

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
7.00 PM, Monday, 13 December, 2010**

17 December 2010

## TABLE OF CONTENTS

| ITEM   | SUBJECT  | PAGE NO |
|--------|--|---------|
| 1      | DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....   | 1       |
| 2      | RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....   | 1       |
| 3      | RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....  | 1       |
| 4      | PUBLIC QUESTION TIME .....   | 1       |
| 5      | PUBLIC STATEMENT TIME.....   | 2       |
| 6      | APPLICATIONS FOR LEAVE OF ABSENCE .....  | 2       |
| 7      | CONFIRMATION OF MINUTES OF PREVIOUS MEETING .....  | 2       |
| 8      | ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....   | 2       |
| 8.1    | SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE .....  | 3       |
| 9      | PETITIONS/DEPUTATIONS/PRESENTATIONS.....   | 4       |
| 10     | REPORTS OF OFFICERS .....  | 6       |
| 11     | REPORTS OF COMMITTEES .....  | 6       |
| 11.1   | DEVELOPMENT SERVICES COMMITTEE MINUTES - 06 DECEMBER 2010.....   | 6       |
| 11.1.1 | NO. 88 MARINE PARADE – SHADE STRUCTURE IN ROAD RESERVE OVER EXISTING ALFRESCO AREA FOR IL LIDO (RESTAURANT)                    | 6       |
| 11.1.2 | NOS 1-3 BRIXTON STREET – THREE-STOREY MIXED-USE BUILDING (SIX OFFICES AND 13 RESIDENTIAL UNITS)                                | 12      |
| 11.1.3 | NO. 151 MARINE PARADE – NORTH COTTESLOE SURF LIFE SAVING CLUB – PROPOSED LANDSCAPING, DUAL-USE PATHWAY AND NEW ACCESS TO BEACH | 26      |

|             |  |           |
|-------------|--|-----------|
| 11.1.4      | NO. 151 MARINE PARADE – ALTERATIONS AND ADDITIONS TO NORTH COTTESLOE SURF LIFE SAVING CLUB (INCLUDING NEW CHANGES TO LEASE BOUNDARY) – FURTHER REVISION                | 33        |
| 11.1.5      | NO. 151 MARINE PARADE – NORTH COTTESLOE SURF LIFE SAVING CLUB – PROPOSED PARTIAL ROAD CLOSURE ON MARINE PARADE TO FACILITATE ALTERATIONS AND ADDITIONS – FUTHER REPORT | 41        |
| 11.1.6      | RIGHTS OF WAY / LANEWAYS POLICY CLARIFICATIONS – FOLLOW-UP REPORT  | 44        |
| 11.1.7      | NO. 109 BROOME STREET – STRUCTURAL REMEDIAL WORK AND RE-ROOFING OF COTTESLOE CIVIC CENTRE  | 53        |
| 11.1.8      | DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE 2010-2011 HOLIDAY PERIOD RECESS OF COUNCIL  | 57        |
| 11.1.9      | PLANNING INSTITUTE OF AUSTRALIA 2011 NATIONAL CONGRESS (HOBART) – CRITICAL MASS: PLANNING ENGAGES THE WORLD  | 60        |
| <b>11.2</b> | <b>WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 07 DECEMBER 2010.....</b>  | <b>63</b> |
| 11.2.1      | DONATIONS - REFUSE SERVICES  | 63        |
| 11.2.2      | UNIFORMS - OFFICE STAFF POLICY REVIEW  | 65        |
| 11.2.3      | CHANGE ROOMS/TOILETS - OPENING TIMES - INDIANA   | 68        |
| 11.2.4      | WARD BOUNDARY REVIEW NUMBERS OF ELECTED MEMBERS  | 72        |
| 11.2.5      | PERFORMANCE & REMUNERATION REVIEW AND KEY RESULT AREAS (KRA'S) FOR THE CHIEF EXECUTIVE OFFICER   | 90        |
| 11.2.6      | CIVIC CENTRE ROOF REFURBISHMENT - TENDER   | 95        |
| 11.2.7      | GRANT STREET PARK AND ROW 17 COTTESLOE. REQUEST FOR DEVELOPMENT.   | 98        |
| 11.2.8      | SPECIFIED AREA RATE LEVY PROCOTT   | 101       |

|           |   |            |
|-----------|---|------------|
|           | 11.2.9 STATUTORY FINANCIAL REPORT FOR THE<br>MONTH OF NOVEMBER 2010   | 103        |
|           | 11.2.10 SCHEDULE OF INVESTMENTS AND LOANS AS AT<br>30 NOVEMBER 2010   | 105        |
|           | 11.2.11 ACCOUNTS FOR THE MONTH OF NOVEMBER<br>2010  | 107        |
|           | 11.2.12 PROPERTY AND SUNDRY DEBTORS REPORT<br>FOR NOVEMBER 2010   | 109        |
|           | 11.2.13 WESTERN POWER/PUBLIC TRANSPORT<br>AUTHORITY – TREE REMOVAL  | 111        |
| <b>12</b> | <b>ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE<br/>HAS BEEN GIVEN.....</b>                                | <b>112</b> |
| <b>13</b> | <b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY<br/>ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING .....</b> | <b>112</b> |
| <b>14</b> | <b>MEETING CLOSURE.....</b>   | <b>112</b> |

**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Mayor announced the meeting opened at 7:07 PM.

**2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE  
(PREVIOUSLY APPROVED)****Elected Members**

|                        |                  |
|------------------------|------------------|
| Mayor Kevin Morgan     | Presiding Member |
| Cr Jack Walsh          |                  |
| Cr Rob Rowell          |                  |
| Cr Greg Boland         |                  |
| Cr Dan Cunningham      |                  |
| Cr Jo Dawkins          |                  |
| Cr Davina Goldthorpe   |                  |
| Cr Patricia Carmichael |                  |
| Cr Ian Woodhill        |                  |

**Officers**

|                    |  |
|--------------------|--|
| Mr Carl Askew      | Chief Executive Officer                |
| Mr Graham Pattrick | Manager Corporate & Community Services |
| Mr Geoff Trigg     | Manager Engineering Services           |
| Mr Andrew Jackson  | Manager Development Services           |
| Mrs Lydia Giles    | Executive Assistant                    |

**Apologies**

Cr Jay Birnbrauer  
Cr Victor Strzina

**Officer Apologies**

Nil

**Leave of Absence (previously approved)**

Nil

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 PUBLIC STATEMENT TIME**

Mr Andrea Veccia-Scavalli – Re: Item 11.1.2 – Nos 1-3 Brixton Street – Three-Storey Mixed-Use Building (Six Offices and 13 Residential Units)

Mr Scavalli provided copies of supporting material to elected members as circulated at the Development Services Committee meeting and indicated that he was pleased with both the project and Council's consideration of it. He thanked the Town's planning staff for a positive process and how the application was handled and was supportive of the Committee recommendation.

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

**Moved Cr Goldthorpe, seconded Cr Woodhill**

**That Cr Goldthorpe's request for leave of absence from the February 2011 round of meetings be granted.**

**Carried 9/0**

**Moved Cr Woodhill, seconded Cr Goldthorpe**

**That Cr Woodhill's request for leave of absence from the February 2011 round of meetings be granted.**

**Carried 9/0**

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**Moved Cr Boland, seconded Cr Woodhill**

**That Cr Boland's leave of absence in November be added to include leave of absence for the Annual General Electors Meeting on 8 December 2010.**

**Carried 9/0**

**Moved Cr Woodhill, seconded Cr Boland**

[Minutes November 22 2010 Council.DOC](#)

**The Minutes of the Ordinary meeting of Council held on Monday, 22 November, 2010 as amended be confirmed.**

**Carried 9/0**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor took the opportunity at the last Council meeting for 2010 to wish everyone a merry Christmas and a safe and happy new year.

He also advised that the Town had received a letter from the Western Australian Planning Commission advising that the Minister for Planning requires the Council to modify the draft local planning scheme No. 3 and that the Minister directs the Council to advertise the modifications as soon as possible and that the modifications are to be advertised “as is” and the contents of the modifications are not open for negotiation prior to advertising.

The Mayor expressed his disappointment over the length of the process to date and that the modification of the height limits for the beachfront appeared to be without planning rationale. There was no attempt at dialogue despite the EBD process and the significant cost in time and resources to that joint process including involvement of the State Government’s planning experts.

He noted that the Premier/local member made his position clear from the beginning and did not participate in the EBD process or attend final workshops where outcomes were discussed and explained. Given the Minister’s position the Mayor was disappointed the matter had taken so long to resolve and reflected that had it been made much earlier the Town could have “got on with its business”. He indicated that this decision was likely to be reflected in future planning outcomes across the State under the government’s *centralised planning processes*. He noted the officer advice to elected members that the decision on advertising could be made at the February council meeting. He made reference to the need for community consultation outside of the Christmas and school holiday period and that a more formal report and recommendation will follow in February when Council next sits. He noted that this outcome appeared to have bi-partisan support and that this was unlikely to be a good outcome for Cottesloe beachfront.

