

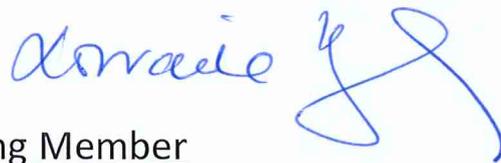


Town of Cottesloe

I hereby certify that the minutes of the Audit Committee meeting
held on

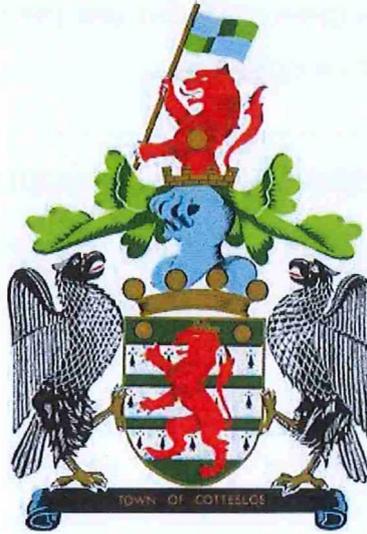
Thursday, 28 September 2023

were confirmed as a true and accurate record by committee
resolution.

Signed: 
Presiding Member

Date: 4/12/23

TOWN OF COTTESLOE



AUDIT COMMITTEE MINUTES

AUDIT COMMITTEE
HELD IN THE
Mayor's Parlour, Cottesloe Civic Centre
109 Broome Street, Cottesloe
4:00 PM Thursday, 28 September 2023

A handwritten signature in black ink, appearing to read 'William Matthew Scott', written over a horizontal line.

WILLIAM MATTHEW SCOTT
Chief Executive Officer

2 October 2023

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

Due to the absence of the Presiding Member, the Chief Executive Officer announced the meeting opened at 4:02.

1.1 ACKNOWLEDGEMENT OF COUNTRY

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

2 DISCLAIMER

The Chief Executive Officer drew attention to the Town’s Disclaimer.

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Chief Executive Officer announced that the meeting is being recorded, solely for the purpose of confirming the correctness of the Minutes.

The Chief Executive Officer requested the Audit Committee to elect a member to be the Presiding Member. Cr MacFarlane was elected the Presiding Member unopposed.

Cr MacFarlane took the chair at 4:05 pm

4 ATTENDANCE

Members

Cr Paul MacFarlane	Elected/Presiding Member
Mr Andrew Dimsey	Community Representative
Mr Ian McKenzie	Community Representative

Officers

Mr Matthew Scott	Chief Executive Officer
Mr Shane Collie	Director Corporate Services and Governance
Ms Martina Liu	Finance Manager
Ms Jacquelyne Pilkington	Governance and Executive Office Coordinator

Visitors

Apologies

Cr Craig Masarei	Elected Member
Cr Brad Wylynko	Elected Member

OFFICER RECOMMENDATION IN BRIEF

That the Audit Committee recommends that Council notes the investigation findings regarding the advertising of differential rates for the 2022/23 and 2023/24 financial years, as detailed in this report, and endorses the associated recommendations for improvement.

BACKGROUND

Within days of the Council adopting the 2023/24 Annual Budget (2023/24 Annual Budget) at the July Ordinary Council Meeting (OCM) it was identified that the Town had incorrectly advertised the proposed Differential Rates. As a result of this error, at a Special Council Meeting (SCM) held on 1 August 2023, Council rescinded the adoption the 2023/24 Annual Budget, so the correct differential rates could be re-advertised. As part of SCM resolution, Council included the following requirement:

Resolution SCM164/2023

4. That by 30th September 2023 the CEO prepare a formal report to be considered by the Audit Committee, with a full and detailed account of the process followed by the Town in the advertisement of proposed differential rates for the 2023/2024 year, and in the previous two years, including scope for improvement to the process, for the Audit Committee to consider and make recommendations to Council.

An internal investigation was initially carried out by the Chief Executive Officer (CEO), which included a review of internal correspondence related to the differential rates for the last three (3) years, previous Council reports and recommendations (2020/21, 2021/22, 2022/23) and informal interviews with relevant staff.

