NOTICE OF SPECIAL MEETING OF THE COUNCIL

A Special Meeting of Council will be held at the Council's Administration/Civic Centre, 1 Bold Park Drive, Floreat, at 6.00 pm on Tuesday 30 August 2016 to discuss revoking Council's decision on 25 August 2015 to initiate Scheme Amendment 33.

JASON BUCKLEY
CHIEF EXECUTIVE OFFICER

29 August 2016

********************************************************************************************************************

OUR VISION
Cambridge "Over the next decade"
Cambridge is a place where things are happening. Stylish new and enhanced development will create hubs of community activity - places where families and friends get together, where business thrives and access is easy. Housing will become more diverse to accommodate people at different life stages and our suburban landscape will enhance its appeal through beautiful green and open streetscapes.

BUSINESS PHILOSOPHY

To make decisions in the interests of both current and future generations based on the following ideals:

- To develop productive relationships with industry, the State Government and other Local Governments to deliver improved cost effective services;
- To strive to meet the needs of our communities through strong community consultation, engagement and collaboration;
- To embrace the principles of sustainability in our decision making to balance the needs of both current and future generations through environmental protection, social advancement and economic prosperity;
- To continually improve our services through planning, adaptability and careful management of risks.

VALUES

In everything we do, we will seek to adhere to a set of values that guides our attitudes and behaviours:

- Friendly and Helpful
- Teamwork
- Creativity
- Integrity.

ABOUT OUR LOGO

The swan is representative of our state of Western Australia, and particularly of our very own Lake Monger. The graceful arc of the swan's neck, integrated with the letter “C” is distinctive in its representation of the Town of Cambridge. The swan is centred in a diamond shape that symbolises prosperity. The upper green triangle denotes our beautiful parks with the peak representing Reabold Hill. The lower blue triangle represents our ocean and lakes. On a broader scale, the colours of blue and green represent strength and reliability. The logo is contemporary in design whilst maintaining a classical appeal.
1. Opening

2. Attendance

3. **Question Time** - relating to the purpose of the meeting as per Regulation 7(4)(b) of the Local Government Administration Regulations.

4. **Motions of Which Due Notice Has Been Given**
   
   4.1 Mayor Shannon - Revocation of Council's decision on 25 August 2015 to initiate Scheme Amendment 33

5. CLOSURE

Visitors are reminded that proceedings of the meeting cannot be taped and mobile phones should be turned off during the meeting
4.1 REVOCATION OF COUNCIL’S DECISION ON 25 AUGUST 2015 TO INITIATE SCHEME AMENDMENT 33

Submission by Mayor Shannon

That pursuant to Clause 12.5(1) of the Standing Orders, the Council rescind the decision of Council on 25 August 2015 to initiate Scheme Amendment 33.

ADMINISTRATION COMMENT:

As the proposed motion requires a revocation of a previous decision, it is necessary, in accordance with Regulation 10(1) of the Local Government (Administration) Regulations 1996 to obtain the support of 3 Elected Members (inclusive of the mover) for it to be considered (Mayor Shannon, Crs Bradley and Timmermanis have provided written support) and the decision will need to be carried by an ABSOLUTE MAJORITY.

BACKGROUND:

A Special Meeting of Council has been called in accordance with Section 5.4 of the Local Government Act. The purpose of the meeting is to consider a motion to rescind (revoke) the decision of Council on 25 August 2015 to initiate Scheme Amendment 33. The motion to rescind (revoke) has been signed by three elected members as follows:

That:

1. Pursuant to Order 12.5(1) of the Standing Orders the Council rescind the decision of Council on 25 August 2015 to initiate Scheme Amendment 33.

The Notice of Revocation is attached (see Confidential Attachment 4).

Council resolved to initiate Amendment 33 at its meeting on 25 August 2015 (Item DV15.114) as follows:

That:

(i) pursuant to Part 5 of the Planning and Development Act 2005, Council initiates an Amendment to the Town of Cambridge Town Planning Scheme No. 1 to rezone portions of Lot 8 (350) Cambridge Street, Wembley from ‘Residential R20’ and ‘Public Purpose’ to ‘Local Centre’;

(ii) it be noted that future development of the Wembley Hotel/Cambridge Forum site is planned to be controlled through a Local Development Plan or similar mechanism as part of the modified Wembley Precinct Policy 6.4 and the Wembley Activity Centre Plan which is to be prepared by the Town.

