

CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

FOR

THURSDAY, 9 APRIL 2009

CITY OF COCKBURN

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CITY OF COCKBURN**AGENDA TO BE PRESENTED TO THE ORDINARY
COUNCIL MEETING TO BE HELD ON
THURSDAY, 9 APRIL 2009 AT 7:00 PM**

- 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 9/4/2009) - ORDINARY COUNCIL MEETING - 12/03/2009**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Thursday, 12 March 2009, be adopted as a true and accurate record.

COUNCIL DECISION

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

10. DEPUTATIONS AND PETITIONS

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

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

13. COUNCIL MATTERS

13.1 (OCM 9/4/2009) - MINUTES OF THE AUDIT COMMITTEE MEETING - 19 MARCH 2009 (5017) (S DOWNING) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Audit Committee Meeting held on 19 March 2008, as attached to the Agenda and the recommendation contained therein be adopted.

COUNCIL DECISION

Background

A meeting of the Audit Committee was conducted on 19 March 2009.

Submission

To receive the Minutes of the Audit Committee and adopt its recommendation.

Report

The Committee received the initial report from Stamfords on items that had been actioned as a result of the findings from the first year Audit Program.

The Audit Committee also received the draft copy of the Year 2 and 3 Internal Audit Program to be carried out by the City's appointed internal auditors, Stamfords. The ranking will be the priority risk rating assigned to each item contained in the schedule. The work will be undertaken over 2009 and 2010.

Strategic Plan/Policy Implications

Governance Excellence

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

Budget/Financial Implications

As contained in the Minutes.

Legal Implications

As contained in the Minutes.

Community Consultation

N/A

Attachment(s)

Minutes of the Audit Committee Meeting held on 19 March 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.2 (OCM 9/4/2009) - MINUTES OF THE DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING - 19 MARCH 2009 (1054) (D GREEN) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting held on 19 March 2009, as attached to the Agenda and adopts the recommendations contained therein.

COUNCIL DECISION

Background

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 19 March 2009. The Minutes of the meeting are required to be presented to Council and its recommendations considered by Council.

Submission

The Minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.

Report

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council. Any Elected Member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

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

As contained in the Minutes.

Legal Implications

Section 5.42 of the Local Government Act requires an absolute majority for delegates of powers to the Chief Executive Officer or his appointees.

Community Consultation

As contained in the Minutes.

Attachment(s)

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 19 March 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.3 (OCM 9/4/2009) - AGENDA BRIEFING SESSIONS (1713) (D GREEN)

RECOMMENDATION

That Council trials open Agenda Briefing Sessions for the period May - October 2009, under similar conditions that apply to the current Forum.

COUNCIL DECISION

Background

At the Annual General Meeting of Electors conducted on 3 February 2009, the following motion was carried:

That Council opens to the public the Briefing Sessions held the week before Council Meetings.

It is required that any decision passed at an Electors meeting be considered by Council.

Subsequently, at the Council meeting conducted on 12 March, 2009, the following resolution was carried:

That Council conducts a workshop to consider whether it wishes to open its Council Meeting Agenda Briefing Sessions to the public, based on information provided in the Report.

Submission

N/A

Report

A workshop was arranged for 26 March, 2009, to further discuss this issue and was attended by the Mayor and 6 Councillors. 3 Councillors were unavailable, however, submitted their input to the process in writing prior to the workshop for consideration.

While there was a diversity of views provided by those present and submitted in writing by those not present, there was general consensus that open briefing sessions should be trialled on the following basis:

- Open to the public initially for a period of 3-6 months;
- No questions/statements from the public (on the basis that it is the first time that Elected Members have been briefed on the items being presented at the session);
- Any confidential matters to be presented behind closed doors;
- Any other suitable protocols be introduced on an ongoing basis, as considered necessary;
- No hospitality provided following the briefing sessions.

It is anticipated that a trial period of 6 months will enable the current Elected Members an opportunity to assess the effectiveness of open Agenda Briefings and recommend any adjustments to the process for a more permanent procedure to be implemented following the elections in October, 2009.

By retaining the current methodology, the briefings will remain under the operational control of the Chief Executive Officer as a mechanism

of introducing Elected Members (and the public) to items which will be deliberated on at the Council Meeting one week later.

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

There are no statutory provisions relative to local government briefing procedures.

Community Consultation

N/A

Attachment(s)

N/A

Advice to Proponent(s)/Submissioners

The mover of the motion at the Annual Electors Meeting held on 3 February, 2009, has been informed that this matter will be considered at the April 9, 2009 Council Meeting.

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

Nil.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (OCM 9/4/2009) - PROPOSED AMENDMENT NO. 1166/57 - LOCATION/OWNER: VARIOUS (9116657) (A TROSIC) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the Metropolitan Region Scheme Proposed Amendment No. 1166/57 (South West Districts Omnibus No. 8);
- (2) make a submission to the Western Australian Planning

Commission as follows:

1. For Proposal 2, recommend that the proposed 'Primary Regional Roads' reserve extent be reduced to provide a 20m portion of 'Urban' zoned land within the existing Beach Road reserve adjacent to the southeast portion of Lot 512 Cockburn Road, Coogee. This will ensure that suitable access is able to be provided/maintained for this lot (refer Attachment 1);
2. For Proposal 3, advise that in preparing an amendment to City of Cockburn Town Planning Scheme No. 3, a building envelope will need to be designated in the southern portion of Lot 143 Warton Road due to the irregular shape and configuration of the lot;
3. For Proposal 4, recommend that the amendment seek to rationalise the entire 'Railways' reserve land to 'Parks and Recreation' reserve, as it exists south of Port Coogee and north of Poore Grove (refer Attachment 3);
4. For Proposal 6, recommend that the amendment proceed straight to 'Urban' in order to coincide with the adjoining land being transferred from the 'Urban Deferred' to 'Urban' zone. This adjoining land (Muriel Court Structure Plan area) is in the process of being considered by the Western Australian Planning Commission for lifting of urban deferment (refer Attachment 5);
5. Support remaining Proposals 5 and 7.

COUNCIL DECISION

Background

The Western Australian Planning Commission ("WAPC") has recently resolved to amend the Metropolitan Region Scheme ("MRS") in accordance with the provisions of the *Planning and Development Act 2005*. The amendment takes the form of an omnibus amendment for the South West Corridor local governments, and deals with minor zoning/reservation changes to the MRS. Six proposals are specifically relevant to the City of Cockburn.

The WAPC has recently commenced advertising of the proposed MRS amendment. Submissions are due by 1 May 2009. As a directly affected agency it is necessary that the City of Cockburn makes submission on the amendment.

Report

As mentioned above, six proposals numbered 2 to 7, are specifically relevant to the City of Cockburn, and form the consideration of this report. These are listed following, together with an explanation of their associated purpose:

Proposal 2 - To reserve portion of Beach Road, Coogee as Primary Regional Roads reservation. (refer Attachment 1)

The proposal is to reserve approximately 1,445m² of Beach Road (abutting Cockburn Road) as Primary Regional Roads reservation in accordance with Main Roads WA regional road requirements.