During this investigation the following was established:

1. There had been a change in the officer's recommendation report (recommendation template) on advertising Differential Rates put to Council between the 2020/21 and the 2021/22;

In the 2020/21 Report to Council (OCM 22 June 2021) both Differential General Rate (GRV) and Differential Rate – Town Centre Commercial (GRV) were recommended to be advertised, however in 2022/23 Report to Council (OCM 28 June 2022) only the Differential Rate – Town Centre Commercial (GRV) was recommended to be advertised (in error).

2. The only recognisable difference between the two reports (other than the change in the recommendation template) was that the 2020/21 report has been authored by the then Finance Manager (FM), and Authorised by Director Corporate and Community Services (DCCS), however the 2022/23 Report was authored by Director Corporate and Community Services and authorised by the CEO;
3. The format of the 2022/23 Report to Council (OCM 27 June 2023) appears to be almost identical to the 2021/22 Report (with the exception in of the Rate in Dollar), with the same author (DCCS) and authoriser (CEO);

4. In 2021/22 the Town experienced changes in personnel in various management positions, including the Finance Manager. At the time of the 2021/22 Report, the Covid 19 Pandemic was at its peak, resulting in significant disruption to the Town's normal internal operations.
5. No internal written correspondence (memorandums, file notes or emails) have been identified instructing staff to change the recommendation template within the 2021/22 Report;
6. The Town Agenda Management System (Info Council) does not have an ability to track changes to reports (once finalised and the agenda is built), and therefore it is difficult to identify who may have made the actual changes to the report template in the 2021/22 report.

Given the above and that the CEO was involved in authorising both the 2021/22 and 2022/23 Report, the CEO engaged Mr Ron Back to undertake a separate investigation into the matter. Mr Back was recommended by WALGA given his considerable experience and knowledge of Local Government financial management and rates processes, as well as being an independent member on several Local Government Audit Committees. Mr Back was also engaged to provide recommendations to both the CEO and Council to consider (report attached).

Mr Back's report clearly identifies the non compliance in the 2021/22 Report, however could not identify why the 2020/21 recommendation template was changed, other than it coincided with a change in staff. He also notes there was failure by key stakeholders to identify the error through the review process. His report also includes several recommendations, including developing written instructions, continuing to utilise the 2020/21 report template, and modifying the Town's "Objects and Reasons", in relation to Differential Rates.

OFFICER COMMENT

The CEO accepts that there was a failure in identifying the error in the 2021/22 and 2022/23 reports to Council, which is ultimately the CEO responsibility under the Local Government Act. This should not have occurred as the legislation identifying what needed to be advertised was documented within each Council Report. While both the internal and external investigations failed to identify how the initial error in the 2022/23 Report occurred, it is expected that the review process should have detected this error before presenting the reports (2021/22 & 2022/23) to the Council..

As a result of this identified administrative oversight the CEO will introducing the following management protocols/instructions:

1. Greater scrutiny to be applied in reviewing of Council reports by all levels within the Administration, including utilising peer review processes prior to finalising reports;

2. Documenting any changes to the standard report templates (such as the annual Advertising of Differential Rates), including identifying who has authorised the change.
3. Seek advice from WALGA on what is considered best practice on standard report templates, and apply these where possible; and
4. Investigate whether a “track changes” feature could be added to the Town’s Agenda Management System (Info Council).

Furthermore, Mr Back’s Recommendations should be applied, subject to the Committee and Council’s endorsement, inclusive of:

1. Written instructions on the differential rates process;
2. Utilisation of the 2020/21 report template in relation to differential rates
3. Amending the Town’s “Objects and Reasons” in relation to future differential rates.

ATTACHMENTS

- 8.1.1(a) Differential Rates Item June 2021 [under separate cover]**
- 8.1.1(b) Differential Rates Item June 2022 [under separate cover]**
- 8.1.1(c) Differential rates Item June 2023 [under separate cover]**
- 8.1.1(d) Cottesloe Advertising Differential Rates September 2023 [under separate cover]**

CONSULTATION

WALGA

Mr Ron Back

STATUTORY IMPLICATIONS

Local Government Act 1995

Section 6.36 details the process of advertising Differential Rates.