Lastly the Mayor thanked all the Councillors for making it a harmonious Council during 2010, something they had enjoyed for the last few years and he hoped that this would continue in 2011

## **8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**

### **BACKGROUND**

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

#### **Members to Rise**

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

**Suspension of Standing Orders**

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

**COUNCIL RESOLUTION:**

**Moved Cr Boland, seconded Cr Goldthorpe**

**That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.**

**Carried 9/0**

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

The Mayor announced that the Council had received a petition with 275 signatures mostly from residents of Mosman Park, Cottesloe and Peppermint Grove in related to the unsafe crossings on Curtin Avenue and Stirling Highway close to Mosman Park railway station, Salvado Road level crossing and Jarrad Street level crossing, particularly in the case for families and elderly residents.

**Moved Mayor Morgan, seconded Cr Boland**

That the petition be accepted and referred to the Works and Corporate Services Committee for an officer report..

**Carried 9/0**

For the benefit of the members of the public present and those who had made statements in relation to matters before Council, the following reports from the Development Services Committee were dealt with first;

- 11.1.2 Nos 1-3 Brixton Street – Three-Storey Mixed-Use Building (Six Offices and 13 Residential Units)
- 11.1.4 No. 151 Marine Parade – Alterations and Additions to North Cottesloe Surf Life Saving Club (Including New Changes to Lease Boundary) – Further Revision
- 11.1.5 No. 151 Marine Parade – North Cottesloe Surf Life Saving Club – Proposed Partial Road Closure on Marine Parade to Facilitate Alterations and Additions – Further Report
- 11.1.6 Rights Of Way / Laneways Policy Clarifications – Follow-Up Report

The remainder of the items from the Development Services Committee were dealt with *en bloc*

- 11.1.1 No. 88 Marine Parade – Shade Structure in Road Reserve over Existing Alfresco Area for Il Lido (Restaurant)
- 11.1.7 No. 109 Broome Street – Structural Remedial Work and Re-Roofing of Cottesloe Civic Centre



- 11.1.8 Delegation of Powers for Determination of Planning Applications During the 2010-2011 Holiday Period Recess Of Council
- 11.1.9 Planning Institute of Australia 2011 National Congress (Hobart) – Critical Mass: Planning Engages the World)

The following matters from the Works & Corporate Services Committee were “withdrawn” for further discussion and were dealt with first;

- 11.2.4 Ward Boundary Review - Numbers of Elected Members
- 11.2.7 Grant Street Park and ROW 17 Cottesloe. Request for Development
- 11.2.13 Western power/public transport authority – tree removal
- 11.2.3 Change Rooms/Toilets - Opening Times - Indiana
- 11.2.5 Performance & Remuneration Review and Key Result Areas (KRA's) for The Chief Executive Officer

The remainder of the items from the Works and Corporate Services Committee were dealt with *en bloc*

- 11.2.1 Donations - Refuse Services
- 11.2.2 Uniforms - Office Staff Policy Review
- 11.2.6 Civic Centre Roof Refurbishment - Tender
- 11.2.8 Specified Area Rate Levy PROCOTT
- 11.2.9 Statutory Financial Report for the Month of November 2010
- 11.2.10 Schedule of Investments and Loans as At 30 November 2010
- 11.2.11 Accounts for the Month of November 2010
- 11.2.12 Property and Sundry Debtors Report for November 2010

**10 REPORTS OF OFFICERS**

Nil

**11 REPORTS OF COMMITTEES****11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 06 DECEMBER 2010****11.1.1 NO. 88 MARINE PARADE – SHADE STRUCTURE IN ROAD RESERVE  
OVER EXISTING ALFRESCO AREA FOR IL LIDO (RESTAURANT)**

**File No:** 2074  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 6 December 2010  
**Author Disclosure of Interest:** Nil  
**Property Owner:** Crown  
**Applicant:** Colour (Aus) Pty Ltd  
**Date of Application:** 3 November 2010

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**PROPOSAL**

This application is to:

- (a) construct a 6m (length) x 5m (width) x 2.9m (high) steel-framed, timber cladded, shade structure over the existing alfresco area on the corner of Forrest Street and Marine Parade for patrons of Il Lido (restaurant);
- (b) to re-paint the existing steel barriers in striped colours of yellow, blue and white; and
- (c) to install a retractable sail over the roof and clear plastic drop blinds on the south and western sides.

**STRATEGIC IMPLICATIONS**

The proposed structure has strategic implications due to its location within the public domain and on the Cottesloe beachfront. These aspects are discussed in this report.

**POLICY IMPLICATIONS**

Existing policies apply.

**FINANCIAL IMPLICATIONS**

No financial implications as the structure would be funded by the applicant.

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No. 2
-

- Proposed Local Planning Scheme No. 3
- Beachfront Development Policy
- Future Plan (2006-2010)
- Draft Beachfront Policy & Guidelines
- Foreshore Concept Plan

### **HERITAGE LISTING**

The proposed structure is adjacent to Il Lido which is listed as a Category 4 on the Town's Municipal Inventory. The proposal is for a contemporary flat-roofed structure, detached from Il Lido that will allow pedestrians to still see the corner building from the public domain. On this basis, it has been supported by the Town's Heritage Adviser, subject to any proposed café blinds being clear.

### **PROPOSED LOCAL PLANNING SCHEME NO. 3**

The proposed development is not directly affected by LPS 3 as it is on a road reserve, rather than being on land zoned under the proposed Scheme. However, the proposed LPS 3 Beachfront Policy and Foreshore Concept Plan have been prepared as part of the Scheme review process to facilitate determination of proposals within the beachfront area and are therefore discussed in this report.

### **CONSULTATION**

No formal advertising has been required to be carried out for the proposed structure as the owner of the adjoining residential units is also the owner of Il Lido and raises no objection to the proposal. Opposite and to the west is Crown land and the signature of the Crown has been obtained on the application form, as landowner. Also, Council is responsible for the public domain in the public interest and the proposal relates to a previously approved alfresco area.

### **APPLICANT'S JUSTIFICATION**

A summary of the applicant's comments is provided below:

- The existing alfresco area approved in 2005 has been limited greatly by the lack of sun protection for lunchtime customers through the summer months and the area's exposure to blustery sea breezes.
- There has been a number of attempts to shade the area with a table umbrella and canopy system, but all have succumbed to the rigors of the prevailing afternoon winds.
- The current ground-mounted, purpose built umbrella system needs on-going repair around every 6 weeks due to wind damage.
- Together with regular customer complaints about inadequate protection from the sun, the restaurant owners are seeking approval for a removable structure (ie, if required to be in the future) that offers an acceptable level of shelter from the elements, and in turn will promote a community presence for the street corner.
- The visual impact of the shade structure has been carefully considered along with the integration with the Il Lido building and the surrounding environment.

- The proposals form is minimal, light and open, in an attempt to alleviate its transparency, yet impart a visually 'beachy' feel.
- It will be constructed from a lightweight steel sub-frame, engineered to suit the site's wind loads, and clad in timber to add a familiar warmth.
- The existing wind barriers would be repainted using the colours of the restaurant building, patterned in deckchair stripes.
- Retractable shade-cloth covers overhead and clear drop-blinds on the windy western and southern sides will allow this outdoor space to comfortably adapt to the various weather conditions.
- Similar to the structures in Napoleon Street, the proposal will be readily removable. It will be installed using precast concrete footings with sleeves to take steel posts, and all members will be bolted together on-site.
- The high visibility and prominence of this location offers an important opportunity in establishing a vibrant beachfront for family dining and sociability.
- While soft spaces with planting may be preferred to attract people the prevailing winds and summer sun make the ongoing burden and costs of maintenance and replanting prohibitive.

### PLANNING COMMENT

Council has four strategic documents broadly influencing this proposal. These are:

- Beachfront Development Policy (adopted 2004)
- Future Plan (2006-2010)
- Draft Beachfront Policy & Guidelines
- Foreshore Concept Plan

Statements from each of these documents particularly relevant to this development are summarised below:

The objectives of Council's Beachfront Development Policy include:

- *To encourage the use of the foreshore by improving the amenity of the area and range of facilities available there;*
- *To strengthen the pedestrian focus of the foreshore; and*
- *To encourage al fresco areas for commercial use on Marine Parade.*

Council's Future Plan contains various strategies including:

- *To identify increased opportunities to use existing facilities and provide new venues for formal communal activities.*

The proposed LPS 3 Beachfront Policy advises:

- *Ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront environment;*

- *Development should be designed to contribute positively to streetscapes in terms of scale and form of buildings including roof shapes, visual integration (cohesiveness and harmony), and overall beachfront urban appearance; and*
- *Contemporary architecture is favoured over mock-historic styles, and design that reflects modern Australian architecture and the Cottesloe vernacular is encouraged.*

The proposed Foreshore Concept Plan provides recommendations specific to objects (including sun shades and kiosk-like structures) in the public domain and advises:

- *Design principles should be applied for simplicity, robustness, using as few different materials as possible, delightful and fit for purpose;*
- *The existing character of the foreshore and beachfront should be respected, retained and enhanced by any future development;*
- *Design should be sensitive to expansive views along the foreshore, Marine Parade, the beaches and groyne; and*
- *Structures should not dominate the scale and character of the area.*

Further to these general recommendations, the application has been assessed with specific regard to the Council's Foreshore Concept Plan and is supported on the basis that it will improve the 'southern gateway' entry point to Marine Parade.