Proposal 3 - To transfer (1), (3) Lot 143 Warton Road, Banjup from the Public Purposes (SU) reservation to the Rural-Water Protection zone and removal from the Water Catchments reservation; (2) to transfer Lot 2 Warton Road and Lot 533 Jandakot Road from the Public Purposes (SU) reservation to the Public Purposes (WSD) reservation included in the Water Catchments reservation. (refer Attachment 2)

(1), (3) - This proposal rationalises Lot 143 to reflect existing cadastral boundaries (and separate ownership) as these portions of land do not form part of the abutting Public Purposes (SU) reserve; and

(2) - Lots 2 and 533 contain existing Water Corporation infrastructure and it is appropriate to include the land within the Public Purposes (WSD) reservation included in the Water Catchments reservation.

Proposal 4 - To transfer land no longer required for Railways reservation (abutting Cockburn Road in Coogee) to the Parks and Recreation reservation. (refer Attachment 3)

This proposal seeks to rationalise the Railways reservation in accordance with existing cadastral boundaries and development, and Bush Forever Site 314. This proposal intends removing the Railways reservation (surplus to requirements) and replacing it with the Parks and Recreation reservation.

Proposal 5 - To transfer portion of Lots 105, 106, 107 & 108 Armadale Road, Jandakot and portion of Solomon Road from the Primary Regional Roads reservation to the Industrial zone. (refer Attachment 4)

A small portion of these lots (and portion of Solomon Road) have a Primary Regional Roads reservation over them which is surplus to

Main Roads WA requirements. This proposal intends removing that reservation and replacing it with the Industrial zone in accordance with existing cadastral boundaries.

Proposal 6 - To transfer portion of Lots 133 and 134 North Lake Road, Cockburn Central from the Other Regional Roads reservation to the Urban Deferred zone. (refer Attachment 5)

A small portion of these lots have an Other Regional Roads reserve over them which is a zoning anomaly. This proposal intends removing that reservation and replacing it with the Urban Deferred zone in accordance with existing cadastral boundaries.

Proposal 7 - To transfer (1), (3) portion of Lot 1001 from Industrial zone to the Public Purposes (SEC) reservation included in the Water Catchments reservation; (2) to transfer portion of Lots 101, 103, 104, 105, 106, 107 & 119 from Industrial zone to the Rural-Water Protection zone. (refer Attachment 6)

This proposal corrects a minor zoning anomaly by rationalising the Public Purposes (SEC) reservation (located within a Water Catchments reservation) and the Rural-Water Protection zone in accordance with existing cadastral boundaries.

City of Cockburn's Comments

In terms of these proposals, they are all relatively minor and seek to correct zoning anomalies which currently exist under the MRS. There are however aspects associated within Proposals 2 and 4 which need to be improved so as to appropriately reflect an optimal zoning and reservation arrangement under the MRS. These comments are provided following:

For Proposal 2, it is recommended that the proposed 'Primary Regional Roads' reserve extent be reduced to provide for a 20m portion of 'Urban' zoned land within the existing Beach Road reserve adjacent to the southeast portion of Lot 512 Cockburn Road, Coogee (refer Attachment 1). As discussed with the City's Engineering Services, this will ensure that suitable access is able to be provided/maintained for this lot, and will importantly provide the opportunity for an integrated development to be provided. This is particularly important for Lot 512 which has been recently rezoned to 'Urban' under the MRS, and is in the process of being prepared for sale by the current landowner (Main Roads WA). Considering the places of local heritage significance on Lot 512, it is important that integrated development opportunities be provided to promote protection of the heritage places. This will be more easily facilitated by a modified amendment proposal which includes the 20m strip of 'Urban' zoned land.

For Proposal 4, it is recommended that the amendment seek to rationalise the entire 'Railways' reserve land to 'Parks and Recreation' reserve, as it exists south of Port Coogee and north of Poore Grove (refer Attachment 3). There is no identifiable reason to leaving the small portion of 'Railways' reserve land in this area, and given the land forms a logical component of the adjacent foreshore reserve, the entirety of it should be reserved for 'Parks and Recreation' at this juncture in time.

For Proposal 6, it is recommended that the amendment proceed straight to 'Urban' in order to coincide with the adjoining land being transferred from the 'Urban Deferred' to 'Urban' zone. This adjoining land (Muriel Court Structure Plan area) is in the process of being considered by the Western Australian Planning Commission for lifting of urban deferment (refer Attachment 5).

Town Planning Scheme Implications

In terms of implications on City of Cockburn Town Planning Scheme No. 3 ("TPS3"), it should be noted that Proposals 3, 5, 6 and 7 will require amendments to be undertaken to ensure consistency between the MRS and TPS3. This is by virtue of Section 124 of the *Planning and Development Act 2005*. When it comes to preparing an amendment for Proposal 3, a building envelope will need to be designated in the southern portion of Lot 143 Warton Road due to the irregular shape and configuration of this lot.

It is therefore recommended that Council make a submission to the WAPC as per the content of this report.

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.

Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

Transport Optimisation

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Submissions are due to the WAPC by 1 May 2009. No consultation is required by the City of Cockburn. Affected landowners have also been advised by the WAPC.

Attachment(s)

1. Proposal 2
2. Proposal 3
3. Proposal 4
4. Proposal 5
5. Proposal 6
6. Proposal 7

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.2 (OCM 9/4/2009) - PROPOSED CITY OF COCKBURN (LOCAL GOVERNMENT ACT) JETTIES, WATERWAYS AND MARINA LOCAL LAWS (1126) (P WESTON) (ATTACH)

RECOMMENDATION

That Council, pursuant to the requirements of Section 3.12 of the Local Government Act 1995, advertises the Jetties, Waterways and Marina Local Laws calling for public submissions on the proposed Local Laws.

COUNCIL DECISION

Background

The development of a residential marina in South Coogee has been underway for over 10 years. Following a feasibility study including detailed design and creation of a consultation programme to progress the development, a Coogee Master Plan was created.

Consultations involved the following agencies:

- The City of Cockburn,
- The Department of Planning and Infrastructure,
- The Department of Environmental Protection and
- The Health Department of WA.

Following the feasibility study the Port Coogee Waterways Management Facilitation Agreement was created. The parties to this Agreement are the Port Catherine Developments Pty Ltd ('the developer'), the City of Cockburn ('the City') and Australand Holdings Ltd ('Australand').

Part of the general terms of the agreement was adherence to the Waterways Environmental Management Plan (WEMP) which included four areas for consideration namely:

- Remedial Works Management Program,
- Construction Management Program,
- Waterways Environmental Management Plan and
- Noise and Vibration Management Plan.

The construction of the marina environment has commenced and as a result Council needs to consider how best to regulate and manage the use of the waterways within the marina.

It was identified that a Jetties, Waterways and Marina Local Law was necessary to enforce aspects of behaviour and regulate activity and use on jetties, the waterways and in the marina itself.

In consultation with City's Solicitors a set of Jetties, Waterways and Marina Local Laws have been created including prescribed offences and penalties.

Submission

To make Local Laws to establish the Jetties, Waterways and Marina Local Laws

Report

In accordance with Section 3.12 of Local Government Act, 1995, it is necessary for the purpose and effect of any proposed Local Laws to be initiated in the report to be considered by Council.

As previously mentioned, the purpose of this proposed Local Law is to provide a mechanism for the regulation and control of activities within the Port Coogee Marina Waterways and associated infrastructure.

The effect of the Local Laws will be to enable the Council, through its authorised officers, to enforce compliance with standards and activities within the Marina Waterways, as designated in the Local Laws.