The purpose of Scheme Amendment 33 is to rationalise the zoning of the site to make it Local Centre zone in its entirety rather than the Residential and Public Purpose (Car Park) portions as existing. It is unusual to have a single lot having two or more separate zonings as is the case with Lot 8. Local Centre zoning is consistent with the draft Wembley Activity Centre Plan.
The Administration Report and attachment to the August 2015 meeting is provided for background to the proposal (Attachment 1). By way of background, the applicant also provided a submission on the draft Wembley Activity Centre Plan on its first advertising in April 2015 (Attachment 2).

After a lengthy delay on the part of the applicant, the amendment documentation was submitted in February 2016 and thereafter submitted to the CEO and Mayor for signing.

A copy of the Amendment 33 document is attached for reference (Attachment 3).

Amendment 33 was initiated by Council prior to the gazettel and coming into effect of the Planning and Development (Local Planning Schemes) Regulations 2015 on 19 October 2015.

DETAILS:

Concerns have been raised regarding progressing the amendment without development controls in place for the site. As was flagged in point (ii) of the 25 August 2015 Council resolution, it was and is intended that appropriate development controls would be put in place as part of implementation of the Wembley Activity Centre Plan (WACP). In accordance with Council endorsement at the March 2016 meeting, the draft WACP is currently being advertised for public comment until 27 September 2016. Whilst proposed controls on height, setbacks and matters such as provision of public car parking and a public plaza space for this landmark site are proposed in the WACP, it may not be appropriate to pre-empt the outcomes of consultation by introducing development standards at this time.

In response to the concerns raised, there was further consideration of matters associated with Amendment 33 at the Town Planning Scheme Review Steering Committee meetings of 7 June and 5 July 2016. Two sets of legal advice were obtained, from McLeod and Co and Moharich and More respectively, in conjunction with these considerations. These are provided in Confidential Attachment 5. The legal advice concluded there is no option for Council to modify a standard amendment prior to advertising.
The Department of Planning also provided advice confirming that there is no option for Council to modify a standard amendment prior to advertising.

It is advised that current development controls for the Wembley Forum Local Centre are included in Policy 6.4 - Precinct P4 Wembley, which specifies a plot ratio of 1:1 for Local Centre zoned land. The Policy Statement of Intent specifies that height and scale to be 'similar to the majority of existing buildings'. Clause 39 of TPS1 is applicable in this case. Specifically Council or decision-maker (JDAP) cannot approve an application departing from the statement of intent of the policy (where the height and scale statement is included) unless it is satisfied development is consistent with that statement of intent.

It is further noted that under the current Public Purposes Reservation and Residential R20 zoned portions of the Wembley Forum site, there can be only limited redevelopment of those portions of the site as per TPS1 until such time as gazettal of Amendment 33 occurs (a minimum 9 to 12 months' time assuming signing of the documents). Specifically, development may occur only for car parking (Clause 10 - Local Reserves) and single house/grouped dwellings (Clause 12 - Zoning Table) on those parts of the site. An application for major redevelopment of the site would be unable to be accepted until gazettal of the amendment.

An Indicative Timeline follows to show the timeframes and major steps in progressing Scheme Amendment 33 and the Wembley ACP. This suggests that Council is able to finalise the WACP and get appropriate policy in place and initiate the broader WACP scheme amendment prior to finalisation of Amendment 33.

**TPS 1 Amendment 33**

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPA Approval to Advertise</td>
<td>Up to 30 days - September 2016</td>
</tr>
<tr>
<td>Advertisement</td>
<td>42 days - October-November 2016</td>
</tr>
<tr>
<td>Council consideration of submissions</td>
<td>December 2016</td>
</tr>
<tr>
<td>Possible re-Advertising of proposed</td>
<td>21 days - February-March 2017</td>
</tr>
<tr>
<td>modifications</td>
<td></td>
</tr>
<tr>
<td>Adopt proposed modified Amendment</td>
<td>March 2017</td>
</tr>
<tr>
<td>WAPC consideration of Amendment</td>
<td>60 days - April- May 2017</td>
</tr>
<tr>
<td>Recommendation to Minister</td>
<td>June 2017</td>
</tr>
</tbody>
</table>

**Wembley Activity Centre Plan**

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertise</td>
<td>28 days - September 2016</td>
</tr>
<tr>
<td>Council consideration of submissions</td>
<td>60 days - November 2016</td>
</tr>
<tr>
<td>WAPC to approve Activity Centre Plan</td>
<td>120 days - March 2017</td>
</tr>
<tr>
<td>Initiate Precinct Policy</td>
<td>December 2016</td>
</tr>
<tr>
<td>Advertising Precinct Policy</td>
<td>21 days - February 2017</td>
</tr>
<tr>
<td>Consider Precinct Policy</td>
<td>March 2017</td>
</tr>
<tr>
<td>Consider TPS Amendment for Wembley</td>
<td>March 2017</td>
</tr>
</tbody>
</table>
Options for Council consideration

Notwithstanding that Council has initiated Amendment 33, Council may consider several options to deal with concerns that have been raised. These options are outlined below.

