for a residential local access street.
- The results of the investigation indicate that Imlah Court is subject to additional traffic and classes of vehicles not consistent with the expected normal function of the road. Accordingly, traffic management is recommended to deter unwarranted traffic movements.
- The most effective traffic management is that which presents a high level of visual impact to motorists and with the intention of providing a high level of comprehension on the function of the street environment. Hence permitting motorists to make early decisions on whether their intended travel route coincides with the function of the street about to be entered and if the geometry of the street can accommodate their vehicle passage.
- Introduction of “entry statements” raised plateaus at each intersection before vehicles enter the street offers visual advice and deterrent. The inclusion of highly visible mid-block treatments and a restricted carriageway gives a high level of reinforcement to motorist that the street does not offer a standard unrestricted road environment.
- For these reasons, the most effective traffic management improvements will be achieved using treatments which provide the highest level of visual impact and early advice to approaching motorists. Accordingly the treatments within Agenda Attachments 2 and 3 are recommended.
- It is important that any change in the road environment must be able to be readily discerned by motorists under all conditions. It is of particular importance that during darkness any sudden change in the road alignment created by a traffic device is able to be seen in adequate time for the motorist to safely react to the change in road geometry. Accordingly, it is recommended that street lighting be reviewed in conjunction with design of the road treatments to ensure the provision of adequate illumination.

The City's Engineering Department has confirmed that the treatments within Agenda Attachments 2 and 3 are acceptable. The specific details of these treatments are described following:

- a raised plateau entry statement at the intersection of Imlah Court and Prinsep Road to deter entry from Prinsep Road. The proposed treatment to include kerbing and tightening of corner radii and a traffic island on Imlah Court to inhibit turning entry for larger vehicles;
- a raised plateau entry statement on The Lakes Boulevard immediately south of the left slip lane off Berrigan Drive;
- kerb carriageway at 7m width; and
- construct two 'oval slow points' at approximately 80m separation along Imlah Court.

The traffic management treatments included within Agenda Attachments 2 and 3 are considered appropriate to restrict large trucks using Imlah Court and The Lakes Boulevard as through roads. It is therefore recommended that the City's Engineering Department undertake the necessary community consultation for the road treatments, and review the street lighting in conjunction with the road treatments to ensure the provision of adequate illumination.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.
- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

\$49,000 has been carried forward to the 2010/2011 financial year to undertake the traffic calming treatments to Imlah Court and The Lakes Boulevard.

### **Legal Implications**

*Planning and Development Act 2005*  
City of Cockburn Town Planning Scheme No. 2  
*Town Planning Regulations 1967*



### Community Consultation

The City's Engineering department will undertake community consultation on the proposed location of the road treatments.

### Attachment(s)

1. Location Map
2. Recommended Modifications Map 1
3. Recommended Modifications Map 2
4. Engineering Detail for Traffic Medium

### Advice to Proponent(s)/Submissioners

N/A

### Implications of Section 3.18(3) Local Government Act, 1995

Nil.

**14.4 (OCM 08/07/2010) - PROPOSED SCHEME AMENDMENT NO. 85 TO CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3 AND MODIFICATION TO THE LOCAL COMMERCIAL STRATEGY - OWNER: VARIOUS - APPLICANT: PLANNING SOLUTIONS (93085) (M CARBONE, A TROSIC) (ATTACH)**

#### RECOMMENDATION

That Council:

- (1) in accordance with Regulation 12C(1) of the *Town Planning Regulations 1967*, resolve to amend the City's Local Commercial Strategy through deleting the requirement relating to restricting the number of supermarkets within the Phoenix Park District Centre, and remodelling the retail viability of surrounding centres. The cost of this remodelling is to be borne by the proponent for this matter;
- (2) subject to the remodelling of the City's Local Commercial Strategy indicating that the retail viability of surrounding centres will not be adversely affected, refer the proposed amendment to the Local Commercial Strategy to the Western Australian Planning Commission ("WAPC") for approval to advertise in accordance with Regulation 12B(1) of the *Town Planning Regulations 1967*;

- (3) upon approval by the Western Australian Planning Commission to advertise the amendment to the Local Commercial Strategy, pursuant to Section 75 of the Planning and Development Act 2005 ("Act"), initiate an amendment to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of:
  - (i) Deleting 'Restricted Use 11' from Schedule 3 of the Scheme Text; and
  - (ii) Amending the Scheme Map accordingly;
- (4) upon receipt of the necessary amendment documentation refer the amendment to the WAPC with a request that it consider giving its consent for the amendment to be advertised for public comment (as the amendment is not entirely consistent with Regulation 25(2) of the Town Planning Regulations 1967 ("Regulations"));
- (5) subject to the consent of the WAPC being received to advertise the Scheme amendment, refer the amendment to the Environmental Protection Authority ("EPA") as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal environmental assessment, advertise the Scheme amendment for a period of 42 days in accordance with the Regulations. In the event that the EPA determines that the amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the amendment; and
- (6) prepare the amendment documentation in accordance with the standard format prescribed by the Regulations.

## COUNCIL DECISION

### Background

The City of Cockburn's Local Commercial Strategy ("LCS") was approved by Council in November 2002. A key recommendation of this was that the retail floor place for the Phoenix Park District Centre be increased from 19,900 to 28,000 m<sup>2</sup> net lettable area on the proviso that the additional floor space be for non-food related uses. The LCS specifically stated:

*“Under no circumstances should an additional supermarket be developed at Phoenix Park, as this would certainly undermine the potential viability of several important neighbourhood/local centres. Controlling this aspect of any expansion at Phoenix Park could be achieved through the town planning scheme Restricted Use provisions.”*

It is noted that the Phoenix Park District Centre refers to the land between Coleville Crescent and Spearwood Avenue on the east side of Rockingham Road - not just the Phoenix Shopping Centre.

Amendment No. 11 to City of Cockburn Town Planning Scheme No. 3 (“Scheme”) was initiated in July 2003 and later gazetted on 2 December 2005 to introduce the above requirements into the Scheme. This involved the introduction of Restricted Use 11 (“RU11”) into Schedule 3 of the Scheme, which limited the number of supermarkets within the Phoenix Park District Centre to no more than two supermarkets. This was consistent with the recommendation of the LCS.

Planning Solutions on behalf of the landowner of Unit 5/218 Rockingham Road, Spearwood lodged a development application for a 636 m<sup>2</sup> supermarket in January 2010. The application was cancelled in April 2010 as it could not be supported due to the existence of RU11 provisions of the Scheme, as there were already two supermarkets within the Phoenix Park District Centre. The purpose of this report is to consider an amendment to the Scheme and LCS to effectively remove this supermarket restriction.

### **Submission**

Planning Solutions on behalf of Mayport Nominees Pty Ltd, the landowner of 218 (Strata Lots 3, 5 and 6) Rockingham Road, Spearwood have lodged a Scheme amendment proposal to delete RU11 from Schedule 3 of the Scheme.

### **Report**

In respect to the Phoenix Park District Centre, the City’s LCS recommends that there be no more than two supermarkets, on the basis that any more would undermine the potential viability of several important surrounding neighbourhood and local centres. This restriction was formalised through RU11 being introduced into the Scheme as part of Amendment No. 11 in 2005.

The details of RU11 are as follows:

No.	Description of land	Restricted Use	Conditions
RU 11	The land included within the District Centre Zone on the corner of Phoenix Road and Rockingham Road, Spearwood.	Those uses which may be permitted within the District Centre Zone as set out in Table 1 – Zoning Table subject to there being no more than two (2) supermarkets within the District Town Centre Zone. For the purpose of this clause a supermarket is defined as a self-service retail store or market, with a sales area of 400m <sup>2</sup> (NLA) or greater, the main function of which is to sell a variety of ordinary fresh and/or packaged food and grocery items.	Planning Approval.

A development application to use the existing building at 5/218 Rockingham Road, Spearwood as a supermarket was recently cancelled as it did not comply with the above provisions as two supermarkets already exist within the Phoenix Park District Centre (Coles and Woolworths).

Planning Solutions on behalf of the landowner have now lodged a scheme amendment proposal to delete RU11 from the scheme - effectively removing this restriction.

The following is a summary of the justification provided by the proponent:

- The Western Australian Planning Commission State Planning Policy No. 4.2 (Metropolitan Centres Policy Statement for the Perth Metropolitan Region) (“SPP4.2”) and the new Draft Activity Centres State Planning Policy (“Draft SPP”) identify the permissible retail types within District Centres which includes supermarkets. Restricting the number of supermarkets to two within a District Centre does not achieve the highest and best use of the centre which is designed to provide for weekly shopping needs of the community.*
- It is noted that the Draft SPP implies a restriction of “a supermarket” to lower tier centres such as Neighbourhood and Local Centres. In contrast, District Centres provide for “supermarkets”. The supermarket restriction under the Draft SPP applicable to lower tier centres is valid, however it is noted that such a restriction does not apply to District Centres. Therefore, the existing supermarket restriction should not apply to the District Centre.*

- *The main reason for restricting the number of supermarkets was due to concerns that additional supermarkets could undermine the viability of the existing neighbourhood/local centres. A site inspection of the two nearest Neighbourhood Centres being Hamilton Hill Plaza and Stargate Shopping Centre indicates that occupancy levels of both centres are high. This suggests the surrounding centres are viable commercial centres and the reason for which the restriction was introduced is no longer relevant.*
- *Residential densities within approximately 800m of the Phoenix Park District Centre are proposed to be increased to between R30 to R80 as part of Scheme Amendment No. 76 and the Phoenix Central Revitalisation Strategy. This will substantially increase the number of dwellings within the catchment and accordingly increase demand for commercial services and facilities within the District Centre.*
- *Restricted Use 11 has created a duopoly as only Coles and Woolworths exist within the District Centre and therefore restricts the opportunity for smaller and independent retailers to enter the market. It is considered the restriction reduces competition and is not consistent with the considerations and recommendations of the Australian Competition and Consumer Commission (“ACCC”) in relation to anti competitive behaviour. The ACCC produced a report in July 2008 to the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs and one of the recommendations was:*

*“That all appropriate levels of government consider ways in which zoning and planning laws, and decisions in respect of individual planning applications where additional retail space for the purpose of operating a supermarket is contemplated, should have specific regard to the likely impact of the proposal on competition between supermarkets in the area. Particular regard should be had to whether the proposal would facilitate the entry of a supermarket operator not currently trading in the area.”*

The justification provided by the proponent is considered to have some planning merit. Of particular note are the following observations:

1. The City has embarked on the Phoenix Central Revitalisation Strategy, whereby in the future a large amount of urban consolidation and renewal will take place within the 800m catchment of the Phoenix Park District Centre. The recently adopted Scheme Amendment No. 75 represents the first stage of this urban renewal, through the incorporation of significantly higher residential densities in the 800m catchment surrounding the Phoenix Park District Centre;

2. Considering the age of the LCS (developed 2002) and that planning considerations for the Phoenix Area have shifted significantly since then, it is considered that retail shopping demand stemming from the surrounding residential catchment and planned future growth is getting to the point which can sustain a further supermarket. Rather than take consumer patronage from surrounding Neighbourhood Centres, it is considered that an additional supermarket should serve the local catchment which is growing significantly and planned to continually grow into the future.

It should be noted that the catchments of all surrounding centres are expected to continue to increase. This includes the following considerations - Phoenix Central Revitalisation Strategy, the development of the former Watson's factory, Port Coogee development and the development of green field sites in the Munster locality.