The Port Coogee Marina is the first to be developed within the City of Cockburn. The need to have the Jetties, Waterways and Marina Local Law and prescribed offences is an integral part of the control of behaviour of individuals on jetties, the waterways (control of movement of boats and other vessels) and the marina through the control of potential pollution, mooring of boats, the maintenance of waterway edge walls to list a few.

Strategic Plan/Policy Implications

Lifestyle and Aspiration Achievement

- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

Governance Excellence

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

Budget/Financial Implications

Costs associated with the establishment of the Jetties, Waterways and Marina Local Law will be met within current budget allocations.

Legal Implications

Section 3.12 of The Local Government Act 1995 refers.

Community Consultation

Consultation has occurred with the Department for Planning and Infrastructure, the Environmental Protection Authority and the Department of Health WA.

The proposed Local Laws will be advertised in the "West Australian" newspaper inviting public submissions for a period of at least six weeks.

Attachment(s)

Proposed City of Cockburn Jetties, Waterways and Marina Local Law.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.3 (OCM 9/4/2009) - APPOINTMENT OF REAL ESTATE AGENT TO MARKET AND SELL ADDITIONAL NINE COTTAGE LOTS ON DEPOSITED PLAN 61458 (STAGE 2) - SUBDIVISION OF LOT 5 CORNER TAPPER AND BARTRAM ROADS, ATWELL - OWNER: CITY OF COCKBURN (5516327) (K SIM) (ATTACH)**RECOMMENDATION**

That:

- (1) Council appoint Raine and Horne, Success to undertake the marketing and sale of Lots 106 to 114 inclusive on Deposited Plan 61458 (Stage 2), subject to selling prices being not less than those determined by Licensed Valuers (McGees);
- (2) all sales being conditional on compliance with the provisions of Section 3.58 of the *Local Government Act 1995*; and
- (3) Council make the appointment exclusive for a period of six months from the date of appointment.

COUNCIL DECISION**Background**

Council at its meeting held on 11 December 2008 resolved as follows:

- "(1) Council appoint Raine and Horne, Success to undertake the marketing and sale of residential Lots 128 to 135 inclusive and Lots 140 to 143 inclusive on Deposited Plan 61458 (Stage 2) and all un-sold residential lots on Deposited Plan 59312 (Stage 1), subject to selling prices being not less than those determined by Licensed Valuers, McGees;

- (2) *all sales being conditional on compliance with the provisions of Section 3.58 of the Local Government Act 1995; and*
- (3) *Council make the appointment exclusive for a period of 6 months from the date of appointment."*

At the time the nine cottage lots were excluded due to market acceptance of this type of product in this area being low. However, due to recent State and Federal Government initiatives (via the first homeowner's grant), demand for cottage lots has grown significantly. Accordingly it is considered the right time to now offer the nine cottage lots for sale as part of the City's residential subdivision at the corner of Tapper and Bartram Roads, Atwell

Submission

Raine and Horne have submitted a marketing plan for the sale of the nine cottage lots. This utilises elements of the current marketing plan which Raine and Horne are using to sell other lots in the subdivision on behalf of the City (as per Council's resolution of 11 December 2008). The selling fees remain unchanged.

Report

Since the December Council resolution the selling agent has sold (or has under contract to sell) a total of nine lots across Stages 1 and 2. This leaves eleven lots to be sold from those identified in the December Council resolution. It is now proposed to add the nine cottage lots to this, taking the total number of lots on offer to twenty.

All of these lots represent an attractive buying option for first homeowner's, particularly given the \$14,000 and \$7,000 grants on offer from the State and Federal Governments respectively. The Federal Government grant is due to finish on 1 July 2009, so there is expected to be high demand for lots within the first homeowner price range in the coming months. The lots in question are all considered to fit within this price range.

The selling agent reports interest from potential purchases for the cottage lots. Additionally, they have received assurances from a range of building companies that they are able to place suitable houses on these cottage lots. Generally speaking, the total price for house and land packages needs to be less than \$440,000. Recent figures released by the Urban Development Institute of Australia (Western Australia) confirms this, with most lots sold in the Perth Metropolitan Area being for less than \$240,000

This places the City's lots well within the target price range of up to \$240,000. Considering a suitable home should be able to be built for around \$190,000, the target house and land package price of less that

than \$440,000 can be achieved. The cottage lots have areas ranging from 300 square metres to 385 square metres, and are also subject to design guidelines via a Detailed Area Plan.

Together with the 11 unsold lots, it is anticipated that all of the lots will be sold by 1 July 2009. This estimate is based on sales since the start of 2009 being approximately at the rate of one per week. The Licensed Valuer from McGees Property has prepared a valuation report that determines the market value for each lot in this proposal. It is this value that will be used in the public advertising required, pursuant to Section 3.58 of the *Local Government Act 1995*. The Licensed Valuer reports that the values determined are not only determined based on past sales of similar lots, but also reflect the opinion of developers, selling agents and others involved in the industry. The information gathered takes into consideration current government stimulation packages and the sentiment of potential purchasers given the current economic uncertainty. It is considered prudent to allow the selling agent to list the lots at prices above but not below these prices.

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 develop and maintain a financially sustainable City.

Budget/Financial Implications

Marketing costs are allowed for under the overall budget subject to Account No. CW 1516. In terms of income received to date, \$4,335,9110 has been generated from sales with a further \$2,841,000 under contract of sale. Total costs to date in constructing the subdivision and bringing the land to market have been \$1,876,721. Ultimate income from the entire subdivision will be approximately \$9,683,910 once all lots have been sold. Refer to attachment 3.

Legal Implications

Section 3.58 of the Local Government Act 1995 refers.

Community Consultation

Statewide advertising of all sales will be undertaken pursuant to Section 3.58 of the Local Government Act 1995.

Attachment(s)

1. Deposited Plan
2. Valuation Report
3. Lots sold, under offer and still to be sold.

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 11 December 2008 Council Meeting

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

Nil.

14.4 (OCM 9/4/2009) - CONSIDERATION TO ISSUE TAKING ORDER AND DEDICATION OF LAND FOR ROAD PURPOSES - LOT 402 ON DEPOSITED PLAN 59934 (6010372) (K SIM) (ATTACH)

RECOMMENDATION

That Council:

- (1) request the owner of parent Lot 401 Armadale Road provide to the City all required certificates, supervision fees and maintenance bonds to the satisfaction of the City to ensure that the road constructed on proposed Lot 402 on Deposited Plan 59934 is to the required standard;
- (2) request the owner of parent Lot 401 to transfer proposed Lot 402 on Deposited Plan 59934 free of charge to the State of Western Australia for the purposes of road reservation;
- (3) request the Minister for Lands to issue a taking order pursuant to Section 177 of the *Land Administration Act 1997* to take proposed Lot 402 on Deposited Plan 59934;
- (4) request the Minister for Lands to dedicate proposed Lot 402 on Deposited Plan 59934 as a road reserve, pursuant to Section 56 of the *Land Administration Act 1997*; and
- (5) indemnify the Minister for Lands against reasonable costs incurred in considering and granting this request.

