

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON MONDAY, 29 JUNE 2015 AT 6:00 PM

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## CITY OF COCKBURN

### MINUTES OF SPECIAL COUNCIL MEETING HELD ON MONDAY, 29 JUNE 2015 AT 6:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Mrs C Reeve-Fowkes	-	Deputy Mayor
Mr K Allen	-	Councillor
Ms L Wetton	-	Councillor
Mr Y Mubarakai	-	Councillor
Mr S Portelli	-	Councillor
Mr S Pratt	-	Councillor
Mr P Eva	-	Councillor
Mr B Houwen	-	Councillor

##### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Governance & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr C. Sullivan	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Mr R. Avard	-	Manager, Community Services
Ms V. Viljoen	-	PA to the CEO
Ms C. Murphy	-	Media Liaison Officer

#### 1. DECLARATION OF MEETING

Presiding Member declared the meeting open at 7.02pm.

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

Not applicable.



**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 (SCM 29/6/2015) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)**

The Presiding Member advised the meeting that he had received advice from Cllr Kevin Allen that he had an Impartiality Interest in relation to Item 9.1, which would be read at the appropriate time.

**5 (SCM 29/6/2015) - APOLOGIES & LEAVE OF ABSENCE**

➤ Cllr Lee-Anne Smith - Apology

**6. PUBLIC QUESTION TIME**

Nil

**7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS**

Nil

**8 (SCM 29/6/2015) - PURPOSE OF MEETING**

The purpose of the meeting is to consider:

- (a) endorsement of the preferred tenderer for the Building Construction Services (Main Building Works) – Cockburn Regional Physical Activity and Education Centre, Cockburn Central West; and
- (b) advice to the Southern Metropolitan Regional Council and Members on waste management matters.



## DECLARATION OF INTEREST – CLR K ALLEN

Clr Allen declared an Impartiality Interest in Item 9.1 “Tender No. RFT16/2014 – Building Construction Services (Main Building Works) – Cockburn Regional Physical Activity and Education Centre, Cockburn Central West. The nature of his interest is that his company, Veda Advantage, the company of which he is the State Manager, undertook credit checks of the recommended tenderer on behalf of Council.

CLR ALLEN LEFT THE MEETING, THE TIME BEING 7.04PM.

## 9. COUNCIL MATTERS

### 9.1 **(MINUTE NO 5533) (SCM 29/6/2015) - TENDER NO. RFT16/2014 - BUILDING CONSTRUCTION SERVICES (MAIN BUILDING WORKS) - COCKBURN REGIONAL PHYSICAL ACTIVITY AND EDUCATION CENTRE, COCKBURN CENTRAL WEST (C100213) (S DOWNING) (ATTACH)**

#### **RECOMMENDATION**

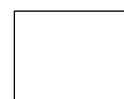
That Council accept the tender submitted by Brookfield Multiplex Constructions Pty Ltd, for Tender No. RFT 16/2014 – Building Construction Services (Main Building Works), Cockburn Regional Physical Activity Centre, Cockburn Central West, for the guaranteed maximum lump sum price of \$91,430,900 GST inclusive (\$83,119,000 GST exclusive) subject to the following agreements between the City and Fremantle Football Club being endorsed by Council:

- (a) Development Agreement
- (b) Oval Lease
- (c) Facility Lease
- (d) Management & Operations Agreement

#### **COUNCIL DECISION**

MOVED Clr S Pratt SECONDED Clr L Wetton that Council adopt the recommendation.

**CARRIED 8/0**



## Background

The City of Cockburn (The Principal), in conjunction with project partner, the Fremantle Football Club (FFC), identified the requirement to seek expressions of interest from qualified, experienced and registered (WA Registered Building Service Contractor) Building Construction Contractors for the construction of the Cockburn Regional Physical Activity and Educational Centre (RPAEC). This proposed new sporting complex will be located within the Cockburn Central West (CCW) Precinct which is bounded by Beeliar Drive, Midgegooroo Avenue, Poletti Road and North Lake Road, Cockburn Central, Western Australia.

The facility will be a fully integrated, state of the art sporting complex that will cater for a full range of aquatic, indoor and outdoor sports which will be provided to the Cockburn community and the wider population. The facility will also provide an elite training facility and administrative accommodation to the FFC that meets or exceeds the benchmark of rival Australian Rules Football clubs and provides accommodation space for an educational training facility for Curtin University's students, academics and researchers, the details of which are still being negotiated.

The main building construction contract works will be procured using a modified traditional tendering process leading to a Guaranteed Maximum Price (GMP) contract.

Contracts for Pools Construction and Pool Filtration/Hydraulic Systems (RFT23/2014 & RFT24/2014) have been separately tendered by the Principal and the preferred tenderer/s will then be engaged by the Main Building Contractor as sub-contractors following award of the Main Building Contract. The preferred pools and filtration works tenderer was presented to the Special Council Meeting held on 23 June 2015 and endorsed by Council.

Contract for the Geothermal construction of injection and reinjection bores for the heating of the pool water bodies was separately tendered by the Principal (RFT 02/2015), with these works being managed by the Principal. The preferred geothermal tenderer was presented to the Special Council Meeting held on 23 June 2015 and accepted by Council.