However, following liaison with Council's consultant for the Foreshore Concept Plan, it was suggested to the applicant that the structure should be taller to be more in-keeping with the scale of the Il Lido building, and as such the applicant has agreed to increase the height of the framed structure by 200mm from 2.7m to 2.9m which appears more satisfactory. By way of comparison, this would be of similar scale to the two bus shelters nearby, with sufficient headroom to not appear squat or feel cramped.

The consultant also suggested that instead of the proposed coloured solid wind barriers (similar to as exist now) it may be preferable to provide softer-looking façades by using rectangular planter tubs with overflowing landscaping. Although it may be difficult to grow plants in this location due to the strong winds, it is considered that this option has some merit. Furthermore, it is noted that a condition of the previous approved Outdoor Eating Area Licence for Il Lido stated: *The outdoor eating area is to be defined by potted decorative shrubs...*, but this was not done.

Practically, however, planters may be counter-productive, because they would either take up space from the al fresco area thereby limiting patrons or occupy the footpath and be obstructions. Also, unless well-cared-for such landscaping tends to become untidy, a de facto ash tray and rubbish bin or vandalised. On balance, therefore, the hard-edged architectural aesthetic of the proposed structure and wind barriers is assessed as reflecting the lines of the Il lido building on this exposed corner and there is ample greenery in the surrounds.

In terms of impact on views, site analysis has revealed that from the north the structure would be obscured by the building, while from the south it would be seen against the backdrop of the building. From the east when approaching down Forrest Street, the structure would be blocked from view by the dense pine trees until close to the foreshore when the corner becomes visible. Although at that point the structure would punctuate the vista, the panoramic landscape and ocean views available would still be enjoyed and would absorb the introduction of the structure. From the west looking up Forrest Street the structure would be comfortably set amongst general clutter comprising a power pole, the alfresco facilities, parked cars, and pine trees. Therefore, in having regard to *the need for limitation of height of location of buildings to preserve or enhance views* pursuant to general amenity clause 5.1.2 of TPS 2, the proposal is considered acceptable.

In having regard to *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally* pursuant to that clause, the proposed cedar cladding would appear soft, be suitably structural, reflect the era of the Il Lido building and echo the timber of the pine trees. The gelato-hued wind barriers would match the Il Lido colours.

Also under the clause, in terms of *the maintenance of fresh air in the locality through the control of building bulk ... and the effect of a development to impede or accelerate air flows*, the structure would not detract from air circulation and would be constructed to withstand strong winds / storms.

Administratively, the business ownership of the Il Lido restaurant has recently changed and the al fresco permit is in the process of being renewed. It will be necessary to coordinate this with approval to the subject proposal in relation to the addition of a structure, seating arrangements / capacity and so on.

Given the advanced status of LPS 3 and the Foreshore Concept Plan and the location of the proposed structure on a prominent corner in the public domain, it is considered appropriate to issue a temporary approval initially so that Council can gauge the quality, effectiveness and any impacts of the proposal. This would also enable Council to take account of any future tenancy changes or uses that may occur at Il Lido and changes that may occur within the foreshore area.

## CONCLUSION

It is assessed that the proposal would support activity and vitality, provide user amenity and create visual interest for the premises and beachfront locality, without compromising public views or convenience, and that the minimalist design would match the aesthetic of the Mediterranean-type building and restaurant operation.

As the proposed structure is on Crown Land (road reserve) the application has been forwarded to the State Lands Division for consent on behalf of the Minister for Lands and this has been obtained.

## VOTING

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Walsh, seconded Cr Dawkins**

**That Council:**

**GRANTS temporary approval to the proposed shade structure for Il Lido restaurant at 88 Marine Parade, Cottesloe, as shown on the plans received on 3 November 2010, subject to the following conditions:**

- 1. This approval is valid for a period of three years from the date of the decision letter, whereby upon the expiration of that period the shade structure shall be entirely removed and the footpath shall be reinstated at the applicant's cost to the satisfaction of the Manager Engineering Services, unless prior to the expiry another approval has been applied for and granted by Council.**
- 2. Prior to the issue of a building licence, the applicant shall obtain a new Outdoor Eating Area Licence for the existing alfresco area to the satisfaction of the Principal Environmental Health Officer.**
- 3. The plans submitted for a building licence shall show full details of the height of the structure based on the applicant's submission, to the satisfaction of the Manager Development Services.**
- 4. The shade sail and blinds shall be designed, affixed and if necessary certified by a structural engineer to be suitable to withstand strong winds without causing a safety hazard.**
- 5. The blinds shall be visually permeable to the satisfaction of the Manager Development Services.**
- 6. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.**
- 7. The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.**

**Carried 9/0**

**11.1.2 NOS 1-3 BRIXTON STREET – THREE-STOREY MIXED-USE BUILDING  
(SIX OFFICES AND 13 RESIDENTIAL UNITS)**

**File No:** 2068  
**Attachments:** [SitePhotos.pdf](#)  
[ApplicantJustifLetter.pdf](#)  
[1-3BrixtonPlans.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** William Schaefer  
Planning Officer

**Proposed Meeting Date:** 06 December 2010  
**Author Disclosure of Interest:** None  
**Property Owners:** Mr B McMaster and Mr J Park  
**Applicant:** Matthews Architecture  
**Date of Application:** 25 October 2010  
**Zoning:** Town Centre R100 pursuant to TPS2,  
Amendment 44 and LPS3  
**Uses:** Offices and dwellings are AA uses requiring  
Council approval  
**Lot Area:** 1059m<sup>2</sup>  
**MRS Reservation:** Abuts Primary Regional Road reservation for  
Stirling Highway

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**SUMMARY**

The section of the Town Centre south of Jarrad Street is ripe for additional redevelopment and in recent years has attracted some proposals which, for various reasons, have not proceeded.

The subject property, under approvals granted to the previous owner, was partially excavated for a basement but development ceased and the hole in the ground has become a matter of some dispute with neighbouring owners.

The new owners, via their consultants and architects, have liaised extensively with officers to devise a suitable mixed-use development that does not require the excavation and will contribute to the locality. The parties are experienced in such projects and were involved in the nearby Vivian's Corner development.

The proposal represents a good opportunity to create an attractive new building, overcome the difficulties associated with the excavation and stimulate other redevelopment which would improve the Town Centre.

In terms of detailed design the application is seeking the following variations to Town Planning Scheme No. 2 (TPS 2), the Residential Design Codes (RDC) or Council's Policies:

- Building height;
- Primary street setback;



- Side setbacks;
- Carparking.

Each of these variations is discussed in this report, which refers to plans received on 25 October 2010.

Given the assessment that has been undertaken, it is recommended that the proposal be approved subject to conditions.

## **PROPOSAL**

The application is for a three-storey mixed-use building comprising six offices and 13 residential units on the subject site, which is currently vacant except for two traditional shops with frontage to Stirling Highway (Nos 583-585).

Having been the original Roads Board (council) office, the shops are of considerable local heritage significance and are listed in Category 2 on the Town's Municipal Inventory. It is intended to retain these buildings, with minor conservation works proposed. Council's Heritage Advisor is supportive of the proposal.

The new building will be constructed behind the shops, with frontage to and access from Brixton Street. It is not proposed to have vehicular access to Stirling Highway. The proposal comprises three storeys as follows:

### Ground Floor:

- 28 parking bays, accessed from Brixton Street
- Store rooms
- Two new offices with frontage to Brixton Street
- The retained shops at 583-585 Stirling Highway.

### First Floor

- Four new offices
- Five new residential units, one being a two bedroom and four being single bedroom.

### Second Floor

- Eight new residential units, three being two bedroom and five being single bedroom.

The building is of a flat roof, contemporary design that generally follows the unusual lot shape.

Two offices will face Brixton Street at ground level, with four more facing the street from the first floor. The second storey will comprise residential units. Whilst the building will look solid from Brixton Street, much of the site's centre will remain free of construction to facilitate the penetration of light and air.

A fairly large office building with under-croft parking exists immediately to the south of the subject site. At 11.85m high, this building is almost 2m taller than the proposed development.

## **BACKGROUND**

The property has a history of proposed redevelopment which did not proceed.

On 23 July 2001 Council approved a three-storey mixed-use development (10 residential units and 3 retail units). A series of modified proposals were made in September 2002, December 2003, March 2004, July 2004, July 2005 and December 2005 and despite subsequent approvals the development was not progressed beyond the excavation which has become a blight.