COUNCIL DECISION

Background

The owner of Lot 401 Armadale Road has been granted planning approval by the City to develop a showroom (bulky goods retail) development on the subject land. As part of this planning approval, the following condition was imposed:

- “4. *Prior to the occupation of the development, the applicant must enter into a Deed with the City prepared by the City’s solicitors to provide, when required, for the portion of the subject land reserved for Other Regional Roads (North Lake Road) being vested in the Crown under section 152 of the Planning and Development Act, such land to be ceded free of cost and without payment of compensation by the Crown. The owner shall be responsible to pay all costs of an incidental to the preparation of the deed (including all drafts).*”

At the request of the proponent, and following further legal advice, this condition was modified to read as follows:

- “4. *Prior to the occupation of the development, the applicant must enter into a Deed with the City prepared by the City’s solicitors to provide, when required, for the portion of the subject land reserved for Other Regional Roads (North Lake Road) being dedicated pursuant to section 56 of the Land Administration Act 1997, such land to be ceded free of cost and without payment of compensation by the Crown. The owner shall be responsible to pay all costs of an incidental to the preparation of the deed (including all drafts).*”

In respect of this condition, proposed Lot 402 on Deposited Plan 59934 represents the extent of the subject land required to be dedicated for road reservation purposes. This is the purpose of this report.

Submission

N/A

Report

Legal advice from the City's solicitor (McLeods) and consultation with Department for Planning and Infrastructure (State Land Services) has resulted in a requirement that the landowner agree to a taking of the land by agreement pursuant to Section 177 of the *Land Administration Act 1997*. This action is required such that the land can be placed in the name of the State of Western Australia, and is a precondition to the land then being dedicated as a road reserve pursuant to Section 56 of the *Land Administration Act 1997*.

The road design and construction has been undertaken by the proponent in conjunction with the balance civil works associated with the showroom development on the remainder of the parent lot. The works associated with the future roads have been inspected by the City's engineering staff, but some supervision fees, certificates and maintenance bonds remain outstanding. Although the works have been undertaken in association with the related development, it is felt that given the road is now to be transferred to the control of the City, the same standards should be applied as would have been the case had the City required a formal subdivision to take place. It was at the request and benefit of the proponent that the City agreed to this more unusual approach.

An agreement incorporating all of these undertakings has now been prepared by the City's solicitor.

State Land Services have negotiated clearances from several service authorities that have easements on proposed Lot 402, and have indicated that the request for road dedication pursuant to Section 56 should be successful. They have also requested that in future the City encourages developers to follow the usual subdivision processes when creating any road reserves.

Accordingly, given that agreement has now been reached, Council can request the Minister for Lands to make a taking order in relation to proposed Lot 402. The dedication of proposed Lot 402 as a road reserve can then take place under Section 56 of the Land Administration Act 1997.

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.

Budget/Financial Implications

The dedication is pursuant to Section 56 of the *Land Administration Act 1997*, which requires the City to indemnify the Minister in respect to all costs and expenses, incurred considering and granting the request. These cannot be quantified at this time, but are expected to be minor if at all.

Legal Implications

Land Administration Act 1997 refers.

Community Consultation

N/A

Attachment(s)

Location Plan

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.5 (OCM 9/4/2009) - SOUTH BEACH ESTATE, NORTH COOGEE - SOIL CLASSIFICATION - PROPOSED LOTS 366 AND 394 BREAKSEA DRIVE; LOCATION: 9017L HEIRISSON WAY, NORTH COOGEE; OWNER/APPLICANT: STOCKLAND (135855) (J WEST) (ATTACH)

RECOMMENDATION

That Council:

- (1) support the Applicant's request to classify Lot 366 and 394 Breaksea Drive, North Coogee within the South Beach Estate (North Coogee) with a soil classification of "P" pursuant to Australian Standard 2870 – 1996 on the basis of Coffey's Geotechnical Investigation Report - Stockland WA Developments Pty Ltd South Beach Lots 366 and 394 - Report GEOTHERD08031AC-AB 18 December 2008, subject to:

1. The satisfactory compliance with all other conditions of Western Australian Planning Commission Subdivision Approval WAPC 135855, approved on 8 February 2008.
2. A notification under Section 70A of the Transfer of Land Act being prepared and lodged with the Registrar of Titles Office on the Certificate of Title/s advising any prospective purchaser/s of the Lot/s of the site classification and Coffey Report reference details. The Notification should (at the cost of the Applicant) state as follows:

The land has been classified as "P" under Australian Standard 2870-1996 because the majority of fill across the site is considered uncontrolled fill, as the presence of unsuitable and soft materials cannot be ruled out. Refer to Coffey's Geotechnical

Investigation Report - Stockland WA Developments Pty Ltd South Beach Lots 366 and 394 - Report GEOTHERD08031AC-AB 18 December 2008, when structurally designing buildings.

- (2) advise Stockland of Council's decision accordingly.
- (3) undertake a review of Council Policy APD35 so as to facilitate the acceptance of site classifications other than A, S or M (pursuant to AS 2870) in circumstances only where the City's opinion is that there exists no other feasible option to remediate the site in accordance with Policy APD35.

COUNCIL DECISION

Background

A request for subdivision clearance has not been received by the City at this stage. However the Applicant seeks to address the issue of soil classification of the proposed lots in regard to the City's Policy APD35.

The City's Policy APD35 requires:

*"Where the geotechnical report classifies the site other than Class "A" in accordance with AS 2870 (1996) a notification under section 70A of the Transfer of Land Act is to be prepared in a form acceptable to the Council and judged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot. **Class "P", "H" and "E" sites will not be accepted by Council and must be fully remediated to enable building construction based upon a Class "A", Class "S" or Class "M" standard.**"*

The proposed Lots do not comply with the City's Policy, as the Lots have been classified "P" pursuant to the Australian Standard 2870 - 1996.

Submission

The Applicant has sought Council's acceptance of the proposed lots as constructed (ie class "P") to facilitate subdivision clearance, when the applicant does submit a request for clearance. Advice from the applicant confirms submission of a subdivision clearance request is imminent.

The Applicant has submitted letters of advice (dated 4 and 20 February 2009) from Coffey Geotechnical Engineers. Coffey confirm that a site classification under Australian Standard 2870 Residential Slabs and Footings is not applicable to 4-5 storey buildings (as are likely to be constructed on the new lots). They further confirm the difficulty in excavating and re-compacting the problem fill material ie. road closures, interruptions to services, split site classifications etc.

Coffey confirms that a classification of "P" does not mean the sites cannot be developed without remediation. It does however mean that building footings should be designed with special attention paid to existing ground conditions (see attachments).

Report

The City's Policy APD35 seeks to ensure that all proposed lots prior to subdivision clearance are assessed in accordance with Australian Standard 2870-1996.

Australian Standard 2870 is applicable to residential type structures up to two storeys in height.

The draft Detail Area Plan for the lots demonstrates building heights up to 5 storeys, the vast majority of the sites are likely to be developed with buildings exceeding 2 storeys in height. The zoning of the land is R60-R100. Australian Standard 2870 would not be applicable to such buildings; as such any proposed building greater than two storeys would require specific geotechnical site investigation and a report which provides allowable bearing capacity and anticipated settlement. This requirement would be addressed at the building application stage.

It is intended that details in regard to the soil classification also be included in the Detailed Area Plan for the lots when the DAP is finalised.

The City has previously had to accept a "P" classification in regard to other lots within the same area that abut the old Fremantle tip site. This is because it was not possible to remediate those lots without excavating across lot boundaries and into the tip site which is also a contaminated site.