Considering the above, it is recommended that Council support the proposed amendment once the LCS has been modified and remodelled to ascertain what impact lifting RU11 will have on the viability of other centres. This will ensure that the modification to the LCS is both tested and remodelled as a precursor to the scheme amendment being prepared for advertising. It is appropriate for the cost of this to be met by the proponent for this matter.

The City has also sought advice from its solicitors relating to whether RU11 is contrary to the Australian Competition Policy and whether it should be removed from the scheme. A copy of this advice is provided as a confidential attachment under separate cover.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

#### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

### **Budget/Financial Implications**

N/A

## Legal Implications

*Planning and Development Act 2005*  
 City of Cockburn Town Planning Scheme No. 3  
*Town Planning Regulations 1967*  
 Local Commercial Strategy

## Community Consultation

Consultation for both the modification to the LCS and Scheme amendment will take place in accordance with the requirements of the *Town Planning Regulations 1967*.

## Attachment(s)

1. Site Plan
2. Confidential Advice provided under separate cover.

## Advice to Proponent(s)/Submissioners

The applicant has been advised that the matter will be presented to the 8 July 2010 Council meeting.

## Implications of Section 3.18(3) Local Government Act, 1995

Nil.

- 14.5 (OCM 08/07/2010) - ADOPTION OF SCHEME AMENDMENT NO. 80 FOR FINAL APPROVAL - REZONING LOT 9012 WENTWORTH PARADE, SUCCESS FROM 'RESIDENTIAL R20' TO 'RESIDENTIAL R25' - OWNER: GOLD ESTATES OF AUSTRALIA - APPLICANT: ROBERTS DAY (93080) (D DI RENZO) (ATTACH)**

### RECOMMENDATION

That Council:

- (1) adopt for final approval Amendment No. 80 to City of Cockburn Town Planning Scheme No. 3 ("the Scheme") for the purposes of rezoning portion of Lot 9012 Wentworth Parade, Success from 'Residential R20' to 'Residential R25' as shown on the Scheme Amendment Map; and
- (2) ensure the amendment documentation be signed and sealed without modification and then submitted to the Western Australian Planning Commission along with details of the steps taken to advertise the amendment, with a request for the endorsement of final approval by the Hon. Minister for Planning.

## COUNCIL DECISION

### Background

Council initiated Scheme Amendment No. 80 on 10 December 2009 (Minute No. 4130). This sort to rezone portion of Lot 9012 Wentworth Parade, Success ("subject land") from 'Residential R20' to 'Residential R25' (refer Agenda attachments).

The proposal was subsequently advertised for public comment from 5 April 2010 to 18 May 2010.

### Submission

The proposed rezoning has been requested by the proponent, who has submitted Scheme amendment documentation and a subdivision concept plan in support of the proposal.

### Report

The subject land is currently zoned 'Residential R20' under City of Cockburn Town Planning Scheme No. 3 ("Scheme"). A scheme amendment has been prepared for a portion of the subject land proposing to rezone it to 'Residential R25'.

The portion of the subject land proposed to be rezoned is 1.06 ha in area, and is bound by Wentworth Parade to the west, 'Primary Regional Roads' reservation to the south and a drainage reserve to the east. The land to the north has been subdivided and developed in accordance with the 'Residential R20' zoning.

The scheme amendment documentation includes a proposed subdivision plan, demonstrating the road and lot layout at a density of R25 (refer Agenda attachments). The proposed subdivision concept indicates an extension of existing Minerva Loop (15m road reserve); with a laneway to provide access to three lots in the south western corner of the subject land adjacent to Wentworth Parade.

The proposed subdivision plan shows the creation of 20 lots that are consistent with the R25 requirement pursuant to the Residential Design Codes of Western Australia ("R-Codes"), including a minimum lot frontage of 8 m, and an average lot size of 416.5 m<sup>2</sup>. This plan demonstrates that the proposed rezoning will achieve four additional lots than would be possible under the existing R20 coding.



*Directions 2031 Draft Spatial Framework for Perth and Peel* is a document prepared by the Western Australian Planning Commission ("WAPC") that will set the direction for how the metropolitan region will grow, building on the themes identified in *Network City: Community Planning Strategy for Perth and Peel*. It seeks to ensure urban growth is managed, and to make the most efficient use of available land and infrastructure, particularly prioritising the development and use of land that is already zoned urban. It seeks to achieve an average of 15 dwellings per zoned hectare, which equates to a residential coding of at least R25 - this is consistent with this proposal.

*Liveable Neighbourhoods* is an operational WAPC policy for the design and assessment of new development areas, and it seeks to facilitate new development which supports the efficiency of public transport systems where available, and provide safe, direct access to the system for residents. The subject land is located within 500m of a bus stop on Wentworth Parade which directly connects to the Cockburn Central train station. Given the subject land's proximity to public transport, and the objectives of *Directions 2031*, a coding of R25 is considered appropriate in this case.

The existing lots to the north of the subject land that are located adjacent to Wentworth Parade are subject to a Detailed Area Plan ("DAP") (Wentworth Gardens Stage 9B). The purpose of this is to ensure that dwellings face Wentworth Parade with open style pillar and iron fencing, with garages located to the rear and vehicle access from Minerva Loop.

A DAP is proposed for the proposed lots adjacent to Wentworth Parade (seven lots) to ensure they achieve the same orientation, setback and access arrangements to achieve a consistent streetscape. A DAP will also be required for proposed Lot 17 which is an unusual shape, to ensure appropriate location of the garage and fencing.

The proposed rezoning was advertised for public comment, including letters to landowners in the area, and no comments were received.

## **Conclusion**

The proposed rezoning is considered to achieve a more efficient use of urban zoned land, consistent with *Liveable Neighbourhoods*, *Network City*, and *Directions 2031*. It is therefore recommended that Council adopt Scheme Amendment No. 80 for final approval.

## **Strategic Plan/Policy Implications**

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Transport Optimisation**

- To achieve provision of an effective public transport system that provides maximum amenity, connectivity and integration for the community.

#### **Budget/Financial Implications**

The scheme amendment fees for this proposal have been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising, which has been paid by the applicant.

#### **Legal Implications**

N/A

#### **Community Consultation**

Subsequent to the amendment being adopted by Council for community consultation, it was referred to the Environmental Protection Authority ("EPA"), who advised on the 22 March 2010 advising that the proposal is environmentally acceptable. Consultation was then undertaken for a period of 42 days in accordance with the *Town Planning Regulations 1967*, which included letters to adjacent landowners, government agencies and a notice in the newspaper.

#### **Attachment(s)**

1. Scheme Amendment Map
2. Proposed Subdivision Plan
3. Aerial Photo

#### **Advice to Proponent(s)/Submissioners**

The proponent has been advised that this matter is to be considered at the 8 July 2010 Council Meeting.

#### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.6 (OCM 08/07/2010) - CONSIDERATION OF DRAFT CITY OF COCKBURN LOCAL GOVERNMENT INVENTORY REVIEW; PROPOSED SCHEME AMENDMENT NO. 86 AND; PREPARATION OF DRAFT LOCAL PLANNING POLICY (HERITAGE CONSERVATION DESIGN GUIDELINES) - APPLICANT: CITY OF COCKBURN - OWNER: VARIOUS (93086) (D DI RENZO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Draft Local Government Inventory ("Draft LGI") for the purposes of community consultation;
- (2) adopt the Draft Heritage List for the purposes of community consultation;
- (3) in pursuance of Section 75 of the *Planning and Development Act 2005* ("Act"), initiate an amendment to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of:
  1. Modifying Clause 10.2.1(h) as follows:
    - (h) *the conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character or appearance of a heritage area;*
  2. Replacing the words 'Municipal Inventory' in Clause 7.1.2(a) and 7.1.2(b) with 'Local Government Inventory'.
  3. Modifying Schedule 1 (General Definitions) by replacing the term 'Municipal Inventory' with 'Local Government Inventory', with the definition to remain unchanged.
  4. Modifying Clause 8.2.1(b) by including an additional sub-clause as follows:
    - (iv) *the proposal is located on a place that is included on the Heritage List;*
  5. Modifying Clause 8.2.1(c) by including an additional sub-clause as follows:
    - (vi) *included on the Local Government Inventory;*
  6. Including a new Cause 7.6 as follows:
    - 'Planning approval is required prior to the removal,*

*destruction of and/or interference with any tree included on the Local Government Inventory Significant Tree list;*

- (4) prepare the amendment documentation in accordance with the standard format prescribed by the *Town Planning Regulations 1967* ("Regulations");
- (5) note as the amendment is in the opinion of Council consistent with Regulation 25(2), and upon preparation of the necessary amendment documentation, the amendment be referred to the Environmental Protection Authority ("EPA") as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal environmental assessment, be advertised for a period of 42 days in accordance with the Regulations;
- (6) in pursuance of Clause 2.3.1 of the Scheme, resolves to prepare a Local Planning Policy (Heritage Conservation Design Guidelines);
- (7) publishes notice of the proposed Policy in accordance with Clause 2.5.1(a) of the Scheme. Furthermore, in accordance with Clause 2.5.1(b) of the Scheme, Council publishes notice of the proposed Policy as part of the advertising of the amendment and LGI and Heritage List;
- (8) arrange for the preparation of the documentation to nominate the South Fremantle Power Station for inclusion on the State Register of Heritage Places pursuant to the *Heritage of Western Australia Act 1990*; and
- (9) arrange for the preparation of the documentation to nominate the Hamilton Hill Memorial Hall for inclusion on the State Register of Heritage Places pursuant to the *Heritage of Western Australia Act 1990*.

**COUNCIL DECISION**

## Background

### Requirements for Local Government Inventories and Heritage Lists

The identification, conservation and protection of places and areas of State heritage significance are provided for in the *Heritage of Western Australia Act 1990*. This provides for the compilation of the state heritage register by the Heritage Council of Western Australia (“Heritage Council”) and the Heritage Minister.

The identification of places and areas of local heritage significance is provided for in the *Heritage of Western Australia Act 1990*, which requires all local governments to identify heritage places in local government inventories (“LGI”).

The key purpose of a LGI is to:

- \* identify the places and areas that are, in the opinion of the local government, of cultural heritage significance for the local area;
- \* assist in determining local government conservation policies;
- \* provide a cultural and historic record of the local government district;
- \* assist with the preparation of the heritage list under a town planning scheme; and
- \* assist in achieving the heritage conservation objectives of town planning in the State.

Under City of Cockburn Town Planning Scheme No. 3 (“Scheme”) there is also a requirement to adopt a Heritage List, and the Scheme sets out the process for adopting or modifying a Heritage List (Clause 7.1.3).

In compiling the Heritage List, consideration must be given to the LGI, and the Heritage List generally represents the most important heritage places.

The LGI itself does not have statutory force and effect in terms of planning controls, therefore the purpose of including the most important heritage places on the Heritage List is so they are protected under the Scheme. These places are then protected through the requirement for planning approval prior to any works being undertaken.

In addition, under the Scheme there is discretion to vary site or development requirements specified in the Scheme, or *Residential Design Codes of Western Australia* (“R-Codes”) to facilitate the conservation of places on the Heritage List. This means that the Scheme provides the possibility for incentives to be offered, which may take the form of relaxation of one or more planning requirement that would normally apply under the Scheme or the R-Codes, where it would not compromise orderly and proper planning.

City of Cockburn Municipal Inventory/Local Government Inventory

The City of Cockburn's first Municipal Inventory ("MI") was adopted in 1998 after an extensive community consultation process that resulted in the inclusion of 63 places of cultural heritage significance. Of these 63 places 58 places were also identified for inclusion on the Heritage List pursuant to the Scheme (Town Planning Scheme No. 2, which is now superseded).