The scope of the Main Building Works (on a site prepared by LandCorp prior to commencement of the main building works) includes, but is not limited to:

- Multipurpose indoor sports hall with six (6) high ball courts;
- Internal 'street' that provides a physical link between the key components of the facility;



- Community health club facility including gym and group fitness;
- Pools including:
  - 50m Outdoor Pool (with separating boom)
  - 25m Indoor Pool
  - Warm water/Hydrotherapy Pool
  - Hot & Cold Recovery Pools
  - Leisure Pool
  - Learn to Swim Pool
  - Spa;
- 3 x feature waterslides;
- Commercial allied health space for lease;
- Community administration;
- Toilets, change rooms and ancillary accommodation;
- Car parking facilities;
- Clubrooms for swim club;
- Plant Room and storage areas;
- Function and Meeting rooms;
- Lecturette and Multimedia facilities;
- Altitude training room;
- Administration for Fremantle Football Club;
- Training facilities for Fremantle Football Club;
- Retail Sports shop;
- Secure Car Parking for Fremantle Football Club.
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A two-stage tendering process was undertaken:

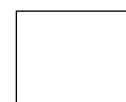
### **Stage 1 - Expression of Interest (EOI)**

Stage 1 is the EOI Stage and was publically open to all capable legal entities in Australia and from around the world that have accepted the principles of the Conditions of Responding.

Following the close of the EOI, Respondents were evaluated and a shortlist of “Acceptable Tenderers” determined. The Principal then proceeded to the issuing of a restricted/private Request for Tender (RFT) which allowed the Respondents deemed Acceptable Tenderers to lodge a priced submission for the Main Building Construction works.

### **Stage 2 – Request for Tender (RFT)**

Stage 2 was the RFT Stage and was issued only to those Respondents who submitted responses, were selected by the Evaluation Panel at the completion of Stage 1 and deemed “Acceptable Tenderers”.



The preliminary project/works schedule is as follows:

	<b>Task</b>	<b>Date</b>
1	Expression of Interest (Close)	11 September 2014
2	Tender (RFT) Issue	17 October 2014
2	Tender (RFT) Period (Close)	12 December 2014
3	Tender (RFT) Award	29 June 2015
4	Construction Commencement	15 July 2015
5	Practical Completion	March 2017

Expression of Interest Number EOI 13/2014 – Building Construction Services (Main Building Works), Cockburn Regional Physical Activity and Education Centre, was advertised on Saturday 2 August 2014 in the Local Government Tenders section of “The West Australian” newspaper. It was also displayed on the City’s E-Tendering website between Saturday, 2 August 2014 and Thursday, 11 September 2014 throughout Australia and New Zealand.

A mandatory briefing was held on Monday, 18 August 2014 from 10am to 12noon at The City of Cockburn’s Integrated Health and Community Facility, 11 Wentworth Parade, Success Western Australia. The mandatory briefing saw the attendance of 15 interested parties. All ten respondents attended the mandatory briefing.

Responses closed at 2:00pm (AWST) Thursday, 11 September 2014 and ten (10) submissions were received from:

	<b>Company Name</b>	<b>Trading As</b>
1	BGC Construction Pty Ltd	
2	Broad Construction Services (WA) Pty Ltd	
3	Brookfield Multiplex Constructions Pty Ltd	
4	Built Environs WA Pty Ltd	Built Environs
5	Cockram Construction Limited	
6	Cooper & Oxley Builders Pty Ltd	
7	Doric Contractors Pty Ltd	
8	Perkins Decmil Joint Venture	Perkins Decmil Joint Venture





	Perkins (WA) Pty Ltd and Decmil Australia Pty Ltd	
9	Pindan Contracting Pty Ltd	
10	Probuild Constructions (Aust.) Pty Ltd	

The evaluation process resulted in the following respondents being deemed “Acceptable Tenderers”:

- Brookfield Multiplex Constructions Pty Ltd
- Perkins Decmil Joint Venture
- Pindan Contracting Pty Ltd
- Broad Construction Services (WA) Pty Ltd.

These respondents were invited to tender for the Main Building Construction of the new Regional Physical Activity and Education Centre (RPAEC), Cockburn Central West under a request for tender process.

The Tender Number RFT 16/2014 – Building Construction Services (Main Building Works), Cockburn Regional Physical Activity and Education Centre, was issued to the acceptable tenderers via the City’s E-Tendering website on Friday, 17 October 2014.

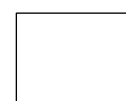
The “Acceptable Tenderers” were issued with substantially complete (80% - 90%) design documentation.

A non-guaranteed Bill of Quantities was issued as an addendum during the RFT stage.

Tenderers had approximately one (1) week to review and explore the initial design components culminating with Tenderers presenting innovative alternative design solutions to the Principal and current Design Team in a workshop environment. A further three (3) weeks involved an interactive tendering period with direct but controlled access to the Design Team to allow elaboration of identified alternatives during this period. The intention of these alternative designs was to provide cost and time savings to the Principal. These design alternatives were not disclosed to the other Tenderers. The Principal retained the intellectual property rights of all submissions.