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

The cost to complete the Section 70A process will be borne by the applicant.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. Location Map.
2. Email (Dan Covich – Wood and Grieve Engineers) dated 23 February 2009.
3. Coffey Geotechnics letter dated 4 February 2009.
4. Coffey Geotechnics letter dated 20 February 2009.

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 the 9 April Council Meeting.

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (OCM 9/4/2009) - LIST OF CREDITORS PAID - FEBRUARY 2009 (5605) (K LAPHAM) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for February 2009, 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 February 2009 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 – February 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.2 (OCM 9/4/2009) - STATEMENT OF FINANCIAL ACTIVITY - FEBRUARY 2009 (5505) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council receive the Statements of Financial Activity and associated reports for February 2009, 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 are to be presented to the Council.

Submission

N/A

Report

Attached to the Agenda is the Statement of Financial Activity for February 2009. These include explanations for material variances within operating revenue and expenditure, as well as for capital works & project expenditure.

Note 1 shows the program split for grants and contributions received towards asset purchase and development.

Note 2 provides a reconciliation of Council's net current assets (adjusted for restricted assets and cash backed reserves). This provides a financial measure of Council's working capital and an indication of its liquid financial health.

Also provided are Reserve Fund and Restricted Funds Analysis Statements. These assist to substantiate the calculation of Council's net current assets position.

The Reserve Fund Statement reports the budget and actual balances for Council's cash backed reserves, whilst the Restricted Funds Analysis summarises bonds, deposits and infrastructure contributions held by Council. The funds reported in these statements are deemed restricted in accordance with Australian Accounting Standards.

Financial Review - February 2009

The City continues to be on track to achieve its budgeted income for 2008/09 with land sales in the Tapper Road development enjoying a resurgence of late as a result of the first home owner grant providing a stimulus to land sales within the \$160k to \$240k price range. Rating income is slightly higher due to interim rates for Port Coogee and industrial precincts. Landfill income, planning and building fees are slowing considerably as a result of the slowing income.

Expenditure for salaries is below budget as every staff position is being scrutinised to ensure that the need is essential. This impact is saving the City funds with the payroll budget approximately \$0.75m under budget. Material and contracts expenditure is also below budget as a number of operations are yet to commence. Utilities and insurance will come in on budget. General expenditure is also expected to come in on budget as this covers areas such as the SMRC loan repayment and donations to community groups. Depreciation is running slightly ahead of budget.

Cash at bank and investments are also holding up with the City having \$59.4M as at 28 February 2009.

Capital expenditure is running behind budget but this is expected as a number of capital projects are yet to commence, such as the Aubin Grove Facility (\$1.9m), Cockburn Central library (\$2.0m). However, a number of other projects are on budget such as the Hammond Road Regional Recreational Facility, Cockburn Civic Centre Seniors Centre and a range of road projects.

Material Variance Threshold

For the purpose of identifying material variances in Statements of

Financial Activity, Financial Management Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality. This standard defines materiality in financial reporting and states that materiality is a matter for professional judgement. Information is material where its exclusion may impair the usefulness of the information provided. AAS5 does offer some guidance in this regard by stating that an amount that is equal to or greater than 10% of the appropriate base amount may be presumed to be material.

The materiality threshold adopted by Council for the 2008/09 financial year is \$50,000 or 10% (whichever is the greater). In applying the threshold, officers give due regard to the nature of the data and how it is best consolidated (e.g. at an individual project level, specific works program, distinct activity, nature and type level etc).

Change of Rating Category - UV to GRV

The City is continuing to review the status of all UV (Unimproved Value) properties within its boundaries especially those in established urban areas. The purpose of the UV status is to value land primarily as land used for rural purposes and not for urban residential, commercial or industrial properties. This is in line with the principal used by the Valuer General, in that UV valuations should only be used for rural land, otherwise GRV should be the primary valuation method.

A number of properties have been identified as having fallen into the categories below:

1. Industrial properties in predominantly urban areas classified as UV;
2. Urban developments in urban areas classified as UV;
3. Former rural blocks not used for rural purposes in urban areas; and
4. Rural lots in urban areas (not used as rural blocks) classified as UV

The City has identified 274 lots that will be submitted to the Director General of the Department of Local Government and Regional Development under delegated authority to have their valuation classification changed from UV to GRV as the table below indicates. In all, 78% will receive lower rates but the City will be no worse off as several of the lots identified in the review will pay higher rates because of their industrial use. To date, these industrial properties have received and paid lower rates than if they had been in other (more urban) municipalities.

The City will write to all affected properties advising them of the change.

Suburb	No.	GRV	GRV Rates	UV	UV Rates	lower rates	higher rates
Jandakot	167	\$4,151,977	\$284,147	\$101,664,711	\$176,670	144	23
Henderson	14	\$829,930	\$57,392	\$26,865,000	\$48,876	12	2
Atwell/Aubin Grove	4	\$186,020	\$19,521	\$7,520,000	\$15,729	2	2
Yangebup	7	\$274,432	\$23,645	\$13,260,000	\$25,820	4	3
Hammond Park	61	\$3,079,956	\$291,213	\$148,920,000	\$299,424	36	25
Success	21	\$525,872	\$43,198	\$29,500,000	\$52,179	16	5
Total	274	\$9,048,187	\$719,117	\$327,729,711	\$618,698	214	60

Based on 2008/09 rates and valuations

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

Where variances reported are of a permanent nature (i.e. not due to timing issues), they will impact Council's end of year surplus/deficit position.

Legal Implications

Section 6.4 of the Local Government Act, 1995 and Regulation 34 of the Local Government (Financial management) Regulations 1996, refer.

Community Consultation

N/A

Attachment(s)

Statement of Financial Activity and associated reports - February 2009.

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 9/4/2009) - CITY OF CANNING DECISION TO WITHDRAW FROM THE SMRC (4904) (M LITTLETON)

RECOMMENDATION

That Council:

- (1) seek a briefing paper from the SMRC outlining:
 1. the history of the odour issue.
 2. The steps taken to address the concerns of residents, the DEC and the City of Canning.
 3. The amount of funding expended to address the odour issue.
 4. The number of times the City of Canning or their representatives have formally sought action on the odour issue (or any other issue) through notices of motion, formal questions on notice or statements to the SMRC Council.
 5. The potential implications of the City of Canning's withdrawal from the project and these implications can be mitigated; and
- (2) seek a meeting with the Chief Executive Officer and Mayor of the City of Canning to discuss their intention to withdraw from the SMRC project.

COUNCIL DECISION

Background

The Southern Metropolitan Regional Council (SMRC) currently acts as a disposal point for all of the City of Cockburn's domestic waste (i.e. waste generated by our residential properties). It operates a multifaceted waste management facility which uses alternative waste treatment technology to maximize the recovery of MSW (municipal solid waste) and to divert as much waste as possible away from landfill. The facility consists of a number of treatment processes including:

- Waste composting facility (WCF) – which subjects MSW to a process of segregation, anaerobic digestion and microbial stabilization to produce compost and residual waste.
- Material recovery facility (MRF) – separation of recyclable waste stream.
- Green waste (GW) – shreds and processes clean green waste stream.