The MI was subsequently reviewed and adopted on 20 April 2004 (Item 14.18), and 35 new places were added in a second volume (i.e. with Volume 1 being the 1998 MI). There were no additional places identified for inclusion on the Heritage List as part of this review.

In 2009 the City engaged a Heritage Consultant, Eddie Marcus, to review the MI (Volumes 1 and 2) and the Heritage List. This included a review of all existing places, and identification of new places of cultural heritage significance to form a Draft LGI and Heritage List for the purposes of community consultation.

**Submission**

N/A

**Report**

The purpose of this report is for Council to consider adopting the following for community consultation:

- \* Draft LGI;
- \* Draft Heritage List;
- \* Draft Local Planning Policy (Heritage Conservation);
- \* Scheme Amendment No. 85 (Scheme text amendments relating to heritage).

The purpose of these proposals is to provide a framework for the protection of places with heritage significance within the City of Cockburn.

Each of these proposals is discussed separately in detail below.

Draft Local Government Inventory

The Draft LGI has been prepared by Heritage Consultant, Eddie Marcus, and is included in the Agenda attachments. The review and compilation of the Draft LGI has involved the following key steps:

1. Review of all existing places on the MI and updating each place record as required.

2. Identifying new places of cultural heritage significance for inclusion on the Draft LGI.
3. Review of existing Heritage List and compilation of a new proposed Heritage List from the reviewed LGI.

The compilation of the Draft LGI has been undertaken in accordance with assessment criteria set out in the 'Criteria for the Assessment of Local Heritage Places and Areas' published by the Heritage Council. The following assessment criteria are used in this process:

- \* Aesthetic value
- \* Historic value
- \* Research value
- \* Social value
- \* Rarity
- \* Representativeness
- \* Condition, Integrity and Authenticity

Through this process each place on the Draft LGI has been allocated an assigned management category, which provides an indication of the level of significance of the place, as follows:

- A - Exceptional significance
- B - Considerable significance
- C - Significant
- D - Some Significance
- T - Significant Tree

The Draft LGI includes a total of 106 places, and 8 of these are new places that are not included in the current MI.

#### Draft Heritage List

The Heritage Consultant has recommended that all places identified as Management Category A and B be included on the Draft Heritage List because these are the places with the highest heritage significance (refer Agenda attachments). This means that of the 106 places on the Draft LGI, 40 places are also identified for inclusion on the Heritage List pursuant to the scheme. This represents a reduction in the number of places on the Heritage List than is currently identified (58 places) because the MI that was adopted in 1998 effectively identified all places for inclusion on the Heritage List, with the exception of Management Category E places (places with little or no remaining physical features - no longer proposed to be a category in the Draft LGI).

Of the places that are currently identified as being on the Heritage List, there are 18 that are no longer proposed to be included on the Heritage List however they will remain on the LGI. These places are outlined in the Agenda attachments with the specific reason(s) why they are not

proposed to be included on the Heritage List. In many cases this is because of the proposed management category that has been assigned to the place (i.e. they have been identified as a Management Category C or D place).

There are seven new places proposed to be included on the Heritage List, and these are outlined in the Agenda attachments, including the reason(s) for their proposed inclusion, which effectively relates to the fact that they have been identified as a Management Category A or B place.

The proposed Heritage List is considered to represent a more refined list of places with the greatest cultural heritage significance which is considered important given that the Scheme requires planning approval prior to even minor works being undertaken to places on the Heritage List. This includes works such as the replacement of gutters or downpipes. The purpose of this requirement is to ensure that such works are undertaken in a sensitive manner, in a way that does not compromise the heritage significance of the place. However, this requirement is considered onerous in cases where places are of lesser significance, and where the intention of including them on the Heritage List was only to provide the opportunity for an archival record (i.e. a historical record of a place including photographs and plans). Therefore it is considered prudent to ensure that planning approval is not being required unnecessarily.

One of the main reasons that the original MI proposed the inclusion of Management Category A - D places was to enable the opportunity for an archival record to be prepared for those places with less significance. The revised Heritage List is smaller; however the proposed changes to the scheme provisions will mean that planning approval is required prior to the demolition of all places on the LGI. The intention of this is to provide the opportunity for an archival record without imposing the burden of requiring development approval for all works (discussed in detail in the next section).

#### Proposed Scheme Amendment No. 86

A Scheme amendment is proposed to modify some of the provisions related to heritage, and these changes are outlined in detail below.

##### 1. Requirements for Planning Approval

There are some modifications proposed to the Scheme text that have implications for the types of development that will require planning approval.

Clause 8.2 of the Scheme sets out the types of development that is exempt from planning approval. Currently works that affect only the interior of a building and which do not materially affect the external



appearance of the building are exempt from planning approval, except where the building is included on the State Register, or on the Heritage List under the Scheme.

The erection of a single house, including any extension, ancillary outbuildings and swimming pools is also exempt, except where the development will be located in a Heritage Area designed under the Scheme. It should be noted that the City has no existing Heritage Areas, nor are any proposed as part of this review. It is proposed that Clause 8.2.1(b) of the Scheme be modified to also require planning approval for the erection of a single house, including any extension, ancillary outbuildings and swimming pools where a place is included on the Heritage List. It is considered that the current exclusion of this requirement is an oversight, given that the current provisions require development approval for internal works for places on the Heritage List.

The Draft Policy provides more design guidance regarding the types of development that may be acceptable to assist landowners and Council in the assessment of applications (discussed in further detail later in this report).

Proposals for works to places included on the State Register of Heritage Places require planning approval, and pursuant to the *Heritage of Western Australia Act 1990* the advice of the Heritage Council is required prior to a decision being made.

## 2. Demolition

Currently the demolition of any building or structure is exempt from planning approval except where it is located on the State Heritage Register; where it is the subject of a Conservation Order under Part 6 of the *Heritage of Western Australia Act 1990*; or where it is included on the Heritage List; or located in a Heritage Area.

It is proposed to include an additional clause to also require development approval for the demolition of all places that are included on the LGI. This will facilitate the opportunity to require an archival record prior to demolition of a Management Category C or D place that is included on the LGI but not on the Heritage List. If this is not required there is no mechanism through the demolition licence process for an archival record to be required.

The Draft Policy provides further guidance regarding when demolition proposals will be supported (discussed later in this report).

## 3. Significant Trees

The Draft LGI includes a number of significant trees, many of which are already included on the current MI (identified in the original MI and the

subsequent 2004 review). The list of significant trees is included in the Agenda attachments.

The significant trees that were identified in the original MI (1998) were also identified for inclusion on the Heritage List. It is clear that the intention of including these trees on the Heritage List was to protect them, however, the provisions in the scheme that protect Heritage Places specifically relate to buildings and structures. For example, the provisions of the Scheme [Clause 8.2.1(c)] that require planning approval prior to demolition of a place on the Heritage List specify that this is required for demolition of a building or structure. These provisions are not considered to provide any protection to trees, and there are no other provisions in the Scheme that protect trees that are on the Heritage List or LGI (or MI as it is currently referred to in the Scheme).

The trees that were identified in the 2004 MI review have been allocated specific management recommendations, and while they were not identified for inclusion on the Heritage List in certain circumstances where the tree is located on private property, the current MI specifies that inclusion of the tree on the MI affords it a level of protection. However, there is currently no mechanism to implement or enforce the management recommendations that are outlined in the place records.

In order to provide some level of protection to the significant trees, and to clarify the requirements relating to significant trees it is recommended that an additional clause be included in the scheme to require planning approval prior to the removal of any significant tree identified on the LGI.

It is considered that the proposed Amendment will provide an improved framework for the identification and protection of significant trees.

It should be noted that the majority of the significant trees that have been included on the Draft LGI are located on public land, such as street verges or Council reserves. There are only three significant trees included on the Draft LGI that are located on private property (wholly or partially), namely the following:

- \* Four Norfolk Pine Trees - 104 Forrest Road, Hamilton Hill.
- \* Moreton Bay Fig Tree - 110 Rockingham Road, Hamilton Hill (Hamilton Hill School).
- \* Norfolk Pine Trees - 300 Hamilton Road, Spearwood.

These three trees located on private property are already included in the current MI, and were all identified for inclusion on the Heritage List. Notwithstanding, all landowners who are affected by the significant trees will be consulted during the advertising of the Draft LGI, Heritage List, Scheme Amendment and Draft Policy.

The Draft Policy provides further guidance for works that are proposed for significant trees, discussed later in this report.

#### 4. Minor Modifications

The following minor Scheme text changes are proposed:

- \* Updating all references to the 'Municipal Inventory' with the term 'Local Government Inventory', consistent with the new terminology in the *Heritage of Western Australia Act 1990*.
- \* Correction to the wording of clause 10.2.1(h) to reflect the Model Scheme Text ("MST"), which does not affect the operation or intent of the clause.

#### Draft Local Planning Policy (Heritage Conservation)

The City does not currently have a local planning policy covering heritage matters, and currently relies on *State Planning Policy 3.5 Historic Heritage* ("SPP 3.5"). While SPP 3.5 broadly covers development control principles for heritage places it is considered that further guidance and direction would be of benefit to Council and landowners.

The Policy will provide further guidance for landowners regarding the types of works that will be acceptable.

Clause 10.2.1(h) of the Scheme identifies that in considering applications for planning approval the local government must have due regard to the conservation of any place on the State Register or Heritage List. However, there is no further guidance regarding this matter, given that the heritage provisions of the Scheme (set out in Part 7), primarily relate to the procedural matters for heritage places, rather than principles or guidelines for actual development proposals. These do not offer any guidance for landowners of heritage places, nor for the Council in assessing proposals for development.

In preparing the Draft Policy, consideration has been given to the Heritage Council's *Guidelines for Local Planning Policies*; SPP 3.5; and the principles of the Burra Charter for the conservation of places of cultural heritage significance [Australian International Council on Monuments and Sites (ICOMOS)], which has been generally accepted as the standard for heritage practitioners in Australia.

The Draft Policy is included in the Agenda attachments, and an overview of the content of the Draft Policy is provided below. It should be noted that the Draft Policy reflects the proposed changes outlined in the Scheme Amendment.

## 1. External Alterations and Extensions

Proposed alterations and extensions to places on the Heritage List require planning approval, and the Draft Policy sets out design guidelines in this regard.

These policy provisions are underpinned by the following key principles of the *Burra Charter*, and SPP 3.5:

- \* New development should not mimic the old, and should be distinguishable from the original.
- \* Changes to a place should be based on respect for the existing fabric, requiring a cautious approach of changing as much as necessary but as little as possible.
- \* New work should not obscure or detract from the heritage significance of a place.

## 2. Internal Alterations

The Draft Policy sets out that alteration to the interior of a heritage place to suit a current and compatible use will be supported where the proposal does not compromise the heritage significance of the place.

## 3. Change of Use

The *Burra Charter* sets out that a place should have a compatible use, and the Draft Policy proposes that adaptive reuse of heritage places may be supported provided that the proposed use(s) will not impact negatively on the amenity of the surrounding area; that any required modifications do not substantially detract from the heritage significance of the place; and that it is consistent with the Scheme and other relevant Council policies.

## 4. New Buildings/Structures

New buildings, structures and other features that are located within the curtilage of a heritage place have the potential to impact on the heritage significance by affecting the setting of the place. Therefore the Draft Policy sets out guidelines for such proposals, which primarily seek to ensure that proposals for new buildings or structures do not detract from the setting or heritage significance of a place.