At the conclusion of the tendering period; all Tenderers were required to submit a compliant Tender based on the initial design and, in addition, provide a range of alternative design options.

A full summary of the tender process has been prepared by NS Projects (Project Manager) under Attachment 6 - City of Cockburn Regional Physical Activity & Education Centre - Tender Report.



## Submission

Tenders closed at 2:00pm (AWST) on Friday, 12 December 2014 and five (5) tender submissions were received from:

1. Brookfield Multiplex Constructions Pty Ltd
2. Broad Construction Services (WA) Pty Ltd
3. Broad Construction Services (WA) Pty Ltd – Alternative
4. Pindan Contracting Pty Ltd
5. Perkins Decmil Joint Venture

## Report

### Compliance Criteria

<b>COMPLIANCE CRITERIA</b>
(a) Attendance at the Mandatory Tender Workshops ( <b>Part 1</b> ).
(b) Compliance with the Conditions of Tendering ( <b>Part 1</b> ) of this Request
(c) Compliance with the Specification ( <b>Part 2</b> ) contained in the Request.
(d) Compliance with Sub-Contractors Requirements and completion of <b>Section 3.3.3</b> .
(e) Compliance with AS/NZS ISO 14001 Accreditation Requirements and completion of <b>Section 3.3.5</b> .
(f) Compliance with Qualitative Criteria requirements and completion of <b>Section 3.4.2</b> .
(g) Compliance with Fixed Price and completion of <b>Section 3.5.2</b> .
(h) Compliance with and completion of the Price Schedule (including Breakdown of Lump Sum) <u>in the format provided in Part 4</u> .
(i) Compliance with Occupational Safety & Health Requirements & completion of <b>Appendix A</b> .
(j) Compliance with ACCC Requirements and completion of <b>Appendix B</b> .
(k) Compliance with Building Code 2013 Requirements and completion of <b>Appendix C</b>
(l) Acknowledgement of any Addenda issued.



Compliant Tenderers

All Tenderers were deemed compliant and evaluated with the exception of the alternative submission presented by Broad Construction Services as the tenderer proposed scope changes.

Evaluation Criteria

<b>Evaluation Criteria</b>	<b>Weighting Percentage</b>
Tenderer's Key Personnel & Subcontractors	20%
Methodology	10%
Tendered Price – Lump Sum	70%
<b>TOTAL</b>	<b>100%</b>

Evaluation Panel

The tender submissions were evaluated by:

	<b>Name</b>	<b>Title</b>	<b>Representing</b>
1.	Stephen Cain	Chief Executive Officer	City of Cockburn
2.	Stuart Downing **	Director, Finance & Corporate Services	City of Cockburn
3.	Daniel Arndt	Director , Planning & Development	City of Cockburn
4.	Anton Lees	A/Director, Engineering & Works	City of Cockburn
5..	Donald Green	Director, Governance & Community Services	City of Cockburn
6.	Robert Avard	Manager Community Services	City of Cockburn
7.	Brad Paatsch	General Manager Strategic Projects	Fremantle Football Club
8.	Chris Beattie	Division Manager, Gemba Group Pty Ltd	Fremantle Football Club
9.	Steve McDonald	Senior Project Manager	NS Projects P/L
10	David Karotkin	Managing Director	Sandover Pinder Architects
11.	Scott Parrott	Director	WT Partnership
	<i>Advisory Role Only</i>		
1.	Adrian Lacquiere	Recreation Services Coordinator	City of Cockburn

2.	Andy Armstrong	Project Director	NS Projects P/L
3.	Mike McGrath	Senior Associate	DWP Suters
	<i>Probity/Compliance</i>		
	Gary Ridgway	Contracts Specialist	City of Cockburn

**\*\* Chairperson**

Scoring Table - Combined Totals

Tenderer's Name	Percentage Score		
	Cost Evaluation	Non-Cost Evaluation	Total
	70%	30%	100%
<b>Brookfield Multiplex Constructions Pty Ltd **</b>	<b>70.00%</b>	<b>22.05%</b>	<b>92.05%</b>
Perkins Decmil Joint Venture	65.92%	22.82%	88.74%
Broad Construction Services (WA) Pty Ltd	66.62%	21.70%	88.33%
Pindan Contracting Pty Ltd	61.96%	20.64%	82.60%

**\*\* Recommended Submission**

Evaluation Criteria Assessment

The tender assessment period involved the evaluation panel completing a detailed review of all Tenders received after the panel member had received a briefing from each of the four Tenderers on 17 December 2014. The presentation by the four tenderers on 17 December did not form part of the evaluation process however was provided so the panel members were informed of the various alternatives being proposed by the tenderers.

The Design Team assessed the proposed alternative design solutions to determine whether these changes could be integrated into the facility. The alternative design solutions were considered based on financial or operational savings to the Principal. The endorsed design alternatives were then shortlisted with the associated cost discounted from the associated Tenderer's initial GMP figure to arrive at a single preferred Tenderer.