When the property was made available on the market the Town received several enquiries, with some prospective purchasers examining the development potential of the site in detail. The site was finally acquired by the current owners after considerable due diligence and development-concept liaison with Council officers. The result of this collaboration is a feasible, competently-prepared proposal which satisfies the planning requirements and will enhance the Town Centre.

## **STRATEGIC IMPLICATIONS**

Mixed-use developments in town centres and close to railway stations are encouraged by the WAPC in its *Directions 2031* metropolitan planning strategies and *Activity Centres* policy. The current Stirling Highway Activity Corridor Study (SHACS) also supports such development.

The proposal is consistent with Council's scheme objectives for the Town Centre locality and its outlook to encourage well-designed development as well as improve the public domain.

## **POLICY IMPLICATIONS**

Council's parking policies are relevant considerations.

## **HERITAGE IMPLICATIONS**

The pair of old shops at 583-585 Stirling Highway are classified as Category 2 on the Town's Municipal Inventory, which prescribes a high order of protection and conservation. It is proposed to undertake minor refurbishment / conservation works to the shops, but otherwise leave the buildings intact. The Town's Heritage Advisor is supportive of the upgrading of the heritage premises and their interrelationship / interface with the new building behind.

## **STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2

2010 Residential Design Codes (now with the Multi Unit Housing Code).

## **PROPOSED LOCAL PLANNING SCHEME NO. 3**

Proposed LPS3 continues the TPS2 Town Centre zoning and R100 density coding for the locality as well as similar land use and development requirements.

Amendment 44 also aligns TPS2 with LPS3. In this way the current and future planning parameters are essentially consistent.

For example, proposed LPS3 would allow a three-storey building of up to 11.5m in height, with which this application complies, and stipulates the same plot ratio of 1:1.15.

## **CONSULTATION**

Due to the highway lot frontage a technical referral to the Department of Transport was required, even though no new access is proposed and the heritage shops abut the regional road.

The DoT has raised no objection to the proposal as it does not directly affect the highway. The SHACS remains to be completed, with updates regarding any future road widening considerations or planning concepts to follow. Indications are that this would not affect the new building which is well set back from the highway at the rear of the historical shops. Furthermore, the heritage status of the shops is likely to exclude them from prevent them from consideration for road widening.

The DAT has, however, requested an advice note in this regard, plus recommended a requirement for direct pedestrian access between the new development and the Stirling Highway frontage.

All adjoining landowners were advised of the application and invited to view the plans. One written submission was received, which is summarised below:

### Finesse Corporation re Nos 31, 33 & 35 Jarrad Street

The submission claims that earthworks by the previous owners to 1-3 Brixton Street have resulted in subsidence of buildings on 31, 33 and 35 Jarrad Street, with the problem worsening despite corrective action being taken. It is further claimed that the Town of Cottesloe is responsible for ensuring that current problems are remedied and that no further subsidence occurs.

The Town has assisted in addressing this matter, which is between the submitter, the previous owner (who went into receivership) and subsequently the new owner. The current owner is acting responsibly by having the excavation filled as forward-works in preparation for the development.

The forward-works are being handled by a separate application under delegation, which is subject to a building licence in the normal manner. All the necessary and appropriate dilapidation reporting, engineering certification/supervision and construction methods will be attended to, thereby overcoming any concerns about the excavation for all parties.

The developer has already written to the submitter advising of this positive approach to resolving the matter. In addition, it is noted that a representative for the submitter has recently liaised with the Town to scope redevelopment options for the submitter's and neighbouring properties facing Jarrad Street in any case. The situation is not an impediment to determination of the proposed building development.

**APPLICATION ASSESSMENT****Areas of Non-Compliance**

| <b><i>Statutory Non-compliance</i></b>        | <b><i>Standard</i></b>           | <b><i>Proposed</i></b>     |
|---|----------------------------------|----------------------------|
| TPS 2 clauses 5.1.1 (a) & (c) Building Height | Controls over storeys & heights  | Three storeys & 10m height |
| Parking                                       | 31.65 (32) bays                  | 28 bays                    |
| <b><i>RDC discretionary provisions</i></b>    | <b><i>Required</i></b>           | <b><i>Proposed</i></b>     |
| Primary street setback                        | 2m (3 <sup>rd</sup> storey only) | Nil                        |
| Side setbacks                                 | 4m from each side boundary       | Nil                        |

**APPLICANT'S JUSTIFICATION**

The applicant has provided a detailed submission in support of the proposal (refer attached). The main points of the submission are as follows:

- The claims of the owners of 31,33 and 35 Jarrad Street regarding worsening subsidence are not supported by structural engineering reports which were undertaken as part of the due diligence process prior to the purchase of the property by the current owners.
- The remedial works (filling in of hole, compaction, removing of piling, etc) being undertaken will permanently stabilise the site, satisfying the concerns of Finesse Corporation and the Town of Cottesloe.
- The mix of one and two-bedroom residential units reflects the development's proximity to a railway station and an active town centre. The mix of unit types also reflects the preferences of a market that has been identified as likely to inhabit the development.
- Parking arrangements for the new building more than comply with the Town's requirements. A variation is sought on the basis of the existing shops being atypically unlikely to require the parking spaces deemed appropriate by the Scheme. It is also considered that the proximity of the shops to the railway station will lessen the need for parking.
- A variation to the upper-floor setback standard is requested on the basis that the presence of the shops has limited the space available for new development. In addition, the design imperatives of ventilation and access to northern light have pushed some walls towards the site boundaries.
- The proposed building would enhance the neglected streetscape and provide a catalyst for the further redevelopment of the area.

**STAFF COMMENT****Dwelling Density**

The 13 proposed dwellings accord with the allowable density.

RDC MUHC Acceptable Development Standard 7.4.3 A5.2 states that developments with more than 12 units shall comprise a maximum 50% one-bedroom dwellings and a minimum 40% two-bedroom dwellings. As the proposed development, which was designed before the MUHC was finalised and disseminated, does not meet these standards, it is necessary to consider the variation under the relevant Performance Criterion, which states:

*Each dwelling within the development is of a sufficient size to cater for the needs of residents. The development must provide diversity in dwellings to ensure that a range of types and sizes is provided.*

The applicant advises that the mix of one-bedroom and two-bedroom residential units reflects the proximity of the development to the coast, public transport and an active town centre, which would typically attract younger adult homebuyers, rather than families.

It is further pointed out by the applicant that the units have been individually well-designed to maximise access to light, ventilation and outdoor space.

#### **Plot Ratio**

Clause 3.4.2 (b) of TPS 2 allows for a plot ratio of 1:1.15. Based on a total lot area of 1059m<sup>2</sup>, a maximum plot ratio of 1218m<sup>2</sup> is allowable. Figures provided by the applicant show a plot ratio of 1217m<sup>2</sup>, correctly including the existing shops at 583-585 Stirling Highway.

#### **Non-Residential Plot Ratio**

The applicant's figures for the non-residential component appear to have been calculated correctly as per the definition in TPS2 which states:

*... in calculating the ratio of the gross total of the areas of all floors the areas shall be measured over any walls provided that lift shafts, stairs, toilets and amenities, external wall thicknesses, plant rooms and gross floor area of any floor space used for the parking of wheeled vehicles including access to and from that space within the building shall not be included.*

#### **Residential Plot Ratio**

The plot ratio of the residential component of this design is calculated under the definition provided by the RDC which states:

*Such areas shall include the area of any wall but not include the areas of any lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides.*

It has been discerned that the outdoor living areas of Apartments 5 and 6 have erroneously been excluded from Plot Ratio calculations. Hence the total plot ratio of 1218m<sup>2</sup> appears to have been slightly exceeded by approximately 8m<sup>2</sup>. This has been discussed with the applicant who is confident that compliance can be achieved at Building Licence plans stage, when precise details of service ducts, conduits, air

conditioners, etc is supplied and an accurate plot ratio can be calculated. This approach is considered satisfactory and a condition has been devised to suit.

### Parking & Bicycle Spaces

|  | <b>Assessment Standard</b>   | <b>Required</b>        | <b>Provided<br/>(applicant's<br/>calculations<br/>based on 2008<br/>RDC)</b> |
|--|--|------------------------|--|
| <b>Office component</b><br>336m <sup>2</sup> office space  | TPS2 Table 2:<br><br>1 space per 40m <sup>2</sup> GFA  | 8.4 bays               | 10 bays  |
| <b>Residential Component A</b><br>2 x units of greater than 75m <sup>2</sup> within 800m of a train station or high-frequency bus route. | RDC MUHC 7.3.3 A3.1:<br><br>2 x 1 bay  | 2 bays                 | 6 bays   |
| <b>Residential Component B</b><br>11 units of less than 75m <sup>2</sup> within 800m of a train station or high-frequency bus route.     | RDC MUHC 7.3.3 A3.1:<br><br>11 x 0.75 bays   | 8.25 bays              | 10 bays  |
| <b>Visitor Parking</b><br>0.25 bays per dwelling.  | RDC MUHC 7.3.3 A3.1:<br><br>13 x 0.25 bays   | 3.25 bays              | Not dedicated yet included in overall provision                              |
| <b>Existing heritage building on highway</b><br>150m <sup>2</sup> of retail space.   | TPS2 - Table 2:<br><br>6.5 bays per 100m <sup>2</sup> GFA  | 9.75 bays              | 2 bays   |
| <b>Total bays</b>  |  | <b>31.65 (32) bays</b> | <b>28 bays</b>   |
| <b>Bicycle spaces</b><br>13 Dwellings  | RDC MUHC 7.3.3 A3.2:<br><br>1 space per 3 dwellings<br>+ 1 space per 10 dwellings for visitors.<br><br>4.3 spaces + 1.3 spaces | 5.6 (6) spaces         | 6 spaces   |

Although the proposal provides substantial on-site, secure, parking a shortfall of four bays has been identified overall. While the parking requirements for the new building

have been satisfied, the shortfall arises from the 9.75 bay requirement for the existing smalls shops (a cycling boutique and beauty salon).