1. Modify amendment following initial advertising

Regulation 51 of the Planning and Development (Local Schemes) Regulations 2015 provides that a local government may advertise proposed modifications to a standard amendment to address issues raised in submissions if the local government is of the opinion that the proposed modification is significant (see extract of part of Reg. 51 below). If the Town advertised Amendment 33 and then decided to put in the developments controls as have been discussed (e.g. height, setbacks, public parking and plazas) it could then readvertise the amendment with those controls in.

The readvertising decision is the Town's and does not have to be agreed by the Commission. The former Town Planning Regulations 1967 did not contemplate readvertising and was silent on this point. The new regulations specifically provide for readvertising at the local government discretion.

The amendment could be advertised for 42 days as per the Regulations (following approval from EPA to advertise). This would follow advertising of the Wembley Activity Centre Plan (WACP). Council could consider the submissions from advertising the WACP before we get the submissions back from Amendment 33. The community feedback from the WACP and any submissions received from advertising could be used to support modifying Amendment 33 and then readvertise for another 21 days. In the meantime Council will have adopted the WACP and submitted it to the Commission for approval. When the second round of advertising is completed for Amendment 33 Council could endorse it with the proposed development controls.

This approach has merit as it provides an appropriate context for dealing with the matter. It is also the recommended approach given legal and departmental advice on the matter.

Local Planning Schemes Regulations 2015 extract follows:

51. Local government may advertise proposed modifications to standard amendment

(1) The local government may decide to advertise a modification to a standard amendment to a local planning scheme if —

(a) the local government proposes the modification to address issues raised in submissions made on the amendment; and

(b) the local government is of the opinion that the proposed modification to the amendment is significant.

(2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the amendment.

(3) A proposed modification to an amendment to a local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
2. Modify to reflect point (ii) of Council's resolution of 25 August 2015

Council may choose to modify Amendment 33 at this juncture to incorporate point (ii) of the above Council resolution. It is noted that while this statement is included in the Scheme Amendment Report part of the amendment document, it was not intended to form part of the scheme provisions. The status of Local Development Plans (as with Centre Plans and Planning Policy) under the Local Planning Schemes Regulations (i.e decision-makers are to have due regard to them but are not bound) also limits the effect of the provision. It is reiterated that the status of Local Development Plans was firmer prior to the new Regulations. Further, there is no existing part or clause of TPS1 where such a provision for the Wembley Forum site would neatly sit. It is suggested that a new Special Control Area would need to be created for the WACP area as the preferred approach, or alternatively a Special Control Area for the Wembley Forum site only.

3. Revoke initiation of amendment

Council may choose to revoke initiation of the amendment, i.e revoke the Council decision of 25 August 2015 on this matter. In considering this option, Council should have due regard to the Confidential legal advice obtained which details the implications of revoking the decision (see Confidential Attachment 5).

POLICY/STATUTORY IMPLICATIONS:

This standard scheme amendment is to be prepared and progressed in accordance with the Planning and Development Act 2005 and the Planning and Development (Local Planning Schemes) Regulations 2015.

FINANCIAL IMPLICATIONS:

Legal costs have been incurred in relation to this amendment, and further costs will apply. Administration costs will also be incurred in advertising the Amendment, estimated at $2,500.

STRATEGIC DIRECTION:

Consideration of this amendment is consistent with the Town's Strategic Community Plan 2013-2023 for the Priority Area 'Our Planned Neighbourhoods'.

COMMUNITY CONSULTATION:

The proposed Amendment 33 is to be subject of community consultation as per the Planning and Development (Local Planning Schemes) Regulations 2015. There is also scope for Council to determine to re-advertise modifications to Amendment 33 should it choose so. The draft Wembley Activity Centre Plan is currently being advertised for public comments. Future implementation of the WACP via a scheme amendment, amendments to the Wembley Precinct Planning Policy and/or a Local Development Plan also require their own statutory advertising processes.

ATTACHMENTS:

2. Rowe Group submission on draft WACP April 2015.
3. Scheme Amendment 33 document
4. Confidential - Notice of Revocation
5. Confidential - Legal advice
5. CLOSURE