On completion of the assessment process alternative designs from unsuccessful Tenderers were considered for implementation into the final design.

### Tenderer's Key Personell and Subcontractors

All tenderers demonstrated they had sufficient key personell skills and experience to complete the works within the required time frame. It was the view of the Panel that Broad, Brookfield Multiplex and Perkins were deemed to have slightly more experienced key personnel compared to Pindan on the scale and types of projects.

### Methodology

All tenderers demonstrated a strong understanding for the construction methodology required to complete the project. They all clearly had the experience to manage complex issues that could arise and had the ability to deliver significant projects using their proposed construction techniques. All tenderers were also able to demonstrate that they could complete the construction of the building within the timeframe anticipated.

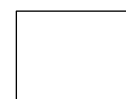
### Summation

Brookfield Multiplex Constructions Pty Ltd (BMX) was selected as the Preferred Tenderer for this project and advised accordingly on Tuesday, 20 January 2015 so as to finalise the design of the Cockburn Regional Physical Activity and Education Centre and to achieve an agreed GMP for the construction works and agreement on the terms and conditions for a contract to be entered into by the Principal.

The Pools Construction and Pool Filtration/Hydraulics Contracts (collectively known as the Pool Works) were tendered separately by the City. The preferred Main Building Construction Tenderer participated in the assessment panel for these tenders with the Panel determining that Commercial Aquatics Australia (CAA) provided the best offer in terms of price and quality and would be considered as preferred for Pools Construction and Pool Filtration/Hydraulics. The formal appointment of CCA would be made by the Main Building Contractor as these works would fall within the main building works package.

The Geothermal Injection and reinjection bores was also tendered separately and will be contracted and managed directly by the City.

In order to achieve the construction budget, further value engineering was required on top of the tendered alternatives put forward by BMX. This required a significant review in the products, materials and design that has resulted in the target construction being met after some non-



core components of the facility were excluded. These included the City's proposed Civic and Function facilities along with approximately 380m<sup>2</sup> of future expansion space. These items were not in the original brief however were included at the time of the tender based on the cost advice from the Quantity Surveyor. The final design to reach the GMP includes the following key changes from the original design to achieve the GMP:

- Reduction in Level 1 future expansion and civic spaces;
- Relocation of gym and group fitness areas;
- Relocation of Function and meeting rooms to the ground level;
- 52m outdoor pool with movable boom reduced to 50m with fixed hinged boom;
- General floor area reductions to provide more efficient circulation spaces;
- Alternative mechanical air handling system to Fremantle Football Club administration areas;
- Alternative mechanical ventilation system in aquatic hall area
- Reduction in glazing and façade;
- Alternative pool filtration option (originally preferred but was cost prohibitive);
- Alternative product selections obtained by the Builder that have the same or better specifications to the original selection
- Reallocation of the Artwork allowance (\$280k) to the construction budget. Artwork will be separately budgeted in the 2015/16 & 2016/17 financial years.

The formal and final submission of the GMP from BMX is outlined within the Confidential Attachment 4 – Final GMP submission – Brookfield Multiplex Construction Pty Ltd.

The final drawings that represent the deliverables under the GMP are outlined in Attachments 5 – Final Project Drawings and Plans.

With the GMP approach, variations during construction will be restricted to Individual Scope Variations; being Principal-instigated material or substantial scope changes and/or abortive works and as set out more fully in the General Conditions of Contract. The design team will not be novated and will remain in the control of the Principal. Some elements of the works will be Design and Construct where the design team is not able to complete a full design. Under the GMP approach, any design errors or omissions are deemed to be included as the Contractor's risk.

A relationship based contract is proposed which will require the Principal to consider design changes during construction which are proposed by the Building Construction Contractor. There is no obligation on the Principal to accept any changes although a



reasonable approach will be taken and savings if any may be shared between the Principal and the main contractor.

The evaluation panel recommends that Council accept the submission from Brookfield Multiplex Constructions Pty Ltd as being the most advantageous and value for money tender submission to the City of Cockburn. The recommendation is based on the recommended tenderer assessed as having the capability, appropriate plant and equipment, experience, key personnel, subcontractors and proposed methodology that will meet the City of Cockburn requirements as articulated in the specification. The GMP submitted by Brookfield Multiplex Constructions meets the construction target set for the project.

Contract conditions will be progressed with BMX and subject to the endorsement by Council to award these works, the terms and conditions of the contract will be signed by the Chief Executive Officer under delegated authority.

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

#### ***Growing City***

- Investment in industrial and commercial areas, provide employment, careers and increase economic capacity in the City.

#### ***Infrastructure***

- Community facilities that meet the diverse needs of the community now and into the future.
- Community infrastructure that is well planned, managed, safe, functional, sustainable and aesthetically pleasing.
- Partnerships that help provide community infrastructure.
- Facilities that promote the identity of Cockburn and its communities.

#### ***Community & Lifestyle***

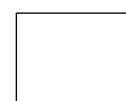
- People of all ages and abilities to have equal access to our facilities and services in our communities.
- Promotion of active and healthy communities.