The applicant considers that the fringe location, restricted access and secondary-retail nature of these shops renders the parking requirement excessive. This view is supported in recognising the pattern of patronage of these shops and that customers park nearby then walking to them.

The applicant also notes that were the heritage building used as office space instead of retail in future, which is considered likely, the parking requirement would be reduced by at least five bays and hence satisfy the Scheme.

Council on 23 July 2001 approved a parking shortfall of at least two bays for the 10 residential units and 3 shops proposed for this site at that time having regard to based TPS 2 clause 3.4.2. (c) (ii). This supports the notion that the heritage shops require fewer parking bays.

The overall parking variation may be addressed by Council as follows:

1. Apply clause 3.4.2 (c) (ii) which provides: *In assessing the number of parking bays required for a development containing multiple uses the Council may have regard to the likely use pattern of the various components of the development, in particular the likely maximum use of the development at any time.*
2. Apply the cash-in-lieu provisions.
3. Impose a condition that the existing shops be used for offices only

The parking provision, including cycle spaces, for the new offices and residential units is more than compliant, and visitor parking may be either designated or augmented by general public parking in the vicinity – reliance on the later is considered feasible as experience has shown that visitor parking within secure parking areas of developments is impractical.

Reduction of the parking requirement for the existing shops is technically plausible given their remoteness, the absence of direct front vehicular access via the highway and the available pedestrian access. However, it would penalise the current tenants to either physically reduce their parking supply as proposed or to effectively cause their eviction by requiring conversion to office use. In view of the inevitable reduction in parking dedicated to those shops by the development, cash-in-lieu would compensate by contributing to the provision of additional parking generally for the benefit of Town Centre occupiers and users, unless Council was inclined to waive that in this instance.

### **Building Height**

Under TPS2 clause 5.1 (a), while there is no number of storeys height provision specific to the Town Centre zone, the General Policy states that Council *favours low rise development of no more than two storeys* but also allows for discretion: *Council may consider the circumstances and merits of each case in terms of amenity and development control provisions of this Scheme.* Hence in the Town Centre the practice and trend has been for buildings of up to three-storeys as a suitable scale, which has been constrained by smaller sites and upper-level setbacks in any case.

In recent years Council has approved several three-storey buildings in the Town Centre, including 85 Forrest Street (9.6m), Vivian's Corner (11.3m) and 1 Station Street (9.0m), as well as the semi-undercroft plus two-storey offices at 589-591 Stirling Highway adjacent to the subject site with a height of approximately 11.85m.

The proposed development is three storeys with a maximum height of 10 to the parapet for the flat roof design, which is consistent with the locality. Under LPS3, buildings in the Town Centre would be permitted to be 11.5m in height, whereby the proposal is relatively modest.

### **Setbacks**

Under TPS2 clause 5.3 (a), commercial building walls up to 6m in height may be constructed on site boundaries and this is common in the Town Centre. The second storey of the proposed building complies with this requirement.

As the third floor of the building is exclusively for residential use it is assessed under clause 5.4 (a) *Combined Residential/Business Development*, which states:

*The residential component of the building shall be built in accordance with the RDC....*

### **Primary street setback (Brixton St)**

The RDC Acceptable Development Provision 7.1.3 A3.1 prescribes a primary street setback of 2m, whereas a nil setback to the primary street is proposed for the upper floor. It is therefore necessary to assess the variation under the MUHC (7.1.3 P3 of the 2010 RDC), which states:

*Buildings are set back from street boundaries an appropriate distance to ensure they:*

- *Contribute to the desired streetscape;*
- *Provide articulation of the building on the primary and secondary streets;*
- *Allow for minor incursions that add interest and reflect the character of the street without impacting of the appearance of bulk over the site;*
- *Are appropriate to its location, respecting the adjoining development and existing streetscape; and*
- *Facilitate the provision of weather protection where appropriate.*

The applicant advises that, because the building has been setback 17m from Stirling Highway due to the heritage shops and there is a need for the design to maximise northern light and ventilation on the elongated lot, some external walls have of necessity been located towards the site boundaries in order to create internal space.

At the same time the building will contribute to the streetscape by occupying a vacant site.

The articulation of the façade with its carefully-arranged recesses addresses the effect of building bulk and the development will face an open railway reserve rather than buildings opposite.



**Side Setbacks**

The Acceptable Development Standards of the RDC MUHC (7.1.4 A4.2) require an upper floor setback of 4m from each side boundary, whereas nil is proposed. It is therefore necessary to assess the variation under Performance Criterion 7.1.4 P4.1 *Side and Rear Boundary Setback*, which states:

*Buildings set back from boundaries or adjacent buildings so as to:*

- *Ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;*
- *Moderate the visual impact of building bulk on a neighbouring property;*
- *Ensure access to daylight and direct sun for adjoining properties; and*
- *Assist with the protection of privacy between adjoining properties.*

The applicant advises that the adjacent building at 589-591 Stirling Highway (south of) is set back 3m from the boundary, and will retain access to sunlight and ventilation. Under the RDC MUHC there is no overshadowing limit for areas with density codes of R60 or greater.

The full-height wall on the southern boundary occurs for two-thirds of the 52m long boundary, with the remainder free of development, and the height of the new building will be approximately 1.5m less than its southern neighbour, hence the effects of building bulk are considered acceptable.

Privacy has been carefully considered in the design of the new building, which does not generate any overlooking. Under the RDC MUHC there is no requirement for privacy standards to be observed in areas with density codings of R60 or greater.

There is no objection to the building per se or its design from any of the adjoining property owners.

**Outdoor Living Areas**

The RDC MUHC Acceptable Development Standard 7.3.1 A1 contemplates balconies or their equivalents for each unit accessed directly from a habitable room, with a minimum area of 10m<sup>2</sup> and minimum dimension 2.4m. As not every balcony or equivalent appears to meet these standards, it is necessary to consider the variations under RDC MUHC Performance Criterion 7.3.1 P1, which states: *Outdoor living areas capable of use in conjunction with a habitable room of each dwelling and if possible to winter sun.*

The applicant advises that the earlier version of the RDC under which the units were originally designed prescribed minimum balcony areas of 4m<sup>2</sup> and minimum dimensions of 1.5m, which was comfortably exceeded by all of the proposed balconies. Accepting this, and as each balcony meets the requirement of being accessed from a habitable room, they may be supported under the Performance Criterion.

**CONCLUSION**

The proposal is considered a welcome addition to and enhancement of the Town Centre, especially for the underdeveloped precinct south of Jarrad Street.

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The scale and design of the proposal is consistent with the relevant planning parameters and the variations are assessed as acceptable having regard to the performance criteria. The aesthetic is compatible with this part of the Town Centre and the locality. A mixed-use development is to be encouraged in accordance with local and regional planning objectives and a supply of both local office suites and residential units is desirable and will address demand.

Therefore, approval is recommended with appropriate conditions.

**VOTING**

Simple Majority

**COMMITTEE COMMENT:**

Committee was pleased to see a good-quality and compliant architectural design for the site and this sector of the Town Centre. Clarification was requested regarding the specifics of condition (n) in relation to the plans, which officers and the architect undertook to attend to for advice to Council in order to finalise the details, which would then be confirmed in the building licence plans. The provision of ample bike racks was commended.

