

**PLANNING****10.1.2 PLANNING PROCESS FOR WEARNE**

<b>File Ref:</b>	<b>PR54687</b>
<b>Attachments:</b>	<b>Planning Framework presentation on behalf of Curtin Care</b>
<b>Responsible Officer:</b>	<b>Mat Humfrey Chief Executive Officer</b>
<b>Author:</b>	<b>Andrew Jackson Manager Development Services</b>
<b>Proposed Meeting Date:</b>	<b>25 July 2017</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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**SUMMARY**

This report discusses the planning approach to the proposed redevelopment of Wearne Hostel by Curtin Care.

The site is owned by the Towns of Cottesloe, Claremont and Mosman Park and the Shire of Peppermint Grove, conditional upon the land being used for aged care.

In 2015 Curtin Care began the process of obtaining a new lease to allow for a large-scale redevelopment, and has since commenced master-planning via planning and architectural consultants, as well as community consultation, towards formal implementation.

Curtin Care has also presented to Council an analysis of planning approaches for the project, which is the subject of this report.

At this juncture the focus is on the planning process, not the development proposal. A future development application would involve the Town in firstly agreeing in-principle to one, and signing it as a landowner, and secondly in a separate role as the local planning authority.

**BACKGROUND**

At the 6 December 2016 Briefing Forum, Council received a report introducing Curtin Care's project. Since then Curtin Care has undertaken preliminary community consultation through a series of workshops towards a redevelopment concept plan.

Curtin Care and its consultants have apprised the Town of progress and briefed Council at the 6 June 2017 Briefing Forum and the 20 June 2017 Agenda Forum, which:

- summarised the community consultation Visioning Workshops Outcomes, Design Scenarios Workshop Outcomes and Preferred Scenario Overview; and
- outlined the future formal phase of the project including scoping the potential planning methods and processes involved.

The consultants presented the attached Planning Framework analysis comparing from planning mechanisms and processes available. Council is this respect before it moves to the formal phase of the project. This is discussed further below.

**STRATEGIC IMPLICATIONS**

The Curtin Care proposal relates to a range of strategic considerations.

**POLICY IMPLICATIONS**

Local Planning Policy may be a relevant mechanism to apply to the proposal.

**STATUTORY ENVIRONMENT**

*Local Planning Scheme No. 3  
Planning and Development (Local Planning Schemes) Regulations 2015*

**FINANCIAL IMPLICATIONS**

The Curtin Care proposal would not have direct financial implications for the Town.

**STAFFING IMPLICATIONS**

The Curtin Care proposal would be dealt with by relevant staff in the normal manner.

**SUSTAINABILITY IMPLICATIONS**

The Curtin Care proposal would relate to a range of sustainability aspects.

**CONSULTATION**

Curtin Care has carried-out preliminary consultation to formulate its proposal. Dealing with a formal planning proposal will include statutory advertising for submissions in accordance with the relevant process; ie a structure plan and/or development application.

**STAFF COMMENT****Local Planning Scheme No. 3**

Under Local Planning Scheme No. 3, the Wearne Hostel site is in a Development Zone, the objectives of which are to:

- a) *provide for detailed planning to guide the use and development of land or buildings that are of a size, location, nature, character or significance warranting a comprehensive, coordinated and integrated approach to planning and design;*
- b) *ensure that land use and development within the zone is compatible with the amenity of the surrounding locality;*
- c) *ensure that any development does not unduly adversely affect the amenity of the adjoining and surrounding properties or locality, including by reason of height, built form, overshadowing, traffic, parking or other relevant aspects;*
- d) *allow for land use and development to contribute to the provision or enhancement of community facilities and services and to the public domain; and*
- e) *give consideration to the maintenance and enhancement of important views to and from public places as a contributor to the character and amenity of the locality and the district overall.*

Under the Scheme in Schedule 14: Development Zone Provisions, the following relates to the Wearne Hostel site:

Development Zone	Provisions
'C' – Lot 87 (No. 40) Marine Parade (Wearne Hostel site).	<ul style="list-style-type: none"> <li>• Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause 6.2, to guide subdivision and development.</li> <li>• Land uses shown on the Structure Plan shall apply in accordance with Clause 6.2.8.</li> <li>• The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes. The structure plan may also provide for additional aged care dwellings and any associated ancillary buildings that may be required.</li> <li>• The Structure Plan will have regard for, and if possible integrate with, the Structure Plan for Area 'D'.</li> </ul>

The zone objectives and Schedule 14 provisions are for comprehensive and sensitive planning. Schedule 14 states that a structure plan shall be undertaken, and in accordance with clause 6.2; but the structure plan process is now governed by the Regulations. The Scheme in Table 1: Zoning Table and Table 2: Development Requirements, relies on a structure plan for the Development Zone to set out land use and development controls.