#### ***A Prosperous City***

- Sustainable development that ensures Cockburn Central becomes a Strategic Regional Centre.
- Creation and promotion of opportunities for destination based leisure and tourism facilities.

#### ***Moving Around***

- Infrastructure that supports the uptake of public transport and pedestrian movement.



## Budget/Financial Implications

The final cost and stakeholder contributions for the RPAEC project has been outlined in the below table:

<b>Stakeholder</b>	<b>Final Funding</b>
City of Cockburn	\$72.85M
Fremantle Football Club	\$12.75M
Federal Government RDAF	\$10.00M
State Government - Cabinet	\$10.00M
State Government - CSRFF	\$ 2.40M
Curtin University	\$ 1.00M
<b>Total Funding Contributions</b>	<b>\$109.0M</b>

The City will be funding its portion of the project via the following sources:

Municipal and Reserves	\$47.85M
Loan from WA Treasury Corporation	\$25.00M
<b>Total Funding</b>	<b>\$72.85M</b>

The GMP of \$83,119,000 GST exclusive submitted by Brookfield Multiplex matches the construction budget set aside for the project.

The City undertook a financial review of each of the Tenderers through an independent credit reference agency 'Veda Advantage'. Corporate Scorecards (Veda's company assessment arm) were used to undertake a detailed review of the tenderers financials including a current market analysis assessment. A detailed report indicating their ability to financially undertake the level of work has been produced indicating all tenders would be financially viable. The Principal will seek bank guarantees and a deed of indemnity from the Parent entity of BMX.

## 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. \* Compliance Assessment;
2. \* Consolidated Evaluation Score;
3. \* Tendered Prices
4. \* Final GMP submission – Brookfield Multiplex Construction Pty Ltd
5. Final Project Drawings and Plans
6. \* NS Projects - Tender Report,

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

Those who lodged a tender submission have been advised that this matter is to be considered at the 29 June 2015 Special Council Meeting.

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

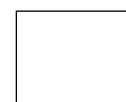
The provision and operation of leisure facilities is a typical function of local government, although it now operates in a competitive market, particularly in the gymnasium and fitness areas. In general, it is expected that local government provides a broad mix of aquatic, court and fitness options for the community. The RPAEC facility adheres strongly to that concept and in addition, has partnered with the private (Fremantle Football Club) and education (Curtin University) sectors to provide a unique, multi - functional facility capable of being a major drawcard for the community and an attractive client based opportunity for Council.

The premises have been designed to minimise initial capital costs for tenancy spaces, which has been made possible by securing State and Federal funding as a contribution to the initial construction. Each tenant has also committed to pay a proportionate initial establishment cost for independent areas of occupancy and will ultimately be responsible for outgoings and associated depreciation costs to ensure ongoing operational expenditure is accounted for.

With the majority of the building being the responsibility of the City of Cockburn, a Business and Operational Management Plan has been adopted by Council which determines the financial model for the ongoing performance of those areas. The Plan indicates that these operational requirements will be partly subsidised by Council for the first three years, before generating operational surpluses. Council will also be responsible for cash backing the depreciation costs of its operational areas, to ensure adequate provision for major maintenance and replacement costs, when required in future.

AT THIS POINT IN THE MEETING, CLR KEVIN ALLEN RETURNED TO THE MEETING, THE TIME BEING 7.08PM.

THE PRESIDING MEMBER ADVISED CLR ALLEN OF THE DECISIONS OF COUNCIL IN RELATION TO ITEM 9.1, THAT WAS MADE IN HIS ABSENCE.



**9.2 (MINUTE NO 5534) (SCM 29/6/2015) - ADVICE TO SOUTHERN METROPOLITAN REGIONAL COUNCIL AND MEMBERS (028/006) (S CAIN) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) advises the Southern Metropolitan Regional Council (SMRC) that it agrees to the variation for any supply of recyclables agreement to be offered for a term of "at least 10 years";
- (2) advises the SMRC and its members that, with regard to processing of Municipal Solid Waste (MSW) or recyclables, the City does not intend withdrawing from the Project Establishment or Project Participants Agreements, at this time;
- (3) advises the SMRC and its members that the City will sign the Memorandum of Understanding (MOU) for the transaction of the sale of the Materials Recovery Facility (MRF), with the excision of clause 8.1 of that document;
- (4) advises the other members of the Project Participants Agreement that the City will be undertaking a trial of a third bin system in a part of the District and needs to divert the green waste collected during the trial to Henderson Waste Recovery Park for processing during this time;
- (5) agrees to provide a copy of the report on this trial to the SMRC and its members;
- (6) withdraws the City from the Project Participants Agreement for green waste with effect FY16/17, in order to be able to expand the third bin system across the remainder of the District;
- (7) approaches the members of the Project Participants Agreement to undertake a more detailed study on the option of transitioning the MSW processing to Waste To Energy (W2E), including identification of a timetable to transition SMRC to this form of waste disposal; and
- (8) seeks the support of the members of the Establishment Agreement to prepare an alternative structure for administering the SMRC, which would allow it to be downsized in line with the proposed sale of the MRF and any future transition of the other waste services that it administers.