Committee also suggested to officers that the informal traffic and parking occurring at the southern end of Brixton Street may need to be tidied-up in order to avoid any conflicts due to the proposal and future development in the area. This is a matter for the Town rather than the subject applicant and is to be further considered.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Walsh, seconded Cr Dawkins

That Council:

GRANT its Approval to Commence Development for the proposed Three-Storey Mixed-Use Development (13 Residential Units and 4 Offices) at 1-3 Brixton Street, Cottesloe, as per the plans dated 25 October 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
- (b) The external profile of the development as shown of the approved plans shall not be changed, whether by addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.
- (c) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged into the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (d) The roof surface shall be treated to reduce glare if following completion of the development Council considers that glare adversely affects the amenity of adjoining or nearby neighbours.
- (e) Air conditioning plant and equipment shall be located closer to the proposed building than the adjoining buildings, and housed or treated to ensure that

- sound emissions do not exceed the levels prescribed in the Environmental Protection (Noise) Regulations 1997.
- (f) The new non-residential units shown on the plans shall be used for office purposes only and any future proposed change of use shall require a planning application to and approval by the Town.
  - (g) The finish and colour of the boundary walls shall be to the satisfaction of the Manager Development Services.
  - (h) Signage does not form part of this approval any future proposed signage requires an application to and approval by the Town.
  - (i) Prior to construction of the new crossover to the property on Brixton Street, an application in accordance with the Town's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer.
  - (j) The redundant crossover on Brixton Street shall be removed and all surfaces shall be made good at the landowner's expense, to the satisfaction of the Manager Engineering Services.
  - (k) Where development involves the protection, pruning, removal or replacement of street trees, the landowner shall comply with the Town of Cottesloe Policies and Procedures for Street Trees (February 2005).
  - (l) The species of any proposed verge tree requires prior approval by the Town and shall be planted with sufficient root barriers, to the satisfaction of the Manager Engineering Services.
  - (m) The landowner shall make an agreed contribution to the upgrading of the footpath adjacent to the development, to the satisfaction of the Manager Engineering Services.
  - (n) At Building Licence stage revised plans shall be lodged showing the following:
    - (i) Each dwelling shall have a dedicated laundry facility with a minimum floor area of 3m<sup>2</sup> and minimum width of 1.5m, and each dwelling shall have adequate clothes drying facilities.
    - (ii) Details of the proposed bin store area, for approval by the Town's Environmental Health Department.
    - (iii) Provision of a convenient and safe pedestrian access link with Stirling Highway for residents of the proposed dwelling units, to the satisfaction of the Manager Development Services.
  - (o) Remedial site works such as fill, compaction and the removal of existing shoring shall be conducted under the supervision of structural engineers, as per the detail provided in the application lodged on 24 November 2010.

Carried 7/0

**COMMENT**

Cr Boland spoke in favour of the proposal and recommendation and referred to some concern with the adjoining site and the possible need for dilapidation reports as a condition of approval. The Manager Development Services advised that such reports are usually included as part of the Building Licence process as required, however Council could choose to include an "Advice Note" to its resolution to that effect.

**AMENDMENT**

Moved Cr Boland, seconded Cr Cunningham.

That an advice note be added that: The applicant is advised that at building licence stage any necessary dilapidation reporting may be required to the satisfaction of the Town.

Carried 9/0

**COUNCIL RESOLUTION**

That Council:

**GRANT** its Approval to Commence Development for the proposed Three-Storey Mixed-Use Development (13 Residential Units and 4 Offices) at 1-3 Brixton Street, Cottesloe, as per the plans dated 25 October 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
- (b) The external profile of the development as shown of the approved plans shall not be changed, whether by addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.
- (c) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged into the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (d) The roof surface shall be treated to reduce glare if following completion of the development Council considers that glare adversely affects the amenity of adjoining or nearby neighbours.
- (e) Air conditioning plant and equipment shall be located closer to the proposed building than the adjoining buildings, and housed or treated to ensure that sound emissions do not exceed the levels prescribed in the Environmental Protection (Noise) Regulations 1997.
- (f) The new non-residential units shown on the plans shall be used for office purposes only and any future proposed change of use shall require a planning application to and approval by the Town.

- (g) The finish and colour of the boundary walls shall be to the satisfaction of the Manager Development Services.
- (h) Signage does not form part of this approval any future proposed signage requires an application to and approval by the Town.
- (i) Prior to construction of the new crossover to the property on Brixton Street, an application in accordance with the Town's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer.
- (j) The redundant crossover on Brixton Street shall be removed and all surfaces shall be made good at the landowner's expense, to the satisfaction of the Manager Engineering Services.
- (k) Where development involves the protection, pruning, removal or replacement of street trees, the landowner shall comply with the Town of Cottesloe Policies and Procedures for Street Trees (February 2005).
- (l) The species of any proposed verge tree requires prior approval by the Town and shall be planted with sufficient root barriers, to the satisfaction of the Manager Engineering Services.
- (m) The landowner shall make an agreed contribution to the upgrading of the footpath adjacent to the development, to the satisfaction of the Manager Engineering Services.
- (n) At Building Licence stage revised plans shall be lodged showing the following:
  - (i) Each dwelling shall have a dedicated laundry facility with a minimum floor area of 3m<sup>2</sup> and minimum width of 1.5m, and each dwelling shall have adequate clothes drying facilities.
  - (ii) Details of the proposed bin store area, for approval by the Town's Environmental Health Department.
  - (iii) Provision of a convenient and safe pedestrian access link with Stirling Highway for residents of the proposed dwelling units, to the satisfaction of the Manager Development Services.
- (o) Remedial site works such as fill, compaction and the removal of existing shoring shall be conducted under the supervision of structural engineers, as per the detail provided in the application lodged on 24 November 2010.

**Advice notes:**

The applicant is advised that at building licence stage any necessary dilapidation reporting may be required to the satisfaction of the Town.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 9/0**

**11.1.3 NO. 151 MARINE PARADE – NORTH COTTESLOE SURF LIFE SAVING CLUB – PROPOSED LANDSCAPING, DUAL-USE PATHWAY AND NEW ACCESS TO BEACH**

**File No:** 2105  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 6 December 2010

**Author Disclosure of Interest** Nil  
**Property Owner** Crown  
**Applicant** NCSLSC  
**Date of Application** 24 November 2010  
**Zoning:** N/A  
**MRS Reservation:** Parks & Recreation

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**BACKGROUND**

Council on 14 December 2009 considered a planning application for alterations and additions to the NCSLSC on both the ground and below-ground floor levels and resolved:

*That with respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on the revised plans date-stamped received 9 December 2009 and labelled as Option B, advises the WAPC that the application, incorporating an extension to the lease boundary, is SUPPORTED...(subject to conditions and advice notes).*

Following subsequent referral by the Town, the WAPC approved the application on 3 May 2010 subject to conditions and advice notes, the most relevant to this application being as follows:

- *a landscape and revegetation plan is to be prepared to enhance the visual amenity and contribute to the ecological integrity of the area, to the satisfaction of the WAPC. This should address the following:*
  - (i) *the grassed area to the north of the existing Club above the proposed addition, being reinstated/planted, reticulated and mulched as required and maintained in good condition thereafter, to the specification of the Town of Cottesloe; and*
  - (ii) *the surrounding dunal system, with weeds being removed and native dunal species being reinstated, and any necessary dune reinstatement or rehabilitation being undertaken at the cost of the Club to the specification of the Town of Cottesloe;*
- *the dual-use path abutting and to the north of the proposed development is to be repaired, upgraded, widened and realigned to ensure adequate sightlines*

*that will reduce the risk of collision between users of the dual-use path and users of the Club's facilities, as illustrated in Option B of the environmental assessment submitted with the application. Such works shall be carried out to the specification of the Town of Cottesloe in conjunction with the Cycling Infrastructure section of the Department of Transport and to the satisfaction of the WAPC, and completed prior to occupancy of the new development, at the cost of the Club;*

- public access to North Cottesloe Beach is not to be prevented during construction of the proposed development, nor prevented due to the alterations and additions to the Surf Life Saving Club; and*
- an urban water management plan is to be prepared for the development site and the surrounding area to ensure water-sensitive urban design best management practices are upheld.*

Advice to applicant (from WAPC)

- The applicant shall submit a comprehensive Construction Management Plan to the satisfaction of the Town of Cottesloe's Manager of Development Services prior to the issue of a building licence by the Town. This shall address the impact of construction on the public domain and nearby properties, including but not limited to: public access and safety, the beach (including dunes and vegetation), footpath, dual-use path, lawn, road reserve, construction vehicle parking, rubbish stockpiling and removal, materials and equipment storage and security, windblown dust/debris, noise and hours/days of construction activity;*
- the WAPC favours 'Option B – Boardwalk' path realignment proposal as presented by Ecoscape, as this option includes a wider area in front of the development and does not require dune stabilisation measures. With respect to this, a railing is required to prevent users falling over the edge, the surface of the boardwalk will need to be non-slip, the actual boardwalk width will need to be a minimum 3.5metres, and the realignment will need to extend to the north sufficient to improve sightlines for cyclists travelling south; and*
- the Coastal Infrastructure Business Unit of the Department of Transport advises that the Surf Life Saving Club is considered to be currently vulnerable to coastal processes and this vulnerability will increase over a 100 year timeframe. The Club is advised to consider medium to long term options to manage the risk of damage to their building from coastal processes.*

The current planning application shows the proposed landscaping, dual-use pathway and a new beach access.

Two other applications associated with this site (for development within the proposed lease boundary and finalisation of the road closure) are reported separately in this agenda, for a complete picture of the proposals for the overall site and their interrelationships.

The proposed development affects land reserved under the Metropolitan Region Scheme (MRS) for Parks and Recreation and therefore the application is to be determined by the WAPC, having regard to Council's recommendation.