The SMRC is a Regional Council made up of the Municipal districts of the Cities of Cockburn, Melville, Rockingham, Fremantle and Canning and the Towns of East Fremantle and Kwinana. It is formally constituted under the auspices of the Local Government Act 1995 and must comply with that legislation. It was established to plan, develop, co-ordinate and implement sustainable waste management solutions and greenhouse gas abatement programs with, and for, its 7 member Councils and their communities.

The SMRC has been addressing odour issues for the past 18 months and did allocate approximately \$2.6Million to improve the odour capture and ducting infrastructure within the plant last financial year. Residents in close proximity to the plant however continue to express concern at fugitive odours leaving the site and impacting on their quality of life. The City of Canning have been fielding the *lion share* of concerns raised by concerned citizens and have now, at a Special Council meeting of 19 February 2009, taken steps to withdraw from the SMRC project as demonstrated by the following resolution:

Following the advice and recommendation provided by Hardy Bowen Lawyers in its confidential advice of 19 February 2009, the Acting Chief Executive Officer be instructed to write to the Southern Metropolitan Regional Council (SMRC), instructing them under the provision of the Establishment Agreement, that:

- (a) *The City of Canning withdraws from the SMRC immediately.*
- (b) *The City is not amenable to direction in relation to the delivery of waste, other than to the Regional Resource Recovery Centre (RRRC), and that if the RRRC is unable to accept the waste, it will be delivered by the City to a site of its choosing.*
- (c) *The SMRC be advised that the City is of the view that there is a dispute in relation to the obligations of the RRRC, having regard to:*
 - (i) *the economic sustainability of the facility; and*
 - (ii) *the environmental hazards caused by the facility;*

which requires to be dealt with in accordance with the good faith negotiations in the Project Participants Agreement.

- (d) The City should initiate a dispute under the lease in relation to the odour emissions, with a view to determining whether there has been a breach of the lease.*
- (e) A further report be presented to Council outlining the progress of the above matters within one month.*
- (f) A further report be presented to Council outlining a media campaign to the ratepayers of the City within one month of this motion.*

Submission

To inform Council of the City of Canning's decision, to withdraw from the SMRC project to seek further information from the SMRC regarding the implications of that decision and to seek a meeting with the City of Canning to discuss the matter.

Report

A recent statement contained within the City of Canning's Minutes published on their website (refer 10 March 2009) identified that ... *from October 2007 to 24 February 2009, 56 reports relating to the Southern Metropolitan Regional Council have been presented to the City of Canning Council. Further, questions raised during public question time on this subject matter, have occurred at 21 City of Canning Council Meetings during this time period*'. Clearly this has been an issue for some time, however, the magnitude of the issue for Canning may have been somewhat tempered by the support that existed at a Council level. Former Mayor, Dr. Mick Lekias, was Canning's representative on the SMRC board and a supporter of the philosophy and principles of sustainability and waste recovery which underpin the SMRC business. Whilst the political issues for Canning may not have changed, clearly support for the project has, yet Canning do not appear to have taken steps to engage with other member Councils nor seek to express their dissatisfaction at board level.

The decision to withdraw from the SMRC project is a significant one for Canning and officers believe it presents a significant risk to the City of Cockburn's stake in the business. To date the City of Canning have not sought to engage with the City of Cockburn regarding their current issues with the SMRC nor have they formally advised the City of their decision to withdraw from the project. The SMRC originated and evolved on the strength of the collegiate approach adopted by the member Councils and much has been achieved over the years. Unfortunately the success of the recovery effort has been tempered by operating deficits, plant closures, plant breakdown and cost over-runs,

substantial fee escalations, the outstanding odour issue and now the substantial reduction in commodity prices. Cockburn understands these issues impact on us as much as Canning. It is a shame that Canning had not sought to discuss their concerns with Cockburn prior to making their decision to withdraw from the project nor to actively engage the SMRC where they believed that they had failed in their operational, governance or administrative obligations to its members. These are fundamental issues to do with the business and the City of Cockburn would have supported Canning in these efforts had it been approached.

Despite the concerns being raised in the Chamber, neither the City of Canning nor their representatives have formally raised any issues through a notice of motion, questions on notice or statements to the SMRC Council as reported in the SMRC Minutes. The odour issue and its impact on the community and on Canning Council has been understood and the SMRC have taken steps to address that odour issue. The success of the capital works project has been the subject of further technical studies undertaken by *The Odour Unit* and a subsequent review undertaken by the DEC. One would assume that actively participating in the business of the SMRC gives the City of Canning the very best opportunity to influence the direction, operation and administration of the SMRC and puts it in the best position to influence change and address the issues. The decision to withdraw does not enable Canning to do any of these things. Cockburn however must seek further information to understand the risk of the decision and our exposure to further financial liability. To do this the following recommendation is proposed:

- (1) seek a briefing paper from the SMRC outlining:
 1. the history of the odour issue
 2. the steps taken to address the concerns of residents, the DEC and the City of Canning.
 3. The amount of funding expended to address the odour issue.
 4. The number of times the City of Canning or their representatives have formally sought action on the odour issue (or any other issue) through notices of motion, formal questions on notice or statements to the SMRC Council.
 5. The potential implications of the City of Canning's withdrawal from the project and these implications can be mitigated; and
- (2) seek a meeting with the CEO and Mayor of the City of Canning to discuss their intentions to withdraw from the SMRC project.

Strategic Plan/Policy Implications

Lifestyle and Aspiration Achievement

- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

Natural Environmental Management

- To manage the City's waste stream to achieve sustainable resource management, in an environmentally acceptable manner.

Budget/Financial Implications

N/A

Legal Implications

N/A

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.

16.2 (OCM 9/4/2009) - TENDER NO.RFT30/2008 - CONCRETING SERVICES - FOOTPATHS, SHARED USE PATHS ETC. IN-SITU CONCRETE (RFT30/2008) (M LITTLETON) (ATTACH)

RECOMMENDATION

That Council accept the tender submitted by Dowsing Concrete for Concreting Services for Tender No.RFT30/2008 - Footpaths, Shared Use Paths etc In-situ Concrete, for a period of three(3) years, with an option to extend to five(5) years, for a lump-sum price of \$1,925,000.00 GST inclusive (\$1,732,500 GST exclusive).

COUNCIL DECISION

Background

From time to time the City of Cockburn requires the services of an experienced and qualified concreting contractor to supply and install in-situ concrete paths and paving.

In the 2007/08 financial period the City expended approximately \$324,000 on such works.

Submission

Tenders closed at 2:00pm (AWDT) on Tuesday, 21 October 2008. Three (3) tender submissions were received from:

1. Swan Hills Concrete
2. Westside Concrete Contractors
3. Dowsing Concrete

Report

Compliant Tenderers

Both Swan Hills Concrete and Dowsing Concrete complied with the tender criteria.

Westside Concrete Contractors have 'gone into liquidation' since submitting their tender. This was confirmed by Mr Dougal McClay, of DMA Chartered Accountants, the appointed Administrator for Westside. Westside was therefore deemed to be a non-compliant tenderer and was excluded from consideration.

Evaluation Criteria

The table below lists the evaluation criteria were applied to all tenders.

Evaluation Criteria	Weighting Percentage
Demonstrated Experience	30%
Key Personnel Skills and Experience	20%
Tenderer's Resources	10%
Delivery Response Time	10%
Tendered Price	10%
TOTAL	100%

Swan Hills Concrete provided a scant submission which did not address the criteria as comprehensively as Dowsing Concrete; for example, no information regarding response time was given.