These proposed policy provisions are consistent with the principles of the *Burra Charter* which specifies that conservation requires the retention of an appropriate setting for a place, and that new construction, intrusions or other changes should not adversely affect the setting of a place.

## 5. Demolition

One of the important functions of the Draft Policy is to set out policy provisions for proposed demolition of heritage places, which are proposed to vary depending on the heritage significance of the place.

In this regard the Draft Policy sets out the following:

*Places on the Heritage List (Management Category A and B Places)* - Demolition of places on the Heritage List (i.e. Management Category A and B places) will not generally be supported.

Consideration of a demolition proposal will be based on the following:

- \* The significance of the place;
- \* The feasibility of restoring or adapting it, or incorporating it into new development;
- \* The extent to which the community would benefit from the proposed redevelopment.

This position is considered to be consistent with SPP 3.5, which stipulates that demolition of a State heritage place is rarely appropriate and should require the strongest justification; and demolition of a local heritage place should be avoided wherever possible, although there will be circumstances where demolition is justified. SPP 3.5 specifies that the onus rests with the applicant to provide a clear justification for demolition.

Therefore the Draft Policy sets out that where structural failure is cited as justification for demolition the onus rests with the applicant to provide a clear justification for demolition, and evidence should be provided from a registered structural engineer that the structural integrity of the building has failed to the point where it cannot be rectified without the removal of a majority of its significant fabric and/or prohibitive costs.

The Draft Policy sets out that partial demolition of a building on the Heritage List may be supported where the part(s) to be demolished do not contribute to the cultural heritage significance of the place, and sufficient fabric is retained to ensure structural integrity during and after development works.

In circumstances where demolition of a place on the Heritage List is considered appropriate an archival record will be required as a condition of development approval, and the archival record should be prepared in accordance with the Heritage Council's guidelines.

Where full or partial demolition is supported this may be subject to appropriate interpretation to acknowledge the cultural heritage significance of the heritage place.

Places on the LGI (Management Category C and D)

While the retention of any place on the LGI will always be encouraged, generally proposals for demolition of a Management Category C and D place will be acceptable; however, an archival record would be required prior to demolition.

6. Relocation

The *Burra Charter* outlines that the location of a heritage place is part of its cultural significance, and that relocation of a place is generally unacceptable unless this is the sole practical means of ensuring its survival, or it was designed to be transportable.

The Draft Policy is proposed to reflect this principle, and states that the relocation of a building or other component of a heritage place is generally unacceptable.

7. Significant Trees

The proposed Scheme Amendment proposes to require planning approval prior to the removal of a significant tree identified on the LGI. As previously outlined, only three of the significant trees proposed for inclusion on the LGI are located on private property.

The Draft Policy proposes to include some provisions to outline the type of works that may be acceptable.

For example, significant trees may be pruned as part of routine maintenance in accordance with the International Society of Arboriculture standards, provided the pruning would not reduce the tree's height or crown or diameter, alter the trees general appearance, increase the tree's susceptibility to insects or disease, or otherwise increase its risk of mortality.

The Draft Policy sets out that the removal of significant trees will only be supported where it is necessary to protect public safety or private or public property from imminent danger, and the onus is on the applicant to demonstrate that this is the case. This may require the submission of a report prepared by a suitably qualified arborist.

Proposals for substantial pruning to a significant tree may require the submission of an arborist report prepared by a suitably qualified consultant demonstrating that the proposal is acceptable.

8. Minor Works, Repairs, and Restoration

Pursuant to the Scheme, all development affecting a place on the Heritage List requires development approval. This includes minor

works such as replacement of roofing, gutters, downpipes. The purpose of this requirement is to ensure that these works do not have a negative impact on the heritage significance of the place, and accordingly the following policy provisions apply:

The Draft Policy provides further guidance regarding what constitutes minor works and routine maintenance to assist landowners.

It also outlines guidelines for undertaking minor works, such as replacing materials “like for like”, matching the original as closely as possible with regard to the materials, colours, and textures.

## 9. Structure Plans and Subdivision Proposals

Proposals for the subdivision of land that contains a heritage place(s) have the potential to impact on the heritage significance of the place, in particular by impacting on the setting. The Draft Policy proposes that subdivision proposals for heritage places should be designed to retain an appropriate setting for heritage buildings, and this includes the retention of original garden areas, landscaping features or other features that are considered essential to the setting of the heritage place or its heritage significance.

Consideration should also be given to how future development of the subdivided land is likely to affect the identified significance of the heritage place. It is also important to note that under the Scheme discretion exists to vary provisions of the Scheme or the Residential Design Codes (“R-Codes”)

The Draft Policy also proposes that subdivision proposals which indicate the required demolition, partial demolition or modification to a place on the Heritage List or State Register of heritage places will not be supported without a Heritage Impact Statement accompanying the subdivision proposal. A Heritage Impact Statement sets out how the proposal will affect the significance of the place; what alternatives have been considered to ameliorate any adverse impacts; and how the proposal will result in any heritage conservation benefits that may offset any adverse impacts. This is to be prepared by a heritage professional and in accordance with the Heritage Council’s guidelines.

While the Western Australian Planning Commission (“WAPC”) is the decision-making authority for subdivisions, it is proposed that the Draft Policy will be used to guide the City’s recommendations to the WAPC.

For proposed structure plans that incorporate heritage places the Draft Policy sets out that they should demonstrate how matters of heritage significance will be addressed. In some cases where a number of places are included an overall heritage may be required as part of the structure plan report, demonstrating how heritage issues will be addressed, including recommendations for interpretation.

## 10. Proposed Requirements for Archival Recording

Throughout the Draft Policy where there is reference to the requirement of an archival record this is required to be in accordance with the 'Standard form (for places not included on the State Register) for the Archival Recording of Heritage Places', produced by the Heritage Council.

This sets out the requirements for archival records, and it is proposed that this standard form and brief be used for all archival records. This will ensure consistency in the format and content of all archival records. The amount of supporting information that is required for the archival record depends on the Management Category, but it generally includes photographs of all elevations of the heritage building(s) or structures, internal rooms and features, and a sketch standard site plan, floor plan and elevation (to scale).

### Proposed Nominations for State Register

Heritage places that are identified as Management Category A on the LGI are those of 'exceptional significance', and they are defined in the Draft LGI as:

*'Essential to the heritage of the locality. Rare or outstanding example. The places should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise.'*

All of the places that are identified as Management Category A in the Draft LGI (and also in the current MI) are included on the State Register with the exception of the Hamilton Hill Memorial Hall (Place No. 35) and the South Fremantle Power Station (Place No. 75).

The South Fremantle Power Station and Hamilton Hill Memorial Hall are included on the current MI, nominated as a Management Category A places. The Draft LGI proposes that these places also be included on the Heritage List, given that all Management Category A and B places are proposed to be included on the Heritage List.

Given their exceptional significance, it is recommended that both of these places be nominated for inclusion on the State Register of Heritage places. Places included on the State Register are protected under the *Heritage of Western Australia Act 1990*.

Under the *Heritage of Western Australia Act 1990* any person or agency can nominate a place for inclusion on the State Register.



## 1. Memorial Hall (Place No. 35)

Memorial Hall is located at 435 Carrington Street, Hamilton Hill, and is owned by the City of Cockburn.

Memorial Hall was constructed in 1925 in memory of the fallen and returned soldiers of WWI. It has extremely high historical, cultural and aesthetic significance as a prominent landmark, which has been sensitively restored. Its cultural heritage significance is detailed in the place record of the Draft LGI (refer Agenda attachments). The Heritage consultant has recommended its inclusion the State Register of Heritage Places.

It is therefore recommended that the City of Cockburn nominate the place for inclusion on the State Register, and that Council direct staff to prepare the required heritage nomination form and submit it to the Heritage Council for consideration.

## 2. South Fremantle Power Station (Place No. 75)

South Fremantle Power Station is a former coal-fired electric power generating installation that was constructed in 1951, and it was the second and largest purpose-built thermal power station in Western Australia. It is owned by Verve Energy.

The surviving main building (now stripped of all plant) remains aesthetically significant; the building demonstrates the strong expression of a structure specifically designed for an industrial process.

The South Fremantle Power Station was previously included on the Interim Register of Heritage Places (25/10/1997), which has lapsed in recent years subsequent to the land changing ownership (to Verve Energy). This lapsing is a legal issue that does not relate to the cultural heritage significance of the place, which is still considered to be very high.

The South Fremantle Power Station is located within the Cockburn Coast District Structure Plan ("District Structure Plan") area, which was adopted by the WAPC in August 2009. The District Structure Plan outlines that it is considered appropriate to secure the heritage values of the place into the future. It outlines that the South Fremantle Power Station is a significant component of the District Structure Plan owing to its physical dominance and uniqueness, and it identifies that the power station will become the landmark feature of the town centre. It specifies that - "Retention of the power station is therefore of critical importance".

Therefore, in light of the endorsed District Structure Plan, and the exceptional heritage significance of the South Fremantle Power Station, as identified in both the existing MI and Draft LGI it is

recommended that the City of Cockburn nominate the place again for inclusion on the State Register, and that Council direct staff to prepare the required heritage nomination form and submit it to the Heritage Council for consideration.

### **Conclusion**

The Draft LGI and Heritage List have been the result of a comprehensive review undertaken by a Heritage Consultant, in accordance with the Heritage Council guidelines and it is recommended that Council adopt them for the purposes of community consultation.

It is considered that the proposed Scheme Amendment will provide an improved framework for protecting heritage places, and the Draft Policy will ensure that works to heritage places respects the cultural heritage significance associated with the places. The Draft Policy will also provide improved certainty to landowners and the community about the development control principles for heritage conservation and protection. It is therefore recommended that Council adopt Scheme Amendment No. 86 and the Draft Policy for community consultation.

It is also recommended that Council direct staff to nominate the Hamilton Hill Memorial Hall and South Fremantle Power Station for inclusion on the State Register of Heritage Places, in recognition of their exceptional heritage significance.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To conserve the character and historic value of the human and built environment.

### **Budget/Financial Implications**

The preparation of the Draft LGI, Heritage List and Draft Policy, and the subsequent advertising process have been budgeted for in the 2009/2010 and 2010/2011 budget.

### **Legal Implications**

N/A

## Community Consultation

It is proposed that the Draft LGI, Heritage List and Draft Policy be advertised together to enable landowners to ascertain how they may be affected. This will largely be dependent on the management category allocated to the place, and whether it is also proposed to be included on the Heritage List.

All landowners affected by the Draft LGI and Heritage List will be consulted, including those places that are already included on the MI. The letters that will be sent to landowners will provide an explanation of the implications of the proposed listing, the Scheme Amendment and the Draft Policy.

While the Draft LGI, Heritage List and Draft Policy are proposed to be advertised together, there are different statutory advertising requirements for these proposals that must be met, and each of these are outlined below.

The *Heritage of WA Act 1990* does not specify community consultation requirements for a LGI, beyond stating the local government shall ensure that the LGI is compiled with proper public consultation. However, the Scheme is clear regarding the required community consultation and process for including places on the Heritage List pursuant to the Scheme. This requires all landowners and occupiers of places proposed to be included on the Heritage List to be notified in writing, including reasons for the proposed entry. The minimum advertising period set out in the Scheme for advertising a draft Heritage List is 21 days.