**COUNCIL DECISION**

MOVED Cllr K Allen SECONDED Deputy Mayor C Reeve-Fowkes that Council:

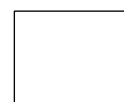
- (1) advise the Southern Metropolitan Regional Council (SMRC) that it agrees to the variation for any supply of recyclables agreement to be offered for a term of at least 10 years;
- (2) advise the SMRC and its Members that the City will sign the Memorandum of Understanding (MOU) for the transaction of the same of the Materials Recovery Facility (MRF);
- (3) advise the other Members of the Project Participants Agreement that the City will be undertaking a trial of a third bin system in a part of the District and needs to divert the green waste, collected in the lime 240L bin during the trial, to Henderson Waste Recovery Park for processing during this time;
- (4) agree to provide a copy of the report on this trial for the SMRC and its Members;
- (5) approaches the Members of the Project Participants Agreement to undertake a more detailed study on the option of transitioning the MSW processing to Waste to Energy (W2E), including identification of a timetable to transition SMRC to this form of waste disposal; and
- (6) request the CEO of the SMRC to further investigate the retained overheads and provide a report to Members of the SMRC prior to any formal disposal of the Materials Recovery Facility being made.

**MOTION LOST 1/8**

MOVED Cllr Y Mubarakai SECONDED Cllr S Portelli that the recommendation be adopted with an amendment to sub-recommendation (2) by the removal of the word "Project" before the word "Establishment".

**CARRIED 8/1**

**CLR ALLEN REQUESTED THAT HIS VOTE AGAINST THE MOTION BE RECORDED.**



## Reason for Decision

The amendment will correct a typographical error.

## Background

At the February 2015 Ordinary Council Meeting, an item was considered in relation to the Southern Metropolitan Regional Council (SMRC). Subsequent to that meeting, the sudden termination of Local Government Reform in March 2015 has made some of the matters considered by Council redundant.

However, Council did resolve to:

*“(4) advise the SMRC that it supports the sale of the Materials Recovery Facility (MRF) to a private operator and is prepared to commit to a 10 year term for a contract to process recyclables as part of this arrangement...”*

*“(5) resource the CEO to continue examination on all solutions, including but not limited to waste to energy (W2E) and a zero waste strategy for processing the City’s other waste streams...”*

*“(7) organise a briefing for the SMRC to brief Councillors.”*

Subsequently the following actions were undertaken:

- In May 2015 a forum on W2E was arranged for regional local governments to learn about the progress of W2E, particularly the status of the local facilities under development;
- A tour was undertaken by six Elected Members of two W2E plants in Poland and Singapore, as well as waste processing plant in Lancashire, which was similar to the SMRC’s operations;
- The Chief Executive Officer (CEO), Director of Finance and Corporate Service and Cr Allen subsequently attended an international W2E conference in London, along with representatives from the City of Melville and the SMRC.
- In June 2015 the SMRC Chairman and CEO gave a briefing to Elected Members.
- A Special Council Meeting was held on 23 June 2015 to consider the trial of a 3<sup>rd</sup> bin system or green waste across approximately 1200 households.

At the Special Meeting the following resolution was passed:

*“That Council:*

*“(1) approve the implementation of the third bin (green waste) trial in 2015/16 in accordance with the implementation plan;*



- (2) *briefs the Chairman of the Waste Authority on the trial and other waste initiatives that the City has undertaken; and*  
 (3) *seeks potential funding from the Waste Authority for this trial, or the expansion of the service if the trial is successful.”*

At the time of the last Special Council Meeting Elected Members were also advised that the City was considering its response to the SMRC's Business Plan for the sale of the MRF. It was also advised that the SMRC were seeking a variation to Council's February 2015 resolution, in order to potentially allow for a longer term contract for recyclables supply to the future owner of the MRF.

These matters were collectively discussed with Elected Members and one of the City's legal advisers at a briefing held on 25 June 2015.

### **Submission**

The SMRC has sought formal variation to the previous resolution of Council on the MRF sale, as per the attached correspondence (Attachment 1).

### **Report**

The City's recent decisions to support the sale of the SMRC MRF as well as conduct a trial of a third bin for green waste, will see considerable changes to the way the City's waste mix is handled and disposed of in the near future.

The SMRC's role as being the only processor for the City's residential waste will, with the sale of the MRF, be shared with the private sector.

The introduction of a new bin structure will see more source separation occur at the household, leading to opportunities for improvement in waste diversion from landfill, as well as the potential for more outsourcing of waste disposal.

The following table depicts the FY15/16 budgeted SMRC throughput (tonnage) by waste stream; as well as the City's proportion and current diversion rates from landfill:

**Table 1: Waste Category and Diversion**

<b>Category</b>	<b>SMRC tonnes</b>	<b>Cockburn %</b>	<b>Diversion</b>
MSW	85,000	36%	55%
Recyclables	40,000	35%	80%
Green	17,300	12%	100%
<b>Total</b>	<b>142,300</b>	<b>33%</b>	<b>67%</b>



While the sale of the MRF will not impact the diversion rate, the City's green waste trial is expected to see increased product recovery as follows:

- MSW – green (garden) waste recovery will reduce tonnage in the MSW bin, but produce a clean separated organic stream of waste suitable for composting.
- Recycling- the in home caddy and education program should improve recycling rates, with a target of 5% more volume (by weight) coming from the MSW bin.
- Green – a small amount of contamination (around 3-5%) is anticipated in the new organic collection (lime green bin), with this then separated prior to mulching so the 100% recovery rate remains.