These plans are submitted for preliminary consideration by Council at this stage prior to advertising and making a recommendation to the WAPC. This is in order to coordinate understanding and determination of all three applications submitted.

This report refers to a plan prepared by Ecoscape (Dwg No: DD01 - Rev D) and 3 photographs, stamped received on 24 November 2010.

## **PROPOSAL**

To consider landscaping, a dual-use pathway and new beach access adjoining and associated with the NCSLSC proposed redevelopment, but predominantly outside the proposed new lease boundaries for the Club.

## **CONSULTATION**

Advertising prior to reporting is generally required for this type of proposal in accordance with Council's Policy for community consultation. However, given the late submission of this proposal by the applicant and the significant changes proposed within the public domain compared to the previous proposal (ie, inclusion of a new beach access), it is considered appropriate for initial consideration by Council then to undertake advertising and report to the February meetings for a decision.

## **PLANNING COMMENT**

The previous report considered by Council on 14 December 2010 and the approved plans are attached. These should be read for a full appreciation of the strategic and statutory planning considerations affecting development on this site. In view of Council's decision to support the planning application referred to the WAPC last December, the detail of these aspects is not repeated herein, albeit that the extent of the works has been increased.

The proposed new beach access directly in front of the NCSLSC was not included in the previous application to Council so is addressed separately in this report.

The proposed works are external to the existing and proposed lease boundaries of the NCSLSC, extending approximately 70m to the north of the existing boundary.

The planning considerations regarding this application are as follows:

### Proposed landscaping

The plans submitted show a combination of grass (roll-on turf), concrete paths (exposed aggregate), mass-planting (on proposed western slope to grassed area), stairs (concrete with tactile indicators) and associated retaining walls.

These are extensive works proposed by the NCSLSC which should assist in beautifying the current open space.



The Manager Engineering Services is generally supportive of the proposed landscaping but has made the following comments:

*The upgrading proposed for the northern lawn will require the existing surface reticulation and the underground drainage system (including large Gross Pollution Traps) to be removed and relocated at the Club's cost; and*

*The new development will increase Council's maintenance costs for the more complex lawn and wall layout.*

As Council has not budgeted for these new works within the public reserve the applicant should be required to fund the works in full, however, the on-going maintenance of the area will be Council's responsibility (unless it seeks a contribution arrangement with the Club).

#### Dual-use pathway realignment

With respect to the pathway, Council on 19 December 2009 resolved:

*That the proposed development shall be redesigned to ideally avoid any impact on, or at least to minimise the necessity for realignment and reconstruction of, the dual-use path. The details of the redesign shall be shown on revised plans to the satisfaction of the Manager Development Services. Any works affecting the dual-use path shall be done to the specification and satisfaction of the Town of Cottesloe, and completed prior to occupancy of the new development, at the cost of the Club, including any repair or upgrading of the dual-use path generally as a result of the proposed development. In addition, any necessary dune reinstatement or rehabilitation shall be undertaken at the cost of the Club to the specification and satisfaction of the Town of Cottesloe*

Prior to this Council resolution the NCSLSC had organised an Environmental Assessment Report by Ecoscape (Australia) Pty Ltd (dated September 2009) to examine the potential impacts of redevelopment of the Clubhouse on the surrounding environment. Constraints and opportunities identified in the report are summarised below with specific reference to the proposed dual-use path:

*The extension of the Surf Club will require the adjacent pathway to be realigned. The current concrete pathway is old, cracked and has an inconsistent slope. An opportunity exists to improve the amenity of the section of the pathway adjacent to the NCSLSC building by replacing it with one that is both more enjoyable to the public and more functional for the environment.*

*Two options for realignment have been identified that may protect the dunal system: Option A - Limestone Reinforcement and Option B – Boardwalk.*

#### Option A

*Proposes realigning the concrete path around the proposed building whilst minimising the path radius as much as possible to reduce impact on the dune.*

*Dune stabilisation will be required as the dune slope cannot be increased and the adjacent dune cannot be repositioned closer to the ocean.*

*Limestone rocks are recommended for the dune stabilisation as they naturally occur along the coast and will assist in maintaining coastal character.*

*Option B*

*Dune stabilisation will not be required with this option as the boardwalk substructure allows the dune form and slope to be maintained. The dune can remain beneath the boardwalk allowing native vegetation to grow beneath and through the boardwalk surface.*

*A large area in front of the proposed building is provided in this option, allowing for a potentially iconic open space if designed appropriately, which could include a wider boardwalk area, seating benches and lookout.*

*Construction of either pathway will not impact on the existing native vegetation as this section of dune is highly-infested with weeds and contains only a few native plants. The pathway should also comply with the Town's Streetscape Policy and Manual.*

*Report conclusion*

*No unavoidable impacts on the native and social environment were found.*

*Specific constraints need to be imposed on the proposed redevelopment of the NCSLSC to ensure that the natural and social environment is not disturbed.*

*The proposed development offers several unique opportunities that may improve these values.*

*Strong collaboration will be required between the NCSLSC, the Town and other stakeholders to maximise these prospects. Such stakeholders could include: Cottesloe Coastcare Association, the owners of the Blue Duck and Barchetta Café, and other members of the public.*

The proposed location of the dual-use path is similar to that previously shown in the Environmental Report submitted by Ecoscape. It is considered most practical to enable suitable access to the proposed undercroft area for the Club and to achieve the necessary access gradient for people with disabilities.

However, a boardwalk was clearly the preferred option given to the applicant from the WAPC (see Background above), as it required no dune stabilisation, etc. It is also the preferred option of Coastcare.

The Manager Engineering Services has expressed a similar opinion:

*The new alignment for a flatter (concrete) dual-use path will cut into the dune and result in increased blown sand on the path needing regular removal and will*

*require heavy work to ensure the dune area is densely planted to prevent loose sand movement.*

On balance, whilst a concrete path is the preferred option of the NCSLSC, which is more likely to cause greater disturbance of the existing dune ecology where it may be most vulnerable and to result in higher ongoing maintenance costs for Council. As such, the boardwalk shown as Option B in the report by Ecoscape (see attached) for a portion of the new path is still considered preferable and is to be provided at the applicant's cost.

#### New Beach Access

A new beach access (concrete steps) and decking is proposed directly outside the NCSLSC to assist in providing direct access for Club members to and from the beach, and presumably to create less conflict between the public and Club members using the existing ramp (which is also proposed to be partially painted in Club colours).

This access was not proposed in the original planning application to Council and is not identified in the Council's Foreshore Concept Plan. The practicality of adding such a structure to an area vulnerable to widespread coastal erosion and potential sea level rise is also questionable.

The Manager Engineering Services has commented:

*The new steps will probably give Council major maintenance issues regarding undercutting from beach erosion due to storms and eventual sea level rise. This has been demonstrated for years with erosion around the ramp. The steps must be designed to prevent undercutting by erosion, needing deep footings.*

The Ecoscape Report submitted previously by the applicant did not have regard to this proposal for new concrete steps running perpendicular to the beach from the Club. Prior to this proposal being decided-upon, further investigation at the applicant's cost should be carried-out regarding the potential impact on the dunes.

The general policy measures referred to in the State Government's Coastal Planning Policy No. 2.6 make several references to works proposed in the public interest, including:

*The provision of public access to the coast that is consistent with the values and management objectives of the area including the interests of security, safety and protection of coastal resources, as well as recreational opportunities, both on and off-shore, of that section of coast.*

Council's Beachfront Objectives (December 2004), whilst not permitting any further built structures for commercial use west of Marine Parade, expresses Council's objective to improve pedestrian links down to the beach, and Council's Future Plan recognises that:

*The natural and built environment amenity of the beachfront precinct is a delicately-balanced combination of coastal care and sensitive development and access to the beach must be carefully managed in order to avoid environmental degradation....*

In summary, it is difficult to consider this access proposal as part of the NCSLSC's redevelopment plans and is preferable to consider the suitability and location of any new access as part of the Council's Foreshore Concept Plan process, which has already identified various potential beach access points.

## **CONCLUSION**

This report provides background for Council to give feedback to the applicant prior to advertising the application and making a recommendation to the WAPC. The application is complex from a strategic planning viewpoint. It is acknowledged that the Club aims to improve facilities for members and the public. At the same time, the coastal processes that may affect development in this locality and concerns previously raised by neighbouring residents also need to be taken into account.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT:**

Committee was supportive of the overall landscaping concept to upgrade the area and address the dunes, subject to the provisos set out in the recommendation. There was general consensus that the beach access steps (as deleted) require further consideration, including whether the construction should be concrete or other materials such as a suspended design of aluminium or even recycled materials.