The Draft Policy will be advertised in accordance with clause 2.5 of the scheme. This includes a notice of the proposed Policy in a newspaper for two consecutive weeks in accordance with clause 2.5.1(a), and furthermore notice of the proposed Policy will be included as part of the advertising of the amendment. The minimum advertising period set out in the Scheme for local planning policies is 21 days.

The advertising of the Scheme Amendment will be undertaken in accordance with the *Town Planning Regulations 1967*, which requires consultation to be undertaken subsequent to the local government adopting the Scheme Amendment and the Environmental Protection Authority ("EPA") advising that the proposal is environmentally acceptable. This requires the amendment to be advertised for a minimum period of 42 days.

To enable landowners' sufficient time to review the proposals and make a submission it is proposed that the Draft LGI, Draft Heritage List and Draft Policy be advertised for a period of 60 days.

Consultation will also be undertaken with relevant community groups, including the Cockburn Historical Society.

**Attachment(s)**

1. Draft Local Government Inventory
2. Draft Heritage List
3. List of places proposed to be removed from Heritage List
4. List of new places proposed for inclusion on Heritage List
5. Draft Significant Trees List (extract from Draft LGI)
6. Draft Local Planning Policy (Heritage Conservation Design Guidelines)

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.7 (OCM 08/07/2010) - FINAL CONSIDERATION OF LOCAL PLANNING POLICY APD60 'MURIEL COURT PRECINCT DESIGN GUIDELINES AND CONSIDERATION OF MINOR MODIFICATION TO MURIEL COURT STRUCTURE PLAN' - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (SM/M/009) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) subject to the structure plan being modified in accordance with the recommendations within this report and the Schedule of Submissions, Council adopt the revised Muriel Court (DA19) Structure Plan under Clause 6.2.14.1(a) of City of Cockburn Town Planning Scheme No. 3 ("Scheme"). This is to specifically include the deletion of the two proposed laneways on Lots 16, 17, 52, 53, 54, 55, 75, 76 and 81;
- (2) forward a copy of the revised Structure Plan to the Western Australian Planning Commission ("WAPC") for endorsement pursuant to Clause 6.2.14.3 of the Scheme;
- (3) subject to the Draft Local Planning Policy No. APD60 'Muriel Court Precinct Design Guidelines' being modified in accordance with the recommendations of this report and the Schedule of Submissions, adopt Local Planning Policy ADP60 pursuant to Clause 2.5.2(b) of the Scheme;
- (4) adopt the Schedule of Submissions;

- (5) subject to the changes listed in Part 3 above, publish notice of the adopted Local Planning Policy APD60 in accordance with Clause 2.5.3(a) of the Scheme; and
- (6) advise those persons who made a submission of Council's decision, and advise the WAPC in accordance with Clause 2.5.3(b) of the Scheme.

## COUNCIL DECISION

### Background

Council at its meeting held on 8 April 2010 resolved to prepare a Local Planning Policy for the purpose of applying design guidelines to the Muriel Court Structure Plan area and to advertise the Draft Policy. The Draft Policy is known as APD60 'Muriel Court Precinct Design Guidelines'.

At the same meeting, Council also noted minor modifications to the approved Structure Plan in the form of additional laneways within the R60 area adjacent the realigned Semple Court and southern R80 to R160 coded areas as provided for by the draft Local Planning Policy.

The Draft Policy and minor changes to the Structure Plan were advertised for a period commencing on the 20 April 2010 and concluding on the 21 May 2010.

### Submission

N/A

### Report

#### Draft Local Planning Policy APD60 - Muriel Court Precinct Design Guidelines

Both the Muriel Court Structure Plan and City of Cockburn Town Planning Scheme No. 3 ("Scheme") require design guidelines for the Development Area 19 location, in order to achieve some degree of uniformity in design outcomes notwithstanding the highly fragmented land ownership which exists.

The design guidelines seek to establish the character of the buildings, public spaces and streets, and will guide development and subdivision applications. The design guidelines are important to create an attractive and well designed urban village, which readily allows the principles and intent of the Structure Plan to be achieved. Good urban design principles such as; buildings addressing the street, interesting and articulated facades, building expression and safety in design are incorporated into the document.

The design guidelines were advertised for a period of 28 days, including two consecutive notices in the local newspaper and letters to all adjoining and affected landowners. Refer to the Agenda attachments for a copy of the design guidelines.

A total of four submissions were received, two landowners raising concerns, one landowner concerned with the length of time to develop and one from the City's Environmental Department requesting additional sustainability initiatives to be included. Each submission is addressed in detail in the Schedule of Submissions which is contained within the Agenda attachments. In specifically noting the submissions raising concerns, these raised the following key points:

- Concerned that the restrictive and sometimes prescriptive nature of the design guidelines will limit the opportunity to redevelop effectively.
- Request minor changes to the development standards in order to maximise yields and provide greater flexibility.
- Request additional sustainability initiatives be added to the design guidelines.

In respect to these points, the following comments are provided:

- Given that the area is highly fragmented and consists of approximately 90 different landowners, the design guidelines need some prescriptive elements to ensure a level of consistency is applied to the Development Area. However, the design guidelines give sufficient flexibility to vary the development standards where good outcomes can be achieved.
- As stated within the Schedule of Submissions, a few of the development standards and wording within the document are recommended to be amended to respond to the concerns raised and provide greater flexibility.
- Further clarification and information on the sustainability initiatives have been added to the document in response to the submission from the City's Environmental Department.

The changes to the design guidelines as a result of the submissions are considered minor and are not considered to materially alter their intent. They have been modified to reflect the current version of the

Structure Plan. In addition, as the proposed new laneways were advertised concurrent with the design guidelines and are being considered as part of this Council report, figure 8 'New Laneways' can be deleted from the design guidelines as it is no longer relevant. The reference to new laneways within the text of the design guidelines can also be deleted.

It is also recommended that a new sentence be added to the introduction indicating that early consultation with the City of Cockburn is encouraged for subdivision/development and should include pre-lodgement meetings.

#### Variation to the Structure Plan

Through the preparation of the design guidelines and the assessment of the possible development scenarios, it was determined that in some of the medium and high density areas additional laneways are required to accommodate the intended built form outcomes. These new laneways are identified in the Agenda attachments and in order to accommodate the new laneways, a variation to the Structure Plan was advertised at the same time as the design guidelines. During the advertising period a total of three submissions were received; one landowner raised concerns, one landowner requesting changes to a laneway alignment and one from a service authority providing no objections.

In relation to the submission raising concerns, it mentioned that the new laneway (over Lot 55) will further restrict the development potential of the site and that suitable built form outcomes can be achieved without the need for the laneway. In relation to these concerns it is noted that three of the properties affected by the new laneways (Lots 52, 53 and 55) within the south east section of the Structure Plan area, including the submissioners property, already have approximately 30 per cent of their sites allocated as public open space and the new laneways will further limit the developable area. Furthermore the laneway over Lots 16, 17, 53, 54 and 55 is over 250m long and is well in excess of the maximum laneway length recommended under Liveable Neighbourhoods.

In addition, the laneway over Lots 75, 76, 81 and 52 has an "L" shape and has a total length of 240m and the shape of this laneway means that is it not conducive to providing the most suitable passive surveillance outcomes. Again suitable built form outcomes can be achieved without the need for this laneway.

Accordingly, it is recommended that the two proposed laneways on Lots 16, 17, 52, 53, 54, 55, 75, 76 and 81 be deleted.

The other proposed laneways are recommended to remain, however the alignment of the laneway over Lots 12 and 13 is recommended to be changed as detailed within the Schedule of Submissions.

### **Conclusion**

The design guidelines are necessary to satisfy the requirements of the City's Town Planning Scheme and the Development Area 19 Structure Plan. The design guidelines will provide for some degree of uniformity in design outcomes notwithstanding the highly fragmented land ownership which exists. Minor changes to the Design Guidelines are recommended as detailed in this report and the Schedule of Submissions and it is therefore recommended that the design guidelines be adopted pursuant to Clause 2.5.2(b) subject to these changes.

In relation to the proposed variation to the Structure Plan, it is recommended that the variation be approved by Council, subject to the deletion of two of the laneways as mentioned within this report and the Schedule of Submissions.

### **Strategic Plan/Policy Implications**

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.

#### **Budget/Financial Implications**

N/A

#### **Legal Implications**

*Planning and Development Act 2005*  
City of Cockburn Town Planning Scheme No. 3  
*Town Planning Regulations 1967*

#### **Community Consultation**

The draft Local Planning Policy (design guidelines) and minor modifications to the Structure Plan were advertised for a period of 28 days. The Policy attracted four submissions; two landowners raising



concerns, one landowner concerned about the length of time to develop and one from the City's environmental section requesting additional sustainability initiatives.

The variation to the Structure Plan attracted three submissions; one landowner raised concerns, one landowner requesting changes to a laneway alignment and one from a service authority providing no objections.

#### **Attachment(s)**

1. Adopted Muriel Court Structure Plan
2. Minor Modifications to the Muriel Court Structure Plan
3. Draft Local Planning Policy APD60 'Muriel Court Precinct Design Guidelines'
4. Schedule of Submissions - Design Guidelines
5. Schedule of Submissions - Variation to Structure Plan

#### **Advice to Proponent(s)/Submissioners**

Those that made submissions have been advised that the matter is to be considered at the 8 July 2010 Council meeting.

#### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

#### **14.8 (OCM 08/07/2010) - PROPOSED AMENDMENTS TO MASTERPLAN AND PROPOSED DISTRICT STRUCTURE PLAN - HOPE VALLEY WATTLEUP REDEVELOPMENT AREA (LATITUDE 32) (SM/M/015) (C CATHERWOOD) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) adopts the Schedule of Officer Comments;
- (2) refers the Schedule of Officer Comments and a copy of the officer report to Landcorp for their consideration;
- (3) reiterates to Landcorp Council's support for the long term retention and protection of the rural area between Latitude 32 and the Thomson's Lake/Harry Waring Marsupial conservation reserves, and that the Schedule of Officer Comments is particularly focussed on achieving this objective; and
- (4) advise Landcorp at the detailed design level, Council seeks a balance between the land required from its Resource Recovery Centre for the Intermodal Freight terminal and the land it will

need to acquire for the Centre's activities from the property immediately north as well as the accommodation of the operation's buffer requirement.

## **COUNCIL DECISION**

### **Background**

The 1400ha proposed industrial area at Hope Valley/Wattleup was first earmarked for development in the late 1990s. It was excised from both the Metropolitan Region Scheme ("MRS") and the local planning schemes of the City of Cockburn and the Town of Kwinana by the *Hope Valley Wattleup Redevelopment Act 2000*.

Responsibility for structure planning for this area, now known as Latitude 32, lies with Landcorp. Development approval and compliance management is the responsibility of the Department of Planning.

In March 2005, a Masterplan was endorsed for Latitude 32. This document replaced the MRS and both local government planning schemes insofar as they related to the Latitude 32 area. The Masterplan established a two tiered approach to structure planning for the area. A district structure plan is required for the broader area which is then to be refined to local structure plans at precinct level.

A draft Latitude 32 District Structure Plan has now been released for consultation. It is accompanied by several amendments to the Masterplan which will remedy points of difference between the proposed District Structure Plan and the 2005 Masterplan. Comments on those amendments and the proposed District Structure Plan are the subject of this report.

### **Submission**

N/A

### **Report**

In principle, the issues City staff has raised with the proponent in the past have been addressed. The major issues covered by the Schedule of Comments relate to implementation measures and can be broadly categorised as:

- social: relationship to and impact on adjacent land uses (rural areas of Cockburn);
- environment: robustness of sustainability and environmental performance, and;
- economic: lack of incentives outlined to encourage clustering of businesses to achieve better environmental and economic outcomes.