Dowsing Concrete scored highly for resources and experience with similar Local Government works programmes and a range of concrete products and services.

When considering price, a total value for the rates for all services was totalled . This provided an opportunity to compare a range of rates at a single glance. Each category of works was then compared separately and generally Swan Hills Concrete submitted slightly lower prices than Dowsing for most services other than traffic management.

The combined scores were assessed (refer scoring table) and Dowsing Concrete was identified as providing the most advantageous tender submission.

Evaluating Officers

The tender submissions were evaluated by:

1. Joanne Smith, Parks Manager
2. Peter Godridge, Parks Construction Officer

Scoring Table

Tenderer's Name	Percentage Scores		
	Non-cost Evaluation	Cost Evaluation	Total
	70%	30%	100%
Dowsing Concrete*	70	24.3	94.3%
Swan Hills Concrete	27.76	27.51	55.27%

**Recommended Submission*

Strategic Plan/Policy Implications

Infrastructure Development

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

Budget/Financial Implications

It is anticipated that the City of Cockburn will expend in the vicinity of \$350,000 per year on contracted concrete pathway in-situ works.

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

Tender No.RFT30/2008 – Concreting Services – Footpaths, Shared Use Paths etc. In-Situ Concrete was advertised on Saturday, 4 October 2008 in the Local Government Tenders section of The West Australian newspaper and also on the City's web site between Saturday, 4 October 2008 and Tuesday, 21 October 2008.

Attachment(s)

1. Compliance Criteria Checklist.
2. Tendered Prices – Confidential (under separate cover).
3. Tender Evaluation – Confidential (under separate cover).

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (OCM 9/4/2009) - LEASE OF THE BANJUP COMMUNITY HALL LOCATED ON LOT 414 OXLEY ROAD, BANJUP TO THE ATWELL SCOUT GROUP (5513246) (A LACQUIERE) (ATTACH)

RECOMMENDATION

That Council:

- (1) enter a lease arrangement with The Scout Association of Association - Western Australian Branch for a portion of (Reserve 33002) Lot 414 Oxley Road, Banjup as shown on the attached plan as follows:
 1. At one peppercorn per annum for a period of 5 years with an option for the City to renew for a further 5 years.
 2. The Lessee be required to meet the cost of all outgoings, in accordance with a maintenance schedule to be included in the Lease.
 3. All other terms and conditions within the lease to be negotiated to the satisfaction of the Chief Executive Officer.

- (2) seek the approval from the Department of Planning and Infrastructure to enter into a lease between the City and the Australian Scout Association, West Australian Branch on the portion of Reserve 33002 vested in the City.

COUNCIL DECISION

Background

The Atwell Scout Group has been utilising the Banjup Community Hall facilities for a number of years as a base for their activities. The Scout Association of Australia - West Australian Branch has previously held a lease on the facility on behalf of the Jandakot Scouts Group from 1998 to 2004. The Atwell Scout Group has expressed interest in re-entering into a lease arrangement for the facility through The Scout Association of Australia - West Australian Branch, as the Group would like to extend their current booking of 3 nights during the week to now also include weekend bookings.

The Banjup Community Hall is currently managed and booked by the City's Recreation Services, however limited use of the facility for regular and casual hire suggests that the Banjup Hall could be better utilised and managed under a lease arrangement. The opportunity to lease the facility to the Scout Group would provide mutual benefits to the Scout Group and the City.

Submission

N/A

Report

The Atwell Scout Group has approached the City seeking a Lease for the Banjup Community Centre to meet the current and future needs of the Group. The Atwell Scout Group has an active membership in excess of 80 and is one of the larger serving Scout Groups in the State.

After expressing their interest in leasing the facility, Recreation Services met with a representative of the Group to outline the leasing arrangements in accordance with the City's standard leasing conditions.

The proposed leasing arrangement would see the Scout Group responsible for the management and maintenance of the facility including paying of all outgoings as negotiated within the leasing terms at an annual rent of one peppercorn. As per the City's standard lease terms, the City will still be responsible for any structural or major maintenance required at the facility. The City will encourage the Scout Group to make the facility available for community hire, allowing an income source for the Group to assist in maintaining the facility. This will form part of the special conditions written into the lease document.

It is proposed that the City enter into a lease arrangement with the Atwell Scout Group for a period of 5 years with an option to renew for a further 5 year term, subject to compliance with conditions set out in the lease.

As the Banjup Community Hall is located on a portion of Reserve 33002 and is vested in the City, approval from the Department of Planning and Infrastructure will be required prior to entering into a lease arrangement.

Strategic Plan/Policy Implications

Infrastructure Development

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

Governance Excellence

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

Budget/Financial Implications

The City has currently allocated \$38,239 (inclusive of depreciation of \$11,000) for building maintenance in 2008/09 financial budget. The income generated from the Banjup Hall for 2008/09 was \$8,124 which was almost exclusively from the current rental paid by the Atwell Scout Group.

It is proposed that the lease document require the Scout Group to have responsibility for all routine maintenance and operation costs associated with the ongoing operation of the building, in accordance with a maintenance schedule to be prepared.

Legal Implications

Disposal of Local Government property must be in accordance with Section 3.58 of the *Local Government Act 1995* and its associated regulations. The *Local Government (Functions and General)*

Regulations 1996, Part 6, Clause 30 (2) states that a disposition of land (which includes a lease) is exempt from the normal public advertising and public auction/tender/sale requirements of Section 3.58 of the *Local Government Act 1995* if the land is disposed of to a body (whether incorporated or not), “*the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature*” and “*the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions*”. As potential lessee, the Scout Association clearly meets these criteria and is therefore exempt from the normal Section 3.58 requirements.

Community Consultation

N/A

Attachment(s)

Aerial map of the proposed leased area.

Advice to Proponent(s)/Submissioners

The Atwell Scouts Group have been advised that this matter is to be considered at the 9 April Council Meeting.

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

Nil.

17.2 (OCM 9/4/2009) - TENDER NO.RFT01/2009 - BUILDING CONSTRUCTION SERVICES - HAMMOND ROAD SPORTS & RECREATION FACILITY, SUCCESS (RFT01/2009) (S HARRIS) (ATTACH)

RECOMMENDATION
That Council accept the tender submitted by Diploma Pty Ltd, for Tender No: RFT01/2009 - Building Construction Services - Hammond Road Sports and Recreation Facility, Success, for the lump-sum price of \$4,759,590 GST inclusive (\$4,326,900.00 GST exclusive).

COUNCIL DECISION

Background

The project comprises the development of the undeveloped Reserve 7756 Hammond Road Success into a regional multi-purpose sport and recreation facility for the residents of the City of Cockburn.

The civil works for the Success Regional Sports Facility commenced in August 2008 and are scheduled for completion on 15 April 2009.

The contract for the bore installation was awarded in December 2008 and is substantially completed, with testing to be finalised in April/May 2009.

The contract for irrigation for the site was awarded in December 2008 and is currently underway.

The grassing contract for the oval space was awarded in March 2009, with the ovals to be ready for use by March 2010.

Based on the adopted timeline for completing the project, the contract for the building and netball courts has been programmed to run from April 2009 to February 2010.

