

### 13.1 SUBIACO EAST REDEVELOPMENT AREA IMPLEMENTATION AND HANDOVER MEMORANDUM OF UNDERSTANDING – CONFIDENTIAL\*

#### REPORT FROM DIRECTOR DEVELOPMENT SERVICES

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**File Reference:** A/7274

**Voting Requirements:** Simple - more than half elected members present required to vote in favour

#### COUNCIL DECISION

1. The Subiaco East Redevelopment Area Implementation and Handover Memorandum of Understanding (MOU) dated 8 August 2023 (Confidential Attachment 1) is endorsed. The Mayor and Chief Executive Officer are authorised to execute the MOU pursuant to section 9.49A of the *Local Government Act 1995*.
2. Following execution of the Subiaco East Redevelopment Area Memorandum of Understanding the Chief Executive Officer is authorised to make the executed MOU and this report to Council public.

CARRIED

#### Executive Summary

- The City of Subiaco (the City) has worked with DevelopmentWA (DWA) to prepare a draft Memorandum of Understanding (MOU) to guide the implementation and handover phases of the Subiaco East (Subi East) Redevelopment Area.
- The MOU contains provisions to manage the handover of key assets and for the normalisation and transfer of planning control.
- The MOU will ensure consistency in relation to the implementation and handover of precincts within Subi East over the long term.
- It is recommended that Council endorses the MOU as attached and authorises the Mayor and CEO to execute the document.

#### Background

Redevelopment Areas are planned and developed by the State Government with the planning framework and assets of these areas transferred back to local government control in time.

To assist in managing asset handover and normalisation of the planning framework, City officers have worked with DevelopmentWA representatives to prepare a Memorandum of Understanding with provisions to consider:

- Handover of key assets;
- Normalisation and transfer of planning powers;
- Accessing the City's land;
- Functions of the MRA, DWA and the City; and
- Administrative matters.

The draft Subiaco East Redevelopment Area Implementation and Handover Memorandum of Understanding (MOU) is provided at **Confidential Attachment 1**.

A similar MOU was prepared in 1994 for the Subiaco Urban Village Project (otherwise known as Subi Centro).

The establishment of an MOU provides a common understanding between the City and State Government to assist in normalisation which would unfold over the medium to long term (10+ years). This document provides guidance to assist staff at both organisations with organisation knowledge sometimes lost due to staff turnover; providing a level of continuing understanding.

On 1 August 2023, a Strategic Workshop with Elected Members was held to discuss the draft MOU. Queries raised by Elected Members have been addressed with changes (where recommended) incorporated into the draft MOU.

### **Comment**

The background sets out the purpose of the parties entering into the MOU. This relates to establishing guidelines for the planning, implementation and handover of Subi East. The key operative provisions of the MOU are set out below:

#### Responsibilities of Parties

A number of clauses in the MOU identify the functions of the MRA, DWA and the City. This is to determine the responsibilities of the parties involved in the MOU and to define the working relationships. Notably, DWA will be responsible for the maintenance of public domain areas within the project area for a period of 2 years from practical completion of works.

#### Site Specific and Public Asset Agreements

The MOU contains provisions relating to agreements prior to handover of a precinct in the Subi East area. These agreements are described as Site Specific Agreements and Public Asset Agreements.

Site Specific Agreements will consider matters identified in Attachment C of the MOU:

- Identification of New Public Domains within Redevelopment Area
- Identification of Existing Public Domains within Redevelopment Area
- Identification of Existing Site Conditions
- Subdivision Applications and Development Applications
- Rate Setting and Service Level Agreements

Public Asset Agreements will consider matters identified in Attachment D of the MOU:

- Approval Requirements
- Asset Design and Specification Requirements
- Construction Phase Requirements
- Handover Phase Requirements

#### Access to City's land

The MOU incorporates provisions relating to the access of the City's land by DWA in order to achieve the objectives of the Subi East Redevelopment Area. DWA can request to access the City's land for such a purpose. However, there is a requirement of DWA to ensure that any City managed land used is returned to its original condition, unless otherwise agreed by the City.

#### Normalisation

The process of normalisation refers to the return of planning control of a redevelopment area from DWA to the relevant Local Government Authority. The MOU includes clauses relating to triggers for handover of planning control as well as the timing and

coordination of normalisation. The MOU will provide a requirement of a 6-month notice period for normalisation to be initiated.

### **Consultation**

The City has worked with DevelopmentWA representatives to prepare the MOU. Public consultation has not been undertaken.

### **Options**

The following options are available to Council:

1. Endorse the MOU as recommended by Officers
2. Endorse the MOU with amendments to the Officer recommendation. This may require further legal advice and consultation with DWA.
3. Defer consideration of the MOU and provide direction to Officers on amendments to the MOU.
4. Refuse to endorse the MOU

It is not recommended that Council either defers consideration of, or refuses to endorse, the MOU as asset handover in the Subi East Redevelopment Area may start to occur in the short term. Without an MOU in place, handover may be delayed.

### **Strategic Implications**

There are strategic implications to the extent the Subi East Redevelopment Area will, in the medium to long term, gradually be returned to the City's control and jurisdiction. It is likely that the Subi East Redevelopment Area may be in place for more than 10 years. Establishing the terms for the handover of precincts and outlining steps to guide the process of normalisation is strategically significant to ensure the best outcome for public assets the City will inherit from DWA.

### **Statutory and Policy Considerations**

The *Metropolitan Redevelopment Authority Act 2011* includes transitional provisions which assist with the transfer of planning control through normalisation.

### **Risk and Asset Implications**

There are asset implications to the extent that the City will be inheriting public assets from DWA as the precincts in the Subi East Redevelopment Area are progressively developed. The City will be responsible for management and maintenance of any public assets, once received. The risk of not entering into this MOU may result in the City inheriting public assets which have not been constructed and designed in accordance with the City's specifications. Risks associated with entering into the MOU are considered limited as the majority of the provisions are non-binding and the clauses that are binding are generally administrative in nature.

### **Financial**

There are financial implications as there will be ongoing maintenance costs associated with inheriting future public assets. Additionally, the site-specific agreements in the MOU include provision for rate setting arrangements, which will impact the City's rate revenue.

### **Social and Environmental Implications**

There are no social or environmental implications for this report.

**Confidential Attachments**

1. Draft Subiaco East Redevelopment Area Implementation and Handover Memorandum of Understanding dated 8 August 2023