As the Scheme predates the *Planning and Development (Local Planning Schemes) Regulations 2015* it contained the standard structure plan provisions that applied at the time. Those structure plan provisions had statutory bearing and were very elaborate, in general catering more for new 'green-fields' growth areas than for inner-urban 'brown-fields' redevelopment areas (such as the Wearne Hostel single site).

They have since been amended, with structure plan provisions now in the Regulations, which automatically apply to all local planning schemes. The deemed provisions have changed structure plans from having statutory bearing to being policy instruments only. They have also given the Western Australian Planning Commission greater power over structure plans – whilst the local government prepares a structure plan, undertakes advertising and considers submissions, it then reports to the Commission who determines whether to approve, modify or refuse the structure plan.

The Regulations define *structure plan* as a plan for the coordination of future subdivision and zoning of any land. In this respect it is noted that Curtin Care does not propose to subdivide or rezone the land. The Regulations also provide as follows:

15. *When structure plan may be prepared*  
A structure plan in respect of an area of land in the Scheme area may be prepared if —

- (a) *the area is —*
- (i) *all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and*
  - (ii) *identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;*

It is apparent that there is inconsistency between the Scheme which requires a structure plan and the Regulations which provide that a structure plan may be prepared. Hence it appears open to interpretation that a structure plan may not be mandated but is a mechanism that can be selected – the planning consultants for Curtin Care perceive the latter.

The Regulations provide further as follows:

27. *Effect of structure plan*

- (1) *A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.*
- (2) *A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —*
  - (a) *the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and*
  - (b) *the proposed development or subdivision would not prejudice the overall development potential of the area.*

This means that a structure plan has effect only as a policy instrument to be had regard to, rather than having the statutory force of scheme provisions. It also means that the absence of a structure plan does not prevent the determination of appropriate development or subdivision proposals.

### **Curtin Care's Planning Framework**

Curtin Care's planning consultants have analysed the overall framework to compare mechanisms available to achieve comprehensive and coordinated planning. This recognises several special circumstances:

- Land ownership by the four local governments and the lease agreement for aged care.
- The Town of Cottesloe's authority as landowner, lessor and planning decision-maker.
- Under the agreement between the landowners and Curtin Care the requirement for a Master Plan to be adopted as the first step in the redevelopment project.
- The preliminary community consultation program being undertaken by Curtin Care as a formulative planning process.
- The pros and cons of the planning mechanisms and processes including complexity, timeframes, information needs, duplication, costs and, importantly, the extent of local government control.

In summary, the consultant's analysis is as follows:

- The Master Plan would perform the function of a structure plan as the statement of intent for the redevelopment. It is to be advertised for public comment and adopted by Curtin Care and the owner local governments.
- A structure plan would take a long time, would not have statutory bearing and the determining authority is the Western Australian Planning Commission, not the Town.
- The Regulations provide for a development application to be considered without a structure plan, and the determining authority for the major development application would be the Joint Development Assessment Panel, not the Town
- The Master Plan could be recognised in Local Planning Scheme No. 3 through a local planning policy that enshrines the agreed planning parameters, land uses and development requirements for the site. The policy would be required to be had regard to by the Joint Development Assessment Panel and by the Town for any minor development applications falling to it to determine.
- Creation of a local planning policy is under the Town's control, includes advertising and is a shorter process than a local planning scheme amendment – if desired a scheme amendment could ultimately be undertaken to incorporate the finalised Master Plan and policy into the Scheme by way of provisions replacing those currently in Schedule 14.
- This path provides for ongoing community consultation from the present conceptual phase through advertising and adoption of the Master Plan, advertising and Council adoption of a local planning policy, and advertising by the Town then determination by the Joint Development Assessment Panel of the major development application.
- Implementation would be time-efficient and the Town would retain control over the development details by virtue of the Master Plan and local planning policy as the framework to be followed in determining development applications.
- This path would achieve the same planning outcome as with a structure plan that has similar policy status.