These issues are elaborated below:

### Social

The key objectives of the draft District Structure Plan do not address the issue of social sustainability or integrating appropriately with surrounding land uses.

In the Fremantle Rockingham Industrial Area Regional Strategy (FRIARS), the rural area to the east of Latitude 32 was retained as a transition/buffer between industrial and conservation areas. This principle was strongly supported by the landowners in that area, and it is known that many still hold that view and do not wish to relocate or develop for industrial purposes. It was also an important principle in retaining the rural area in the FRIARS study that the industrial area would be planned and developed in such a way that all impacts (including noise) would be contained within the industrial area and there would be no impacts on residents in the rural or residential areas.

In relation to this, areas along the northern and eastern boundaries of the draft Plan are indicated as 'General Industry' which is not appropriate.

This area needs to interface with the existing rural environment which is expected to remain in the longer term. This interface should be shown similar to the northern gateway and Power Avenue which are 'Light Industry/Business Park'. A core of heavier industries surrounded by a buffer of light industry would be consistent with State Planning Policy 4.1 - State Industrial Buffer Policy.

It is generally known also that industrial areas can generate high noise levels and to date there has been no comprehensive noise study prepared. As there are a number of areas where separation distances are below 50m between houses (sensitive premises) and the Latitude 32 area, it is important that development at this interface be managed. As no detailed noise study has been carried out to date, the extent of potential noise impacts (if any) on the rural residents cannot be determined.

Notwithstanding this, the City is of the view that no activity in the Latitude 32 area should affect the rural community in any way,

consistent with Section 6.4.3 of the Master Plan. This requires that land use and development within the redevelopment area be carried out and managed so as to ensure that any individual or cumulative noise generated during the construction or operation of any development does not adversely affect existing and/or potential future neighbouring land uses. This must ensure that unacceptable levels of noise do not encroach beyond the redevelopment area boundary.

Clearly some of the truck movements within Latitude 32 will be for targeted destinations (new Port, intermodal terminal, AMC etc). However others will be via the Kwinana Freeway / Roe Highway interchange. This latter movement is of significant concern, as there is the potential to directly feed high numbers of trucks onto Russell Road which would be a shorter, more convenient movement than Rowley Road particularly for inbound truck movements accessing the centre of Latitude 32. A major increase in truck movements along Russell Road will have a significant impact on the community either side of Russell Road.

### Environment

Much discussion in the document is given to the intent to have sustainable outcomes from the Latitude 32 development. However, there is a clear disconnect between the District Structure Plan and future planning processes to facilitate these outcomes.

The District Structure Plan mentions a Concept Plan has been prepared for alternative industry feedwater to selected industries and precincts. It is stated in the Plan that feasibility should be investigated by developers at local structure plan stage. Notably, the DSP stops short of requiring an alternative supply (presumably so as not to stifle development), however, it could provide some level of incentives which could also apply to waste management generally. For example, rewarding the promotion of resource recovery technologies and encouraging clusters of industry where better industry ecology outcomes can occur.

Sustainability performance of the District Structure Plan lists a variety of measures. In terms of “third pipe” and alternative feedwater supply these statements are not performance measures. They are references to initiatives “investigated” but not embodied by this draft District Structure Plan and with no clear direction for how they may be implemented. In essence, the Plan does not prevent these initiatives, but it does not actively facilitate them either.

### Economic

Economic and sustainable outcomes could also be more achievable if the District Structure Plan placed more emphasis on its connection with the surrounding region. As an example, the proposed shuttle bus route

proposed is entirely limited to servicing the Latitude 32 development. Consideration could be given to broader options which include catchment/destinations of Henderson Industrial Area and Australian Marine Complex. These areas may have some bus services currently, however these are north-south focused and do not provide the east-west connection to the Southern Suburbs Rail Line.

This issue is not likely to be resolved at local structure planning level. There is no clear indication in the District Structure Plan how this issue will be progressed.

### Operational Issues (Resource Recovery Centre)

Aside from the planning issues raised as formal comments on the amendments to the Masterplan and proposed District Structure Plan, it is appropriate to provide feedback from Council's role as a landowner within the area.

Changes are proposed to the zoning of Council's Resource Recovery Centre to accommodate the Intermodal Freight Terminal. As flagged in the documents, Council has been involved in discussion of this proposal. It is important to flag Council's expectations at the more detailed levels of planning which will follow these documents. An officer recommendation has been included to ensure Landcorp are aware of the need for a balance between the land required from its Resource Recovery Centre for the Intermodal Freight Terminal and the land it will need to acquire for the Centre's activities from the property immediately north. The need for the accommodation of the Resource Recovery Centre's buffer has also been drawn to Landcorp's attention.

### **Conclusion**

Detailed comments on the specific elements of each document can be found in the Schedule of Comments (Attachment 3). It is recommended that Council adopts the Schedule of Comments and forwards them to Landcorp for their consideration with a copy of this report.

### **Strategic Plan/Policy Implications**

Latitude 32 is outside the City's planning control and therefore City policies are not directly applicable. The development of the Latitude 32 area for industrial purposes is consistent with Council's "Plan for the District 2010-2020".

### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

### **Budget/Financial Implications**

There are no immediate implications, however, in the longer term the land will be returned to the local governments. It is important to ensure that applicable development contribution plans are robust and well managed to ensure this transition occurs smoothly and there are no negative financial implications for the City.

### **Legal Implications**

N/A

### **Community Consultation**

Landcorp commenced consultation on 26 May and submissions must be received by 26 July. Community information sessions were held over the month of June.

### **Attachment(s)**

1. Proposed amendments to Masterplan
2. Proposed District Structure Plan
3. Aerial Photograph of Subject Land
4. Schedule of Submissions

### **Advice to Proponent(s)/Submissioners**

City officers have met with the proponents over a number of years and provided input. Most recently, in February 2009, the proponent was provided with formal Council comments of the proposed Kwinana Intermodal Freight Terminal.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**14.9 (OCM 08/07/2010) - DETAILED AREA PLANS FOR LOTS 785 AND 786 PORT COOGEE, NORTH COOGEE - PREPARED BY: TAYLOR BURRELL BARNETT - PROPONENT: AUSTRALAND (PS/A/001) (T WATSON) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) approve the Detailed Area Plans presented for Lots 785 and 786 Port Coogee, North Coogee, prepared by Taylor Burrell Barnett for Australand, pursuant to the provisions contained under Clause 6.2.15 of the City of Cockburn Town Planning Scheme No. 3, subject to the maximum height for basement level development above post subdivision ground levels being limited to 1.2 metres on both lots;
- (2) delegate authority to the Manager of Planning to administer the change to the Detailed Area Plans in respect of the condition above regarding basement level development above post subdivision ground levels; and
- (3) advise the applicant accordingly.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

**Background**

The Council at its 14 February 2008 meeting resolved to approve a Detailed Area Plan (DAP) providing development control for Lots 785 and 786, Port Coogee. Lots 785 and 786 are located on the southern side of the Marina Village, between Orsino Boulevard and the western breakwater.

Recently, with the adoption of the Revised Local Structure Plan following mediation at SAT (State Administrative Tribunal), Lot 786 has been incorporated into the Marina Village. This was always intended as part of the Revised Local Structure Plan. With this change, planning controls applicable to the two lots will be different to the extent that the Residential Planning Codes (R-Codes) no longer apply to Lot 786.

To provide interim arrangements pending the adoption of Built Form Codes for the Marina Village, two (2) separate DAP's have been lodged with the City for approval by Council.

### **Submission**

The status quo is being maintained in respect of the controls applicable to Lot 785. The DAP continues to address amongst matters:

- the interface of future development on the land to the lot frontages and adjoining Public Open Space (POS);
- development potential, including building height, plot ratio etc;
- building design considerations, including elevation requirements adjacent to the Public Open Space, and the location of service areas and related hardware; and
- vehicular access details.

With respect to the DAP for Lot 786, all text references to the R-Codes have been removed. Reference to plot ratio has also been removed. To ensure a number of standard 'R-Code type' requirements are addressed as part of any proposal, the following additional considerations have been included in the DAP:

- fencing – the requirement for fencing to be visually permeable above 1.2 metre where it is erected on the lot boundaries (i.e. on a street frontage or adjoining the POS);
- fill – limiting fill or basement level projections to a maximum height above natural ground level where the property interfaces with the public domain; and
- storage – the requirement for each dwelling on-site to be provided with 4 square metres of storage (enclosed and lockable) with a minimum dimension of 1.5 metres.

The DAP for Lot 786 also proposes a reduction in balcony size from 20 to 10 square metres given the now location of the site within the Marina Village and a site open space requirement of 50%.

### **Report**

The separation of the existing single DAP for Lots 785 and 786 into two (2) DAP's for the respective lots takes account of the inclusion of Lot 786 into the Marina Village. With the exception of the deletion of reference to Lot 786, the status is maintained in terms of requirements for development on Lot 785.

The DAP for Lot 786 removes reference to previously relevant R-Code considerations, whilst including several relevant matters that would otherwise apply under the Codes. With the exception of the 1.5 metre basement projection height above post subdivision ground levels, the DAP is supported as presented. To ensure an appropriate ground



level pedestrian response is achieved across the Marina Village, a maximum height of 1.2 metres above post subdivision ground levels is recommended.

### **Conclusion**

The embellished set of planning considerations for the lot will apply pending the approval (by Council) of Built Form Codes for the Marina Village. The Built Form Codes are expected in 3-4 months. It is, therefore, recommended the DAP's be approved by Council subject to the requirement for both to refer to a maximum height for basements above post subdivision ground levels of 1.2 metres.

Approval of the DAP's is in accordance with the provisions of 6.2.15 of the scheme. The provisions identify planning considerations to be included in DAP's and the process for adopting such. Where a DAP may affect landowners other than the owner of the land subject of the plan, the City may undertake consultation. Noting, however, the planning requirements for the two lots currently exist on one approved DAP, consultation is not considered necessary.

### **Strategic Plan/Policy Implications**

APD 31 'Detailed Area Plans'

#### **Demographic Planning**

- To ensure the planning of the City is based on an approach that has the potential to achieve high levels of convenience and prosperity for its citizens.
- To ensure development will enhance the levels of amenity currently enjoyed by the community.

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005

### **Community Consultation**

The DAP's have not been the subject of consultation noting their content is largely the same as the existing approved DAP for the lots.

### **Attachment(s)**

1. Location/Structure Plan
2. Detailed Area Plan Lot 785
3. Detailed Area Plan Lot 786

### **Advice to Proponent(s)/Submissioners**

The proponent has been advised that this matter is to be considered at the 8 July 2010 Council Meeting.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

## **15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

### **15.1 (OCM 08/07/2010) - LIST OF CREDITORS PAID - MAY 2010 (5605) (N MAURICIO) (ATTACH)**

#### **RECOMMENDATION**

That Council receive the List of Creditors Paid for May 2010, as attached to the Agenda.

#### **COUNCIL DECISION**

### **Background**

It is a requirement of the Local Government (Financial Management) Regulations 1996, that a List of Creditors be compiled each month and provided to Council.

### **Submission**

N/A

## **Report**

The list of accounts for May 2010 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

## **Budget/Financial Implications**

N/A

## **Legal Implications**

N/A

## **Community Consultation**

N/A

## **Attachment(s)**

List of Creditors Paid – May 2010.