The residual waste in the MSW bin (now red top) will have fewer recyclables and much less organic waste. It is possible to continue processing this through the SMRC's composting plant, but this would not be economic. This residual waste will have high calorific value and would be suitable for W2E processing.

Likewise, with the maximum amount of recyclables (yellow top bin) being recovered, the residual waste will have no commercial value; but could be processed in W2E rather than landfilled.

In conjunction with the greater source separation at the household, rather than landfilling, the disposal of all residual waste via W2E would lift the City's overall diversion rate to close to 100%. The only portion landfilled being the small amount of ash after W2E treatment. This is a true 'zero waste' outcome. This is in line with waste outcomes in Germany, the leading country to minimise landfill and maximise recovery of its waste.

For the SMRC, post sale of the MRF, there will be 28% reduction in throughput volume. However, despite this change the draft Business Plan for the sale of the MRF does not seek to make any efficiency in the running of the SMRC. Indeed the draft Plan simply proposes to reallocate overheads applied to the MRF, to the MSW and green waste operations.

Looking at these issues collectively, the time seems right to consider changes to the way the SMRC operates, its future role in handling the City's waste and how any transition away from current waste processing at the SMRC should be handled.

#### SMRC - MRF

The sale of the MRF will provide the following benefits to the current Project Participants:



- An opportunity to contract with a private sector operator for lower gate rates. This has been the experience for other local governments that have made similar transitions.
- With limited debt outstanding on the current facility, there will be an opportunity to reduce overall SMRC related debt for members.
- An associated land lease for the site will provide income for the SMRC. The landlord, the City of Canning, have conditionally agreed to a sub-lease for an incoming private sector operator.

The SMRC is seeking to achieve the highest return on the MRF for the members, so it is recommended that Council support the request to modify the wording on its February 2015 resolution to “at least 10 years”.

Similarly the Administration is recommending signing the MOU (Attachment 2) covering the sale, with the excision of clause 8.1, which reads:

#### **8.1 Obligations under Existing Agreements**

*For the Term, the parties (in their respective capacities as Member Councils and Project Participants) must not exercise their rights under the Establishment Agreement or the Project Participants' Agreement (as applicable) to:*

- withdraw from or wind up the SMRC; or*
- withdraw from or wind up the RRRC or aspects of it relating to the MRF, including the division of assets and liabilities.*

This clause is considered to unnecessarily fetter the City. Part of the recommended resolution for this item is a statement that reaffirms the City's intention to retain participation in the Project Participants Agreement for recyclable and MSW processing. Any amendment to withdraw from the Agreement would only become effective in the financial year after which it is made. If the City gave notice in July 2015, a withdrawal would therefore only occur on 30 June 2017.

The Administration believes that there is more than enough time for the sale of the MRF to be handled, without the need to apply legal constraints to the City's entitlement under the Project Establishment Agreement. Clause 8.1 in the MOU is an unnecessary constraint and its removal would not impede the sale of the MRF.

#### **SMRC – Structure**

The sale of the MRF should trigger a restructuring of the SMRC, rather than dispersal of overheads over other parts of its business. The City has twice written to the SMRC offering to assist it to achieve this outcome through the outsourcing of part of its operations.



The SMRC overhead cost of around \$1.8M can be substantively reduced. Applying a fee for service for back office functions, such as IT, finance and HR would allow the SMRC to divest itself of staffing, its main office and associated running costs. None of these changes would impact its core business.

Informally, the City of Melville has made a similar offer to the SMRC to assist it with downsizing. Such a change would not only benefit its members now, but in the event of the future closure of the composting plant it would become much easier to manage further downsizing of the SMRC.

The reluctance to tackle this issue has to be addressed, or the City's ratepayers will be saddled with unnecessary expenditure for years to come. It is therefore proposed that the members engage an independent financial / business consultant to examine this. The analysis would be undertaken with the SMRC, but overseen by the members.

#### Expansion of the Three Bin System

Introducing a three bin waste collection system across the District will see a change to the amount of waste going into each waste stream. There would be:

- Less volume in the MSW stream, with less organic matter transferred to the SMRC's waste composting plan;
- More recyclables in the recyclable stream; and
- More source separated green waste, however it would have some contamination.

The evidence presented to Council in the 23 June 2015 SCM item showed that other local authorities had introduced this service, achieving high levels of satisfaction from ratepayers. It is anticipated that Cockburn's trial will follow the same pattern, leading to a desire to extend the service over the whole District.

The only way that the City could undertake this would be for it to withdraw from the Project Participants Agreement for green waste disposal.