### **Comment**

Curtin Care's charter and its lease agreement with the owner local governments are centred on aged care accommodation and services, which Local Planning Scheme No. 3 provides for.

Under the Regulations structure plans have been made policy instruments only and the Western Australian Planning Commission has assumed decision-making authority, which has diluted their usefulness to local planning control.

In the unique circumstances of Wearne Hostel, the Master Plan serves as a structure plan and is to have a high degree of design detail. This could then be dealt with by a local planning policy as a planning mechanism to recognise the Master Plan and articulate the development controls, which would be a key reference for assessment and determination of the future development application(s).

Given the Master Plan, it would be repetitive to prepare a structure plan as well, which would be unlikely to go into greater depth or arrive at a different concept design, and could be changed by the Commission. In addition, the structure plan process is lengthy

and too many layers of consultation would be potentially confusing and tiring for the community at the expense of valuable input.

The suggestion of a scheme amendment to incorporate the Master Plan and relevant policy provisions into the Scheme has merit, which would best occur as a 'normalisation' amendment after the Master Plan and policy mechanism have been put in place.

### **VOTING**

Simple Majority.

### **OFFICER RECOMMENDATION**

That Council:

1. Note the briefings and presentations to date regarding Curtin Care's redevelopment project.
2. Note that the *Planning and Development (Local Planning Schemes) Regulations 2015* have reduced the status of a structure plan and changed the process such that the Western Australian Planning Commission now determines structure plans.
3. Note the function of the proposed Master Plan and local planning policy is to provide the Town with authority over planning parameters and development requirements in relation to development.
4. Advise Curtin Care's consultants that Council would accept a local planning policy incorporating the agreed Master Plan instead of a structure plan, subject to the Master Plan having undergone extensive community consultation prior to Council's consideration.

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### **PROCEDURAL MOTION**

**Moved Cr Boulter, seconded Cr Thomas**

That Council suspend standing orders to allow Cr Boulter to continue speaking.

**EQUALITY 4/4**

**For: Crs Thomas, Boulter, Pyvis and Downes**

**Against: Mayor Dawkins, Crs Rodda, Birnbrauer and Burke**

**The Presiding Member exercised her casting vote against the procedural motion  
LOST 4/5**

### **COUNCILLOR MOTION**

**Moved Cr Boulter, Cr Thomas**

1. That Council notes the briefings and presentations from Curtin Care, and the officer reports in relation to the redevelopment of the Wearne Hostel Site.
2. That Council requires a Wearne Hostel Site Structure Plan to be completed prior to any development application being accepted by the TOC for the Wearne Hostel Site.
3. That Council requires the finalised Wearne Hostel Site Structure Plan, to have been submitted to the WAPC and Minister as a scheme amendment prior to any development application being accepted by the TOC for the Wearne Hostel Site.

4. The Council requires a Local Development Plan, based on the adopted Structure Plan, to be finalised and adopted by Council prior to any development application being accepted by the TOC for the Wearne Hostel Site.

**EQUALITY 4/4**

**For: Crs Boulter, Thomas, Pyvis and Birnbrauer  
Against: Mayor Dawkins, Crs Rodda, Downes and Burke**

**The Presiding Member exercised her casting vote against the motion  
LOST 4/5**

**FORESHADOWED MOTION – Mayor Dawkins**

The Mayor foreshadowed that the Officer Recommendation be moved in the event that the Councillor Motion was lost.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Dawkins, seconded Cr Rodda

**That Council:**

1. Note the briefings and presentations to date regarding Curtin Care's redevelopment project.
2. Note that the *Planning and Development (Local Planning Schemes) Regulations 2015* have reduced the status of a structure plan and changed the process such that the Western Australian Planning Commission now determines structure plans.
3. Note the function of the proposed Master Plan and local planning policy is to provide the Town with authority over planning parameters and development requirements in relation to development.
4. Advise Curtin Care's consultants that Council would accept a local planning policy incorporating the agreed Master Plan instead of a structure plan, subject to the Master Plan having undergone extensive community consultation prior to Council's consideration.

**EQUALITY 4/4**

**For: Mayor Dawkins, Crs Rodda, Downes and Burke  
Against: Crs Boulter, Thomas, Pyvis and Birnbrauer**

**The Presiding Member exercised her casting vote for the motion  
CARRIED 4/5**

Cr Thomas left the room at 9.59 PM and returned at 10.00 PM