POLICY IMPLICATIONS

There are no perceived Policy implications arising from the officer’s recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town’s *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

AC008/2023

OFFICER AND COMMITTEE RECOMMENDATION

Moved Mr Dimsey

Seconded Mr McKenzie

THAT the Audit Committee recommends that Council:

- 1. Notes the outcomes of the internal investigation and subsequent external investigation in relation the non compliance of the advertising of the Differential Rates for the 2022/23 and 2023/24 financial years; and**
- 2. Endorse the recommendations (internal and external) as identified in this report**

Carried 3/0

For: Cr MacFarlane, Mr Dimsey and Mr McKenzie

Against: Nil

8.2 ITEMS FOR DISCUSSION

Nil

9 GENERAL BUSINESS

9.1 COMMITTEE MEMBERS

9.2 OFFICERS

10 MEETING CLOSED TO PUBLIC

10.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

11 NEXT MEETING

Monday, 16 October 2023 at 4:00 pm

12 MEETING CLOSURE

The Presiding Member announced the meeting closed at 4:29 pm.

TOWN OF COTTESLOE



ATTACHMENTS

AUDIT COMMITTEE – 28 SEPTEMBER 2023

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TOWN OF COTTESLOE



AUDIT COMMITTEE

ATTACHMENT

ITEM 8.1.1A: DIFFERENTIAL RATES ITEM JUNE 2021

10.1.2 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES

Directorate: Corporate and Community Services
Author(s): Wayne Richards, Finance Manager
Authoriser(s): Shane Collie, Director Corporate and Community Services
File Reference: D21/23522
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate for the 2021/22 financial year.

OFFICER RECOMMENDATION IN BRIEF

That Council advertise its intention to raise the following differential rates and minimum rates for the 2021/22 financial year as follows:-

- Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00
- Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00

BACKGROUND

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

The town centre commercial properties category comprises all rateable land in the Cottesloe Town Centre that is zoned commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

OFFICER COMMENT

The differential rate applied to the properties in the Cottesloe Town Centre raised \$116,106 last year which was subsequently expended through Procott activities with reporting back to

Council through Council representatives on Procott and formal financial statements ensuring accountability for the expenditure. The amount anticipated to be raised through the differential rate for 2021/22 would be expected to be similar or slightly more depending on whether any interim rates are raised due to property sales.

ATTACHMENTS

- 10.1.2(a) Signed Procott Agreement dated 31 December 2011 [CONFIDENTIAL] [UNDER SEPARATE COVER]
- 10.1.2(b) Procott Financial Statements [CONFIDENTIAL] [UNDER SEPARATE COVER]
- 10.1.2(c) ProtCott - 21/22 Activities for Cottesloe Village [CONFIDENTIAL] [UNDER SEPARATE COVER]

CONSULTATION

There has been consultation with senior staff and elected members at the first budget workshop held on 28 May 2021.

STATUTORY IMPLICATIONS

Local Government Act 1995

Section 6.33 of the Local Government Act 1995 provides the following in relation to differential rates.

6.33. Differential general rates

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
 - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
 - (b) *a purpose for which the land is held or used as determined by the local government; or*
 - (c) *whether or not the land is vacant land; or*
 - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may -*
 - (a) *specify the characteristics under subsection (1) which a local government is to use; or*
 - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*
- (3) *In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*

- (4) *If during a financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1) (a) applies.*
- (5) *A differential general rate that a local government purported to impose under this Act before the Local Government Amendment Act 2009 section 39(1) (a) came into operation is to be taken to have been as valid as if the amendment made by that paragraph had been made before the purported imposition of that rate.*

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

6.36. Local government to give notice of certain rates

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6) (c) a local government is to give local public notice of its intention to do so.*
- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1) -*
 - (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and*
 - (b) *is to contain -*
 - (i) *details of each rate or minimum payment the local government intends to impose; and*
 - (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
 - (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;*

and

 - (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*
- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*
- (5) *Where a local government -*

- (a) *in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or*
 - (b) *proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),*
- it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.*

Section 6.35 of the *Local Government Act 1995* provides the following in relation to minimum payments.

6.35. Minimum payment

- (1) *Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
- (2) *A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.*
- (3) *In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than -*
 - (a) *50% of the total number of separately rated properties in the district; or*
 - (b) *50% of the number of properties in each category referred to in subsection (6),**on which a minimum payment is imposed.*
- (4) *A minimum payment is not to be imposed on more than the prescribed percentage of —*
 - (a) *the number of separately rated properties in the district; or*
 - (b) *the number of properties in each category referred to in subsection (6),**unless the general minimum does not exceed the prescribed amount.*
- (5) *If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) *For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories -*
 - (a) *to land rated on gross rental value; and*
 - (b) *to land rated on unimproved value; and*
 - (c) *to each differential rating category where a differential general rate is imposed.*