## **Advice to Proponent(s)/Submissioners**

N/A

## **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

## **15.2 (OCM 08/07/2010) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - MAY 2010 (5505) (N MAURICIO) (ATTACH)**

### **RECOMMENDATION**

That Council receive the Statements of Financial Activity and associated reports for May 2010, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

Regulation 34(2) requires the Statement of Financial Activity to be accompanied by documents containing:–

- (a) details of the composition of the closing net current assets (less restricted and committed assets);
- (b) explanations for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents be presented to Council within 2 months after the end of the month to which the statement relates.

The regulations require the information reported in the statement to be shown either by nature and type, statutory program or business unit. The City has chosen to report the information according to its organisational business structure, as well as by nature and type.

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2009/10 financial year.

**Submission**

N/A

**Report**

Council's financial performance to the end of May shows the ytd budget in surplus by \$6.5m. This amount is largely representative of underspending in operating expenses on a ytd basis and to a lesser

extent, additional operating revenues. There are no areas of major concern within the results.

### Closing Funds

Council's closing funds (adjusted net current assets position representing liquidity) remains well above the budget target, reflecting a healthy financial position. At \$22.3M, this is \$6.5M higher than the forecast (\$0.3M more than at the end of April). The major reason for this continues to be our cash operating expenses tracking behind budget by \$4.1M. However, this underspending variance has reduced by \$1.3M over the past two months, indicating a catch up of lagging costs. Additional, operating revenue is also contributing to the surplus being \$1.5M ahead of ytd budget.

Council's cash and investment holdings (including restricted items) stand at \$58.3M. Cash reserves and other restricted cash comprise \$36.2M of this total, with the balance of \$22.1M (plus \$0.2M of non-cash net current assets) available to fund remaining commitments and operations for the 2009/10 year.

### Operating Revenue

Operating revenues exceed the ytd budget by \$1.5M. There are several areas comprising this variance.

Investment earnings on both municipal and reserve funds continue to outperform the budget (\$584K at the end of May). This is despite an upwards revision for earnings in the mid-year budget review and reflects the impact of rising interest rates in general and abnormally favourable term deposit rates.

Revenue from rates is \$683K ahead of the ytd budget and \$606K ahead of the full year budget.

Rubbish removal charges levied are \$226K ahead of both the ytd and full year budget. However, these funds are applied to waste collection services and any year end surplus over and above service delivery costs, will be quarantined and used to subsidise future costs in the delivery of the service.

Income from operations at the Henderson Waste Recovery Park is \$270k ahead of the ytd budget.

### Operating Expenditure

Operating expenditure of a cash nature is tracking below the ytd budget by \$4.1M. The major contributing items at a nature and type summary level is materials and contracts at \$2.6M and other expenses

at \$0.7M (comprising mainly landfill levy). Utility costs are also \$0.5M below budget due to a lag in billing.

The apparent underspending in materials and contracts is largely attributed to the lag in supplier invoicing and processing. This is a common phenomenon for the City each year and tends to rectify itself incrementally the closer we get to the end of financial year. Another contributing factor is the carried forward non capital projects (totalling \$0.3M). However, some of this variance is expected to flow towards an end of year surplus.

Council's biggest expense line item - employee costs is tracking the budget in accordance with expectations at above 98%.

The majority of the Business Units are tracking below budget; however, several contribute mostly to the variance of \$4.4M.

Waste Services have a ytd budget variance of \$1.2M comprising:

- RRRC entry fees - down \$0.5Mk
- Waste Recovery Park operating expenses - down \$0.5M;

Operating costs are below ytd budget within the Parks and Environment business unit by \$1.0M and within Roads by \$0.6M.

#### Capital Expenditure

Council's capital spend continues to follow the historical pattern of underperforming the budget on a cash basis. As at the end of May, the actual spend was \$23.4M, being \$6.0M below the ytd budget target. However, allowing for the value of committed orders, forecast costs are on track against the ytd budget. This is graphically illustrated in the Capital Expenditure chart accompanying the statements.

However, these commitments will not be fully realised by the end of June, as evidenced by the large amount carried forward in the 2010/11 budget for uncompleted works (\$12.9M). The Capital Expenditure chart shows that a substantial amount of the capital budget is cash flowed to occur in June, which has translated into the large quantum of carried forwards in next year's budget.

Council's building infrastructure program contributes \$3.1M to the variance and our land development program is \$1.6M. Council's other infrastructure capital programs are collectively \$1.3M behind budget.

Variances for specific projects can be found within the variance analysis schedule for Capital Expenditure accompanying the statements.

The delay in out flowing cash results in additional investment earnings accruing towards either Council's general purpose income or the cash backed Reserves.

### Description of Graphs and Charts included within Statements

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a very quick view of how the different units are tracking and the comparative size of their budgets.

The Capital Expenditure graph tracks the ytd capital spend against the budget. It also includes an additional trend line for the total of ytd actual expenditure and committed orders. This gives a better indication of how the capital budget is being exhausted, than just purely actual cost alone.

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year. This month's position is comparable with that of the same time last year.

Council's overall cash and investments position is provided in a line graph with a comparison against the ytd budget and the previous year's position at the same time. This is currently showing a stronger position than budgeted and is consistent with the information reported above.

Pie charts included show the break up of actual operating income and expenditure by nature and type and the make up of Council's current assets and liabilities (comprising the net current position).

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

#### **Budget/Financial Implications**

Material variances identified of a permanent nature (i.e. not due to timing issues) may impact on Council's final budget position (depending upon its nature).

#### **Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

Statements of Financial Activity and associated Reports - May 2010.

**Advice to Proponent(s)/Submissioners**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (OCM 08/07/2010) - TENDER NO. RFT 33/2009 - CLEANING SERVICES - PUBLIC, COMMUNITY & ADMINISTRATION FACILITIES (RFT 33/2009) (M LITTLETON / D VICKERY) (ATTACH)**



**RECOMMENDATION**  
That Council:

- (1) accept the tender submitted by Spotless Services Australia Ltd, T/A Arrix, for Tender No. RFT33/2009 – Cleaning Services – Public, Community and Administration Facilities, for the lump sum of \$633,972.73 GST exclusive (\$697,370.00 GST inclusive) per annum and the schedule of rates submitted for post function, unscheduled and ad hoc cleaning services, for a period of three(3) years commencing 16 August 2010;
- (2) seek a commitment from Arrix that they will contact both MP Cleaning and Cleandustrial to discuss opportunities for staff placement during the transition period; and
- (3) write to both MP Cleaning and Cleandustrial thanking them for their 29 years and 7 years cleaning services respectively to the City and wishing them well in their future endeavours.

**COUNCIL DECISION**



## Background

Since 2003 the City of Cockburn has had the majority of its building, facility and public barbeque cleaning undertaken by two contractors. Cleandustrial Services undertook cleaning of the City's Administration and Community Facility buildings on a scheduled and ad hoc basis, whilst MP Cleaning undertook most of the scheduled cleaning of toilet blocks, changerooms and public barbeques.

The end date for the existing Contract No.RFT 18/2003 was 31 July 2007. Throughout that period it was identified that the contract did not meet the City's needs on account of the many changes to the City's infrastructure and the increased standards being expected of the cleaning. Officers commenced a review of the general scope and in the interim, the incumbent contractors were utilised to continue to provide cleaning services.

The City engaged the services of Consultant John Clohessy of Changing Directions Pty Ltd to assist officers in preparing a comprehensive specification for our cleaning services and to assist with the tender assessment. A new contract was developed that offers an improved cleaning regime, added controls on cleaning standard, including key performance indicators, and more targeted pricing for various, as required ad hoc cleaning activities.

Tender No.RFT 33/2009 Cleaning Services - Public, Community and Administration Facilities was advertised on Wednesday, 19 August 2009 in the Local Government Tenders section of "The West Australian" newspaper. It was also displayed on the City's website between 18 August and 15 September 2009. The evaluation has taken a considerable period of time and the matter was presented to Council at its April Ordinary Council meeting. The matter was deferred at that meeting with Council seeking copies of the detailed assessment undertaken by Changing Directions Pty Ltd.

This matter was further considered at the 10 June 2010 Council Meeting, with the following decision:

*"that the matter be deferred and a workshop be held to determine whether the City and its ratepayers are receiving value for money".*

The workshop was scheduled for 24 June 2010; however it was cancelled due to the unavailability of a majority of Elected Members. As a number of Elected Members have discussed the matter with staff individually, the need for a further workshop is not considered necessary.

## Submission

### *Tender Intent/ Requirements*

The contract is for the provision of daily, other scheduled and ad hoc cleaning services for the City of Cockburn's facilities and buildings over a three year contract period.

Tender submissions were received from:

1. Cleandustrial Services Pty Ltd
2. Peselj Family Trust – Trading as MP Cleaning Contractors
3. Tangata Pty Ltd – Trading as List's Cleaning Services
4. MPJ Cleaning Services
5. Office and Industrial Cleaning Pty Ltd
6. A Group of Companies – Trading as ALLclean Property Services Plus
7. Spotless Services Australia Ltd – Trading as Arrix
8. Dominant Property Services
9. Presidential Contract Services

## Report

### *Compliant Tenderers*

With the exception of Presidential Contract Services all tenderers were compliant with the following criteria:

Compliance Criteria	
A	Attendance at the Mandatory Tender Briefing/Site Inspection
B	Compliance with the Specification
C	Compliance with the Conditions of Tendering
D	Compliance with Insurance Requirements and completion of Clause 5.2.7
D1	Public Liability Insurance \$10,000,000.00 Australian
D2	Workers Compensation or Personal Accident Insurance
D3	Employees Superannuation
E	Compliance with the Occupational Safety & Health Requirements and completion of Appendix A
F	Compliance with and completion of the Price Schedule & Cost Analysis Spreadsheets

Presidential Contract Services was deemed non-compliant as it lodged another organisation's tender (Tender No. ETT1555-2009) in error and therefore their submission was returned and not included in the evaluation.

All compliant tenderers other than Office and Industrial Cleaning Pty Ltd completed price schedules for both Groups 1 and 2., Office and Industrial Cleaning completed a price schedule for Group 2 only (which was allowable under the conditions of tendering).

*Evaluation Criteria*

Tenders were assessed against the following criteria:

<b>Evaluation Criteria</b>	<b>Weighting Percentage</b>
Hours of Work	20%
Pricing Schedules	5%
Demonstrated Cleaning Services Experience	15%
Environmentally Managed Cleaning Services	20%
Past & Current Contracts	5%
Evidence of Company Stability	5%
Transition Plan and Implementation Strategy	5%
Tendered Price – Lump Sum	25%
<b>TOTAL</b>	<b>100%</b>

*Evaluation Panel*

The tender submissions were evaluated by:

1. Phil Crabbe - Facilities & Plant Manager, Infrastructure Services
2. Pieter Zietsman - Building Maintenance Coordinator, Infrastructure Services
3. John Clohessy - Consultant, Changing Directions Pty Ltd.