As previously identified, the lag effect built into the Project Establishment Agreement means that unless Council gives notice by 30 June 2015 of withdrawal from the green waste component of the Participants Agreement; any decision made during the FY15/16 trial to this effect could not commence until July 2017.

The only way for the City to retain this flexibility is to give such notice now. The immediate effect of this would be no change. Notice would





allow the City Administration to work with the SMRC and its members to determine how and when green waste would transition to the City's control; which might be staged. However, without initiating withdrawal no such dialogue can occur.

Green waste represents the smallest of the three waste streams processed at the SMRC. Indeed the City's throughput is only 12% of this waste stream. From a financial perspective the City's green waste only contributes \$160,000 pa - 0.68% of the SMRC's fee for service income (0.55% of its total income). There is no debt associated with this operation, nor a substantial amount of capital equipment.

Removing this income stream would not substantively impact the SMRC nor threaten its financial viability. Assuming that Council endorse the recommendation to undertake a structural review of the SMRC, savings achieved from that outcome would more than offset the loss of green waste revenue.

Associated with withdrawal, it would be a requirement for the City to produce a new Business Plan for the SMRC. This plan would encompass the impact of proposed structural change offsets.

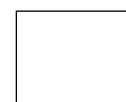
### Waste to Energy

The actions undertaken by the City Administration since Council considered the issue of W2E in February 2015 have been intended to inform Elected Members on the options presented by this technology. At the recent briefing session, Cr Schuster, the SMRC's Chairman, advised that it was his personal view that W2E was the logical alternative to the current composting operations. If this is the case, the question is when to transition to W2E, not if. The City's Administration supports this proposition, but in a staged and well considered way.

While Council resolved to resource the CEO to undertake further analysis of this alternative, it would be better for all Project Participants that any further work on W2E was undertaken collectively by the members.

This would allow examination of a full supply chain; ie collection, consolidation and disposal, to be undertaken with a regional view in mind. Any transition to this technology should also be managed by all members simultaneously, so as to provide for an orderly closure of the SMRC's composting plant.

The City does have a point of difference from the other Project Participants, due to the fact that it needs to consider its commercial waste operations as part of this analysis. This may lead the City to pursuing a preferred outcome if one of the W2E operators had a better alternative than the other.



## Conclusion

The City of Cockburn's waste management initiatives are continuing to evolve as it seeks to implement its *Waste Management and Education Strategy 2013-23*, as well as other subsequent decisions of Council related to waste management.

The Administration is proposing a range of initiatives to Council in order to fulfil its vision for a 'zero waste' future and reduce the cost of this to the City's ratepayers. Table 2 shows the volume of waste from an average household, along with the current and estimated future charges if these initiatives are pursued.

**Table 2: Waste Processing Charge\***

Waste sub-category	Average House	Current Charge	Future Estimate	Comment
MSW processing	0.8 tonne pa	\$284 / tonne*	\$115 / tonne	The earliest a W2E plant would operate is 2018
Recyclables processing	0.25 tonne pa	\$65 / tonne	\$40 / tonne	If the sale is concluded quickly, a new rate could apply during FY15/16
Green processing	0.13 tonne pa	\$78 / tonne	\$50 / tonne	No major savings can occur until withdrawal from the Participants Agreement (FY16/17)

MSW costs are based on current gate fee of \$225 per tonne and a loan repayment of \$52 per tonne, which is levied on the City separately.

The table shows that there is a considerable opportunity to reduce the costs of waste processing for residents. However, to achieve this not only the way waste is collected must change, but also the technology and the waste service provider. This includes a restructuring of the SMRC so that it delivers value to ratepayers.

Unlike the proposal put to Council in February 2015, the Administration is not recommending the windup of the SMRC, nor actions that would cause it to become financially unviable. With the cooperation of the other members of the SMRC and the organisation itself, such change is possible.

## **Strategic Plan/Policy Implications**

### ***Leading & Listening***

- Effective and constructive dialogue with all City stakeholders.
- Effective advocacy that builds and manages relationships with all stakeholders.



### **Budget/Financial Implications**

There will be some costs associated with undertaking a review of the SMRC. The cost of this will depend on the level of cooperation from the other members, so can't be quantified at this time.

A new Business Plan would also have to be prepared by the City if it withdraws from the green waste Participants Agreement.

### **Legal Implications**

No written legal advice is attached, however, advice was provided to Elected Members from the City's lawyers, Jackson McDonald at the Council briefing session on 25 June 2015.

### **Community Consultation**

It is recommended that public consultation on W2E alternatives be undertaken as part of the next phase of assessment of this technology.

### **Attachment(s)**

1. Letter from SMRC dated 22 June 2015.
2. SMRC MOU for sale of the MRF.

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

The City has advised the SMRC that it is considering a response to the SMRCs recent correspondence at the 29 June Special Council Meeting.

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

N/A

## **10. (MINUTE NO 5535) (SCM 29/6/2015) - 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**

MOVED Cllr S Pratt SECONDED Cllr B Houwen that the recommendation be adopted.

**CARRIED 9/0**

**11 (SCM 29/6/2015) - CLOSURE OF MEETING**

MEETING CLOSED AT 7.39PM

**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