The *Local Government (Financial Management Regulations) 1996* states:

52A. Characteristics prescribed for differential general rates (Act s. 6.33)

(1) *In this regulation -*

commencement day means the day on which the Local Government (Financial Management) Amendment Regulations (No. 2) 2012 regulation 5 comes into operation 1;

relevant district means a district that —

(a) *is declared to be a district by an order made under section 2.1(1)(a) on or after commencement day; or*

(b) *has its boundaries changed by an order made under section 2.1(1)(b) on or after commencement day.*

(2) *For the purposes of section 6.33(1)(d), the following characteristics are prescribed in relation to land in a relevant district, where not more than 5 years has elapsed since the district last became a relevant district —*

(a) *whether or not the land is situated in a townsite as defined in the Land Administration Act 1997 section 3(1);*

(b) *whether or not the land is situated in a particular part of the district of the local government.*

POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council ADVERTISES its intention to raise the following differential general rates and minimum rates for the 2021/22 financial year:

1. **Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00;**

2. **Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00.**

TOWN OF COTTESLOE



AUDIT COMMITTEE

ATTACHMENT

ITEM 8.1.1B: DIFFERENTIAL RATES ITEM JUNE 2022

10.1.1 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES

Directorate: Corporate and Community Services
Author(s): Shane Collie, Director Corporate and Community Services
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/26299
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate for the 2022/23 financial year.

OFFICER RECOMMENDATION IN BRIEF

That Council advertise its intention to raise the following differential rate and minimum rate for the 2022/23 financial year as follows:-

- Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.086397 with a minimum rate of \$1,262.00

BACKGROUND

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

The town centre commercial properties category comprises all rateable land in the Cottesloe Town Centre that is zoned commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

OFFICER COMMENT

The differential rate applied to the properties in the Cottesloe Town Centre raised \$120,175 last year which was subsequently expended through Procott activities with reporting back to Council though Council representatives on Procott and formal financial statements ensuring

accountability for the expenditure. The amount anticipated to be raised through the differential rate for 2022/23 would be expected to be similar or slightly more depending on whether any interim rates are raised due to property sales.

ATTACHMENTS

Nil

CONSULTATION

There has been consultation with senior staff and elected members at the second Budget workshop held on 7 June 2022.

STATUTORY IMPLICATIONS

Local Government Act 1995

Section 6.33 of the Local Government Act 1995 provides the following in relation to differential rates.

6.33. Differential general rates

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
 - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
 - (b) *a purpose for which the land is held or used as determined by the local government; or*
 - (c) *whether or not the land is vacant land; or*
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- (2) *Regulations may -*
 - (a) *specify the characteristics under subsection (1) which a local government is to use; or*
 - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*
- (3) *In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*
- (4) *If during a financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1) (a) applies.*

-
- (5) *A differential general rate that a local government purported to impose under this Act before the Local Government Amendment Act 2009 section 39(1) (a) came into operation 1 is to be taken to have been as valid as if the amendment made by that paragraph had been made before the purported imposition of that rate.*

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

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- (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;*
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- (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*
- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*
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- (a) *in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or*
- (b) *proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),*

it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.

Section 6.35 of the *Local Government Act 1995* provides the following in relation to minimum payments.

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- (1) *Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
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The *Local Government (Financial Management Regulations) 1996* states:

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- (1) *In this regulation -*

commencement day means the day on which the Local Government (Financial Management) Amendment Regulations (No. 2) 2012 regulation 5 comes into operation 1;

relevant district means a district that —

- (a) is declared to be a district by an order made under section 2.1(1)(a) on or after commencement day; or
 - (b) has its boundaries changed by an order made under section 2.1(1)(b) on or after commencement day.
- (2) For the purposes of section 6.33(1)(d), the following characteristics are prescribed in relation to land in a relevant district, where not more than 5 years has elapsed since the district last became a relevant district —
- (a) whether or not the land is situated in a townsite as defined in the Land Administration Act 1997 section 3(1);
 - (b) whether or not the land is situated in a particular part of the district of the local government.

POLICY IMPLICATIONS

There are no perceived Policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council ADVERTISES its intention to raise the following Differential Rate for the 2022/23 financial year - Town Centre Commercial (GRV) – Rate in the dollar being 0.086397 with a minimum rate of \$1,262.00.