Submission

Tenders closed at 2.00 pm (AWDT) on Tuesday, 10 March 2009 and tender submissions were received from:

1. Firm Construction P/L
2. Thomas & Coffey Ltd
3. Merit Projects
4. Tooltime Construction P/L
5. Metrocon P/L
6. Gavin Construction
7. Arcccon (WA) P/L
8. Esslemont Building & Civil
9. DBM Contractors P/L
10. Pindan P/L
11. Duwal Constructions
12. Diploma Construction (WA) P/L
13. Myers Constructions (1995) P/L
14. CPD Group P/L
15. Dalcon Construction P/L
16. Niche Construction WA P/L
17. Probuild Constructions (Aust) P/L

Report

The Success Recreation and Sport Facility will be a regional sport facility on the eastern side of Cockburn. The facility will cater to both the needs of the local community while offering facilities to the wider Cockburn area and beyond. A school borders the southern side of the oval space and the school will use a portion of the ovals during school hours. Other facilities at the school such as multi-marked tennis / basketball courts complement the local recreation provision of the facility.

Initial designs considered the inclusion of some tennis courts, however the inclusion of these courts would have compromised the ability of the facility to cater to netball at a regional level. The current design sees twenty (20) dedicated netball courts, allowing the facility to cater to a regional Netball competition. There remains the potential to mark some courts for tennis should this be warranted in the future.

The design of the ovals accommodates sports requiring a rectangular pitch. Given the proximity to Beeliar and the soccer club established at that facility, the Success Regional Facility is viewed as being ideally suited to Rugby Union. The City is currently negotiating with the Southern Lions Rugby Union Club to relocate to the facility when it opens in 2010. The Southern Lions, with a catchment largely made up of Cockburn Residents, will see the oval facilities used for regional and district competition, further enhancing the regional status of the facility.

Compliant Tenderers

There were seventeen(17) tenders submitted and four (4) were deemed non-compliant with the conditions of the tendering and compliance criteria.

Firm Construction P/L, Merit Projects, Dalcon Construction P/L and Probuild Constructions (Aust) P/L failed to comply with the insurance requirements of the tender.

Consequently, Thomas & Coffey Ltd, Tooltime Construction P/L, Metrocon P/L, Gavin Construction, Arcon (WA) P/L, Esslemont Building & Civil, DBM Contractors P/L, Pindan P/L, Duwal Constructions, Diploma Construction (WA) P/L, Myers Constructions (1995) P/L, CPD Group P/L, Dalcon Construction P/L, Niche Construction WA P/L were further assessed.

Elevation Criteria

Evaluation Criteria	Weighted Percentage
Tendered Price	60%
Relevant Experience	15%
Financial Position	10%
Key Personnel Skills & Experience	10%
Tenderer's Resources	5%
Total	100%

Tender Intent/Requirements

The City of Cockburn is seeking the services of a suitably qualified and experienced Building Construction Contractor for the construction of a regional Sports Complex on Reserve 7756, Hammond Road, Success WA.

The scope of works include the construction of a sporting and recreation facility, comprising of two(2) clubrooms, two (2) umpire rooms, a function room, programme room, meeting room, administration office, kitchen, four (4) change rooms, toilets, external paving, twenty(20) netball courts, sports court fencing, landscaping, lighting, and associated site works. The Principal's expectation is that the works will be completed within forty (40) weeks from the date of possession of the site.

The tender submissions were evaluated by:

Rob Avar – Manager Community Services
 Shane Harris – Recreation and Cultural Services Manager
 Richard Archer – Donald Cant Watts Corke Project Management
 Derek Duncan – Bollig Design Group

Scoring Table

Tenderer's Name	Non-Cost Evaluation Score 40%	Cost Criteria Evaluation Score 60%	Total Score 100%
Thomas & Coffey Ltd	26.97	49.84	76.81
Tooltime Construction P/L	24.17	45.47	69.64
Metrocon P/L	22.72	54.25	76.97
Gavin Construction	34.88	50.54	85.42
Arcon (WA) P/L	36.99	56.39	93.38
Esslemont Building & Civil	36.81	57.76	94.57
DBM Contractors P/L	28.64	54.53	83.17
Pindan P/L	38.1	56.59	94.69
Duwal Constructions	39.5	57.64	97.14
Diploma Construction (WA) P/L	39.21	60	99.21
Myers Constructions (1995) P/L	20.54	55.53	76.07
CPD Group P/L	23.12	52.85	75.97
Niche Construction WA P/L	18.83	58.04	76.87

Evaluation Criteria Assessment

Tenders were required to provide adequate information in their tender submissions to allow for the scoring of each evaluation criteria.

Summary

Independent evaluation was undertaken by two internal staff members, the external Project Manager from Donald Cants Watt Corke and the City's architectural consultant, Bollig Design Group. The combined officers assessment supports awarding the tender to Diploma Construction (WA) P/L and consequently officers recommend that Council accept their tender submission for the lump-sum price of \$4,759,590 GST inclusive (\$4,326,900.00 GST exclusive).

Strategic Plan/Policy Implications

Infrastructure Development

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

Natural Environmental Management

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

Budget/Financial Implications

Funds are available in Account No.CW4310 in the 2008/09 budget. Funds in the amount of \$2,078,000 are uncommitted this financial year and a further \$5,000,000 is proposed for the 2009/10 financial year to finalise the project. There has been a recent announcement that the City received a Community Sport Recreation Facilities Fund Grant of \$400,000 towards the cost of the netball courts and \$200,000 towards the clubrooms.

Initial construction estimates by the Quantity Surveyor predicted that the project would require a budget of \$10,263,894 (excluding GST). Revised estimates by the Quantity Surveyor in light of completed works and changes in building costs are as follows (excluding GST):

Civil Works (Wormall Tender)	\$2,631,898
Darling Downs Drilling (RFT 33/2008)	\$232,544
Malua Reticulation (RFT 34/2008)	\$216,944
Oval Grassing	\$100,000
Clubrooms and Netball Courts (RFT 01/2009)	\$4,351,420
Construction Contingency for Building Works	\$435,000
Furniture, Equipment & specialised fitout	\$200,000
Landscaping for site including entry	\$300,000
Footpath	\$50,000
Fence around wetlands	\$10,000
Playground and park furniture	\$80,000
Project Contingency	\$250,000
Consultant Fees	\$900,000
Total	\$9,757,806

The recent Quantity Surveyor's estimate for building works based on the tender specification was \$4,700,000 with the actual tender from Diploma Construction (WA) P/L being \$4,351,420 (excluding GST).

The recommended tender is within the Quantity Surveyor's estimate for the building works portion of the project.

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

Extensive community consultation was undertaken through the needs assessment conducted by the YMCA and CARE.

During the building design phase the City consulted with the Southern Lions Rugby Union Club in regard to building requirements and optimum building layout.

Tender No.RFT 01/2009 Building Construction Services – Hammond Road Sports and Recreation Facility, Success WA was advertised on Wednesday, 11 February 2009 in the Local Government Tenders section of the "The West Australian" newspaper. It was also listed on the City's website between 10 February and 10 March 2009.

Attachment(s)

1. Tendered Prices –"Confidential" (under separate cover)
2. Tender Evaluation Sheet – "Confidential" (under separate cover)
3. Compliance Criteria Checklist

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 the 9 April 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. 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 by public or private; and
- (3) managed efficiently and effectively

COUNCIL DECISION

25. CLOSURE OF MEETING