*Evaluation Result – Combined Scoring Tables*

<b>Group 1 - Public Facilities ( Public Toilets &amp; Barbecues)</b>			
<b>Tenderer's Name</b>	<b>Percentage Score</b>		
	<b>Non Cost Evaluation</b>	<b>Cost Evaluation</b>	<b>Total</b>
	75%	25%	100%
Arrix **	66.78	20.49	87.26
Cleandustrial Services P/L	65.42	18.14	83.55
ALLclean Property Services Plus	46.73	10.98	57.71
MPJ Cleaning Services	25.50	25.00	50.50
MP Cleaning Contractors	26.05	23.43	49.49
List's Cleaning Services	28.11	20.75	48.85
Dominant Property Services	22.23	16.85	39.08

Group 2 - Community & Administration Facilities			
Tenderer's Name	Percentage Score		
	Non Cost Evaluation	Cost Evaluation	Total
	75%	25%	100%
Arrix **	66.78	21.78	88.56
Cleandustrial Services P/L	65.42	20.85	86.27
ALLclean Property Services Plus	46.73	14.6	61.33
Office and Industrial Cleaning	35.39	18.52	53.91
MPJ Cleaning services	25.50	25.00	50.50
MP Cleaning Contractors	26.05	24.06	50.11
Dominant Property Services	22.23	21.64	43.87
List's Cleaning Services	28.11	13.49	41.60

*\*\* Recommended Submissions*

#### *Evaluation Criteria Assessment*

##### Hours of Work

All the tenderers scored equal on this item, having submitted required schedules, containing useful information that allowed for evaluation.

##### Pricing Schedules

All the tenderers submitted the pricing schedules as per the spreadsheets provided for this purpose. The quality of some of the submissions was not as thorough as others and this is reflected in the scores, with Arrix and Cleandustrial Services scoring highest in this criteria.

##### *Demonstrated Cleaning Services Experience*

The assessment of this criteria was based on information provided by the tenderers in their submissions. The three tenderers that scored highest in these criteria were Arrix, Cleandustrial Services and ALLclean Property Services Plus.

Cleandustrial Services is currently contracted by Council to do cleaning of the Administration building and various other Council buildings. They are doing a good job and can be expected to continue to do so if given more work. They also provided references to support their claim.

Arrix is a well established cleaning company and have shown in their submission, and references, that they have the necessary experience to do the work.

Whilst MP Cleaning have been providing cleaning services to the City for in excess of 27 years, their cleaning quality has not been rated as highly as either Cleandustrial or Arrix. Referees spoken to as part of the assessment and the subsequent review have referenced quality of clean and process issues. Whilst MP Cleaning have proved to be responsive when contacted by staff, these issues have increased officer time in managing the contractor and represent a failure in MP Cleaning's internal management systems.

#### *Environmentally Managed Cleaning Services*

Cleandustrial Services and Arrix rated highest on this criteria. The companies provided adequate information and were judged as being able to deliver the service within the City's guidelines.

The remaining tenderers made an effort to address this criteria, however based on their submissions it was not evident that the City's policies would be addressed sufficiently.

#### *Past & Current Contracts*

Most tenderers have had and/or are currently engaged in contracts for similar works to that being tendered by the City. Each of the tenderers scored full marks for this criteria other than MP Cleaning, MPJ Cleaning, List's Cleaning Services and Dominant Property Services, these companies being marked down on account of the limited scope or scale of contracts they have been involved in.

The panel concluded that MP Cleaning have not done cleaning to the scale as required by this tender and they were considered to not have the capacity to fulfil all the stringent requirements of the Contract.

#### *Evidence of Company Stability*

Cleandustrial Services, Arrix and ALLclean Property Services Plus provided sufficient information to substantiate their company's stability. All these three companies scoring the maximum 5% on this criteria. As part of the assessment the City commissioned a financial risk assessment of both Cleandustrial Services P/L and Spotless Services Australia Ltd (T/as Arrix) by obtaining a full Dun and Bradstreet credit reference report. Both companies were reported to be stable and rated with a low to medium risk to Council.

#### *Transition Plan and Implementation Strategy*

Cleandustrial Services, Arrix and ALLclean Property Services Plus all scored the maximum 5% on this criterion, with the other tenderers variously rating lower. Cleandustrial already undertakes the cleaning

on various Council buildings and would be expected to have very few problems taking on the cleaning of more of Council's properties.

Arrix have proposed a transition plan that it considered would be able to ensure a smooth transition into the new contract.

MP Cleaning currently also undertake some cleaning services for Council, however did not provide the panel with confidence of a satisfactory transition into the new contract.

#### *Assessment Summation*

The tender submitted by Spotless Services Australia Ltd, trading as Arrix, scored highest in the combined price and non-price score for both the Group 1 and Group 2 parts of the cleaning contract. The Company were assessed as having the capacity to undertake the work to the required standard and to achieve a smooth transition from the existing contract. The company's tendered price is also lower than the next highest scoring tenderer (Cleandustrial) and based on this assessment would be recommended for both Group 1 and 2.

Cleandustrial Services provided a quality tender submission and achieved the second highest combined price and non-price score for both Groups. They rated highly across all criteria, including a potential smooth transition into a new contract and officers are more than happy with the quality of service that they have provided to the City to date. Arrix price however is 8% lower than Cleandustrial and they offer further savings through a more competitive schedule of rates for additional and ad-hoc cleaning.

### **Strategic Plan/Policy Implications**

#### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.

#### **Lifestyle and Aspiration Achievement**

- To deliver our services and to manage resources in a way that is cost effective without compromising quality.

### **Budget/Financial Implications**

The price represents an approximate 11% increase in costs which was anticipated given the increased scope of this contract. The expenditure is budgeted for in the normal building and facilities operational and general ledger budgets every year.

**Legal Implications**

Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 refers.

**Community Consultation**

N/A

**Attachment(s)**

The following confidential attachments are provided under a separate cover:

1. Tender Evaluation Sheets
2. Supplementary Assessment
3. Changing Directions Pty Ltd's Evaluation Report

**Advice to Proponent(s)/Submissioners**

Those who lodged a tender submission have been advised that this matter is to be considered at the 10 June 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES****17.1 (OCM 08/07/2010) - COCKBURN VOCATIONAL CENTRE (INC.) - LEASE AGREEMENT - 81 CORDELIA AVENUE, COOLBELLUP (1105101) (R AVARD) (ATTACH)****RECOMMENDATION**

That Council:

- (1) enter a lease agreement with the Cockburn Vocational Centre (Inc) for the lease of a portion of the Coolbellup Community Hub at 81 Cordelia Avenue, Coolbellup, subject to the following conditions:
  1. An area of 214 sq.m. as defined in the attached plan.
  2. At an annual lease fee of \$13,325 (exc GST).
  3. The lease fee is to be increased by Perth CPI annually on the anniversary date of the lease, using the latest quarter of the annualised Perth CPI index as published by the Australian Bureau of Statistics as the base of calculation.

4. For a lease period of 3 years with an option for a further term of 2 years.
  5. Other terms and conditions as agreed with the Cockburn Vocational Centre (Inc.); and
- (2) discount the lease fee for the 2008/2009 for the Cockburn Vocation Centre by \$5,429.08.

## **COUNCIL DECISION**

### **Background**

The Cockburn Vocation Centre (Inc) (CVC) has been operating from an area within the Coolbellup Community Hub for many years. The most current lease expired on 30 June 2005. There was an exchange of letters between the City and the CVC which continued the terms and conditions of the lease until June 2009. The CVC lease has now expired for the premises that it currently occupies. The decision not to enter a new lease with the CVC was a result of the deliberations of Council in relation to the proposal to redevelop the facilities and the status of the Coolbellup Library.

The Coolbellup Community Hub redevelopment is due for completion toward the end of June 2010. Whilst the CVC lease area has been relatively undisturbed there a number of improvements made and funded by the City; new signage on the building indicating the location of the CVC; new carpets, internal repaint, new telephone system, and new air-conditioning to serve the CVC area only.

### **Submission**

The CVC has written to the City seeking a new lease for the premises they occupy and seek from Council a waiver of 9 months of lease fees for the period 1 October 2009 to 30 June 2010.

### **Report**

For clarity the report has been divided into two sections the first deals with the request by the CVC for a reduction in rent for the past year and the second section addresses the matter of a new lease for the CVC of the premises they occupy. There are matters such as the



extent of the benevolent nature of the organisation and the nature of services offered which could impact on consideration of both issues.

The development of the Coolbellup Community Hub has been a significant refurbishment project that involved extensive renovation of the existing building and new additions. Every attempt was made to minimise the impact upon the operation of the CVC, which remained open for the vast majority of the time, whilst the works were taking place. Inevitably there were some unexpected impacts on the Centre due to for example electrical faults and noisy work interfering with some classes. The significant storm in March also impacted on the CVC due to water leaks resulting in faults to the telephone system and damage to walls. The builder has questioned whether the works were the cause of the problems but rather simply due to the intensity of the storm. So that the matter would not be drawn out the City agreed to replace the telephone system owned by the CVC and have agreed to put in new carpets and paint the internal walls.

In the attached correspondence the CVC argues that it ought to be given a waiver on its rent for nine months due to the disruptions to their services. The rent currently paid by the CVC is \$10,854.16 p.a. for 214 sq.m. which translates to \$50.72 per sq.m. plus outgoings. The commercial rate is considered to be \$100 to \$150 p.a. per sq.m. plus outgoings. Given the accommodation is a high standard for Coolbellup and within a precinct with good customer traffic and profile \$125 per metre seems reasonable. On this basis the commercial rent is in the vicinity of \$26,750. It is evident that the current rent payable by the CVC is heavily discounted. Whilst it is acknowledged that there was some disruption during building works the CVC was still able to operate and generate income. In this context a discount of 50% that is, 6 months rent free period for the past year for inconvenience and loss of income appears very reasonable.

CVC is an incorporated community association with a membership of 6. The executive is comprised of a President, Secretary and Treasurer and three committee members. The Secretary and Treasurer are also paid members of staff.

The funding for the service provided are from State and Commonwealth funding programs and funds for which the not-for-profit and for profit sector compete.

The catchment population for CVC services include significant numbers of socially disadvantaged individuals and families and the success in attracting funds will in part be a reflection of this. There is a need for this type of service in the area. The matter then for consideration in determining a fair rent is the balance between the extent to which the CVC can be considered a benevolent organisation and the value of the services it offers to the local community. It is proposed that a rent of 50% of the commercial rate of \$125/m<sup>2</sup> p.a.

plus outgoings is appropriate ie. \$13,375 which is \$257.20 per week which is compared to an annual fee of \$10,854.16 or \$208.73 per week currently required to be paid.

The CVC have reviewed the current lease and are prepared to proceed with a new lease based on the old lease other than the question of the level of rent payable.

### **Strategic Plan/Policy Implications**

#### **Lifestyle and Aspiration Achievement**

- To facilitate and provide an optimum range of community services and events.

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

#### **Employment and Economic Development**

- To encourage development of educational institutions that provides a range of learning opportunities for the community.

### **Budget/Financial Implications**

The CVC has paid rent up to 30 September 2010 and have outstanding rent of \$5,427.08 and a further \$2,713.54 due by 30 June 2010, a total for the period to 30 June of \$8,140.62 based on the previous lease agreement.

### **Legal Implications**

The Local Government is exempted from the requirements of Section 3.58 of the Local Government Act by way of the Clause under the Local Government (Functions and General regulations) 1996 Section 30 (b) (i) that the Old Jandakot School Management Committee is deemed to be an organisation the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.

### **Community Consultation**

N/A

**Attachment(s)**

1. Minutes of CVC Annual General Meeting of 11 December 2009.
2. Copy of audited statements for the past 2 years.
3. Current list of Office bearers.
4. Documentation for a request for consideration for a reduced lease fee.

**Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at 8 July 2010 Council Meeting.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

**21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**

**22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

**23. CONFIDENTIAL BUSINESS**

Nil

**24 (OCM 08/07/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

**COUNCIL DECISION**

**25 (OCM 08/07/2010) - CLOSURE OF MEETING**