- [Click or tap here to enter text.](#)

TOWN OF COTTESLOE



AUDIT COMMITTEE

ATTACHMENT

ITEM 8.1.1C: DIFFERENTIAL RATES ITEM JUNE 2023

10.1.1 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES

Directorate: Corporate and Community Services
Author(s): Shane Collie, Director Corporate and Community Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/22117
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate for the 2023/24 financial year.

OFFICER RECOMMENDATION IN BRIEF

That Council advertise its intention to raise the following differential rate and minimum rate for the 2023/24 financial year as follows:-

- Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.07721 with a minimum rate of \$1,341.

BACKGROUND

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

The town centre commercial properties category comprises all rateable land in the Cottesloe Town Centre that is zoned commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

OFFICER COMMENT

The differential rate applied to the properties in the Cottesloe Town Centre raised \$126,030 last year which was subsequently expended through Procott activities with reporting back to Council through Council representatives on Procott and formal financial statements ensuring accountability for the expenditure. The amount anticipated to be raised through the

differential rate for 2023/24 would be expected to be similar or slightly more depending on whether any interim rates are raised due to property sales.

The basis of the proposed rate in the dollar and minimum rate stems from Council's Long Term Financial Plan.

ATTACHMENTS

Nil

CONSULTATION

There has been consultation with senior staff and elected members at the first Budget workshop held on 16 May 2023.

STATUTORY IMPLICATIONS

Local Government Act 1995

Section 6.33 of the Local Government Act 1995 provides the following in relation to differential rates.

6.33. Differential general rates

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
 - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
 - (b) *a purpose for which the land is held or used as determined by the local government; or*
 - (c) *whether or not the land is vacant land; or*
 - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may -*
 - (a) *specify the characteristics under subsection (1) which a local government is to use; or*
 - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

6.36. Local government to give notice of certain rates

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6) (c) a local government is to give local public notice of its intention to do so.*

- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1) -*
- (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and*
 - (b) *is to contain -*
 - (i) *details of each rate or minimum payment the local government intends to impose; and*
 - (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
 - (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;**and*
 - (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*
- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*

POLICY IMPLICATIONS

There are no perceived Policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council ADVERTISES its intention to raise the following Differential Rate for the 2023/24 financial year - Town Centre Commercial (GRV) – Rate in the dollar being 0.07721 with a minimum rate of \$1,341.

TOWN OF COTTESLOE



AUDIT COMMITTEE

ATTACHMENT

**ITEM 8.1.1D:
COTTESLOE ADVERTISING DIFFERENTIAL RATES
SEPTEMBER 2023**

R J Back B.Comm(UWA, CPA)

email [REDACTED]

Mobile [REDACTED]

ABN : 43 556 170 469

Chief Executive Officer,
Town of Cottesloe
109 Broome Street
COTTESLOE, WA 6011

Dear Matthew,

21 September 2023

Ref: 743

Incorrect advertising of differential rates.

Further to our conversation of 8 September 2023 I provide the following opinion regarding the incorrect advertising of differential rates, by the Town, for the 23/24 and 22/23 Budgets.

Scope of works

You advise by way of Resolution SCM164/2023 the following action is required.

“4. That by 30th September 2023 the CEO prepare a formal report to be considered by the Audit Committee, with a full and detailed account of the process followed by the Town in the advertisement of proposed differential rates for the 2023/2024 year, and in the previous two years, including scope for improvement to the process, for the Audit Committee to consider and make recommendations to Council.”

You consider that given your position and role it would be preferable that the review by undertaken by an independent person.

The review will require to interview the key officers undertaking this task and report as to the process, the breakdown in the process and any scope for improvements to ensure compliance with the requirements of the legislation.

Differential Rates

Section 6.33 of the Local Government Act 1995 provides a local government may impose differential general rates according to any, or a combination, of defined characteristics.

Section 6.36 requires that before imposing any differential general rates a local government is to give local public notice of its intention to do so. The local government is required to prepare a document describing the objects of, and reasons for, each proposed rate and to publish the document on the local government’s official website.

The timing of the process applied by the Town over the three-year period were as follows.-

Differential Rates (OCM)

<u>Budget year</u>	<u>Intention</u>	<u>Reference</u>	<u>Submissions</u>	<u>Adoption</u>	<u>Compliant</u>
2021/22	22 June 2021	10.1.2	1	3 August 2021	Yes
2022/23	28 June 2022	10.1.1	1	26 July 2022	No
2023/24	27 June 2023	10.1.1	2	25 July 2023	No
2023/24*	1 August 2023	12.1.1	1?	24 August 2023	Yes

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The detail of the processes used stems from the presentation of the Report to Council for the imposition of differential rates. Prior to the 2022/23 Budget year the report presented was explicit and well-constructed that resulted in Council including in its resolution clear instructions as to the advertising of those rates in the community.

Following the period for submissions the differential rating proposal was included in the Budget Adoption Report.

Breakdown in the process applied.

For the 2021/22 budget year the Town used a report template which ensured compliance with the requirements of the legislation so that the resolution adopted by Council provided the appropriate direction.

The report presented provided for the following resolution being adopted by Council.

22 June 2021 OCM099/2021

SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

THAT Council ADVERTISES its intention to raise the following differential general rates and minimum rates for the 2021/22 financial year:

1. Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00.
2. Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00.

The report clearly identified two differential rates and the requirement to advise the community accordingly. The important aspect is that a Differential General Rate and Town Centre Commercial (GRV), being two rates, were advertised. The placing of the public notice followed that instruction ensured the Town was compliant.

In 2022/23 the template was changed, which coincided with a change in staff. It is at this point that the resolution put to Council and followed in placing the public notice which was non-compliant.

28 June 2022 OCM074/2022

OFFICER RECOMMENDATION

THAT Council ADVERTISES its intention to raise the following Differential Rate for the 2022/23 financial year - Town Centre Commercial (GRV) – Rate in the dollar being 0.086397 with a minimum rate of \$1,262.00.

In this resolution the Council intends to advertise ONLY ONE differential rate, which in itself does not comply.

This template was applied to the following year for the Budget process. Fortunately, the incorrect advertisement was discovered, and the Council was able to rescind its 2023/24 budget and implement the appropriate that ensured compliance in the advertising of it differential rates.

Irrespective of the template being used the error in the recommendation and subsequent advertising was not picked up by the senior managers or the Councillors of the Town. It was the Council's resolution that was incomplete, and the advertising was in accordance with that resolution.

The responsibility primarily rests with the Chief Executive Officer who is responsible to ensure elected members are in a position to make informed and compliant decisions. In addition, the Director Corporate and Community Services should have picked up this oversight as the Author or Authoriser of the initial reports.

Scope for Improvement

The CEO has already taken steps to ensure this type of oversight is unlikely to occur into the future.

However, I make the following recommendations –

Written instructions

The Town should prepare written instructions for the process to be followed by employees when considering differential rating. These instructions identify the legislative requirements, timing issues (considering submissions etc), options to be met for Public Notices. These instructions should include minimum compliance requirements and matters that under no circumstances are to be omitted.

Report to Council

The report as presented on 27 June 2023 be replaced with a Report along the lines of the report presented to Council on 22 June 2021. The 2021 template provides a good base to improve the current Council Report and ensure compliance.

Objects and Reasons

The current objects and reason prepared by the Town and included on the website state.

“To provide equity in the rating of properties across the Town, the following rate categories have been determined for the implementation of Differential Rating.”

“GRV Residential

Properties with a predominant residential use. This is considered to be the base rate by which all other gross rental value rated properties are assessed.

GRV Residential Vacant

Vacant properties excepting land zoned as Commercial and Industrial. The rate for this category is imposed at the same rate in the dollar as GRV Residential (the base rate).”

These two categories should be replaced with a Differential General Rate (GRV).

Differential General Rate (GRV)

All other rateable properties not included in the Differential Rate – Town Centre Commercial (GRV). This category applied to the following rating categories GRV Residential Improved (RI) ... etc to GRV Industrial.

“Differential Rate – Town Centre Commercial (GRV)

Properties used for commercial and industrial purposes and non-residential land. The higher rate reflects the additional costs associated with area promotion and improvement. The Town works with the organisation known as ProCott Inc. to achieve these objectives.”

The category could be enhanced by delineating the area known as the Town Centre.

[REDACTED]

In summary, the Town has failed to correctly advertise the differential rates proposed for adoption in the last two budgets. The omission was detected in the 2023/24 budget and remedial action taken. These failings arise from the change in the process previously applied and the failure of key stakeholders to identify the errors and omissions.

Yours sincerely,



R. J. Bacho