## **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Walsh, seconded Cr Dawkins**

**That Council:**

**With respect to the proposed landscaping, dual-use pathway and new beach access adjoining the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on the plans (Drawing No: DD01-Rev D) and photographs date-stamped received 24 November 2010, advise the applicant that the application shall first be advertised before being further considered by Council for a recommendation to the WAPC, subject to the following matters being addressed to the satisfaction of the Manager Development Services:**

- (1) Revised plans shall be submitted showing a boardwalk for a portion of the proposed dual-use path as indicated in 'Option B' of the report submitted by Ecoscape, as that option does not require dune stabilisation measures;**
- (2) The proposed new beach access shown perpendicular to the Clubrooms shall be deleted from the application and all beach access proposal shall be considered as part of Council's Foreshore Concept Plan process; and**
- (3) Confirmation that all the proposed works shown on the submitted plan to be carried-out within the public domain shall be at the applicant's cost, as Council has not budgeted for such works.**

**Carried 9/0**

**11.1.4 NO. 151 MARINE PARADE – ALTERATIONS AND ADDITIONS TO NORTH COTTESLOE SURF LIFE SAVING CLUB (INCLUDING NEW CHANGES TO LEASE BOUNDARY) – FURTHER REVISION**

**File No:** 2106  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 6 December 2010

**Author Disclosure of Interest:** Nil  
**Property Owner:** Crown (leased to NCSLSC)  
**Applicant:** NCSLSC  
**Date of application:** 22 November 2010  
**Zoning:** N/A  
**MRS Reservation:** Parks & Recreation

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**BACKGROUND**

Council on 14 December 2009 considered a planning application for alterations and additions to the NCSLSC on both the ground and below-ground floor levels and resolved:

*That with respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on the revised plans date-stamped received 9 December 2009 and labelled as Option B, advises the WAPC that the application, incorporating an extension to the lease boundary, is SUPPORTED...(subject to conditions and advice notes).*

Following subsequent referral by the Town, the WAPC approved the application on 3 May 2010, subject to conditions and advice notes.

The NCSLSC has now submitted another planning application showing changes to the proposal.

Two other applications relevant to this site (for works outside the proposed lease boundary and finalisation of the road closure) are reported-on separately in this agenda.

**PROPOSAL**

The current proposed alterations and additions are shown on Drawings Nos:

DA01 - Option J  
DA02 - Option J  
DA03 - Option J  
DA06 - Option J  
DA07 - Option J  
DA08 - Option J

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Based on the submitted plans, the proposed development is summarised below, together with the previous submission details for comparison:

### MARINE PARADE LEVEL

| <b><i>Previous Proposal (Dec 09)</i></b>   | <b><i>Current Proposal (Nov 10)</i></b>   |
|--|---|
| 33m <sup>2</sup> extension to existing balcony on western elevation (within current lease boundary).   | No change in area, although existing stairs are to be removed to create a continuous balcony.   |
| New stairs to replace existing on western elevation (requires approx. 4m <sup>2</sup> extension to lease boundary).  | New enclosed stairs to be constructed on northern end of proposed balcony extension (requires approx. 6m <sup>2</sup> extension to existing lease boundary).  |
| Extension to northern end of existing building and fronting Marine Parade to incorporate new public and staff entry, offices, training room, toilets and bin enclosure (includes approx. 200m <sup>2</sup> extension to lease boundary). | Similar, but overall area of addition has increased by approximately 14m <sup>2</sup> (extended to existing northern lease boundary and area of existing courtyard has been slightly decreased). Internal layout has been reconfigured to incorporate new public and staff entry, offices and meeting room, toilets and bin enclosure and new bin collection area (requires extension to lease boundary, as previously supported by Council). |
| n/a  | New north-facing walls/glass screen, stackable gates and BBQ recess area to existing courtyard.   |
| 3 designated on-street parking bays supported by Council and approved by WAPC on 3 May 2010.   | 5 on-street parking bays shown as originally proposed by applicant in December 2009 application.  |

### BELOW-GROUND LEVEL

| <b><i>Previous Proposal (Dec 09)</i></b>  | <b><i>Current Proposal (Nov 10)</i></b>   |
|---|---|
| Extension to northern end of existing building to incorporate new storage area (109m <sup>2</sup> ), gymnasium, training facilities and refurbishment of existing toilets (requires approximately 400m <sup>2</sup> extension to lease boundary). | Similar, but overall area of addition has increased by approximately 27m <sup>2</sup> westwards (including new stairs), originally-proposed store and gym have been replaced by a board and ski storage area with direct access to/from the dual-use path, and larger, reconfigured male and female toilets are proposed.<br><i>(NB: The proposed extension of the lower level westwards is more similar to 'Option A', which was not the preferred option as decided by the DSC and Council in December 09 and was subsequently modified by the applicant to 'Option B', in order to retain the line of the existing path and to create an</i> |

|  |   |
|--|---|
|  | <i>external paved area to the path which allows for more flexibility in design to accommodate existing levels and improve traffic circulation at the entrance to the new extension – refer letter from applicant dated 9/12/09 attached).</i> |
| Conversion of existing gymnasium to storage for surf life-saving equipment (on completion of above works). | Existing gym layout to be modified; new utility room; junior trailers and gear; patrol room; first-aid room; and modified boat shed.  |
| Relocation of dual-use path (required to facilitate proposed stairs).                                      | Minor modification to existing path required to allow for new west-facing balcony location and new stairs ( <i>NB: applicant proposes more substantial change to path alignment, as discussed in separate report in this agenda</i> ).        |

### PLANNING COMMENT

The previous report considered by Council on 14 December 2010 and the approved plans are attached. These should be read for a full appreciation of the strategic and statutory planning considerations affecting development on this site. In view of Council's decision to support the planning application referred to the WAPC last December, the detail of these aspects is not repeated herein, albeit that the design has been modified.

The external appearance of the proposed upper-level northern extension is similar to that previously approved in terms of overall height, curvature, design, improvement to visual amenity along Marine Parade and so on, with a small (0.5m) increase in the length of the building to extend it to the existing northern lease boundary.

The northern and western elevations have the most significant visual changes due to the new façade treatments, relocated of stairs and extended balcony area. There is no planning objection to these changes.

The proposed additions at the Marine Parade level are within the existing lease boundary, whereas the below-ground additions require the lease boundary to be modified and extended. The latter was previously supported by Council on 28 September 2010 (refer to partial road closure) in accepting the design changes sought by the applicant.

The original approval conditions remain relevant, particularly the maximum number of on-street parking bays Council is prepared to allocate to the Club and that the proposed planter boxes to be located within the new lease area rather than over the footpath.

The proposed extension of the below-ground floor westward is of concern, as it would necessitate more significant relocation of the dual-use path and is inconsistent with the changes previously agreed by the applicant and supported by Council as Option B. It would also result in more risk to the building and path due to coastal erosion and may be more disruptive to the dunes.

**VOTING**

Simple Majority

**COMMITTEE COMMENT:**

Committee acknowledged the design improvements and sought clarification regarding the underground component, external staircase and western balcony. It was explained that the underground extension would be setback from the dual-use path and concealed by the landscape elements. The relocated staircase would avoid intrusion into the dual-use pathway, would be no higher than single storey when seen from Marine Parade (ie consistent with the existing club premises) and would be a transparent corner element viewed from the beach. The balcony would become streamlined in cohesion with that to the Blue Duck restaurant portion of the existing building.

Mr Jackson commented that the existing shade sail (which is in the club's colours) may appear less in-keeping with the modern design of the addition if kept and shifted westward. He also mentioned that the detail of the intended specialised fibreglass surface to the section of the dual-use path in front of the club building would need to be provided to the Town. Mr Smith-Gander and the consultants agreed to further consider these aspects with the Town for confirmation and agreement at building licence stage.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Walsh, seconded Cr Dawkins

That Council:

With respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on plans date-stamped 24 November 2010 and labelled as Option J, advise the WAPC that the application, incorporating an extension to the lease boundary, is SUPPORTED, subject to the following conditions and advice notes:

- (i) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (ii) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written approval of Council and the WAPC.
- (iii) The proposed amendment to the existing lease boundary is required to be approved by the Crown prior to commencement of development within the affected area.
- (iv) The proposed planter boxes along the eastern façade of the new development shall not encroach upon the footpath and shall be located entirely within the Club's lease boundary.
- (v) All landscaped areas shown on the approved plans, including the grassed area to the north of the existing Club above the proposed addition, shall be reinstated/planted, reticulated and mulched as



required, and maintained in good condition thereafter, to the specification and satisfaction of the Town.

- (vi) All bins shall be kept within the bin enclosure, the design and location of which shall be of sufficient size to service both the Club and the Blue Duck restaurant, to the satisfaction of the Town.
- (vii) The design, any construction, marking-out and signage for a maximum of three on-street parking bays for the exclusive use of the Club, as well as for the provision of a suitably-located access way and loading area required for the proposed bin enclosure, shall be to the specification and satisfaction of the Manager Engineering Services, and shall be provided at the Club's cost and coordinated as part of the overall development.
- (viii) Any works affecting the dual-use path shall be done to the specification and satisfaction of the Town, and completed prior to occupancy of the new development, at the cost of the Club, including any repair or upgrading of the dual-use path generally as a result of the proposed development. In addition, any necessary dune reinstatement or rehabilitation shall be undertaken at the cost of the Club to the specification and satisfaction of the Town.
- (ix) All stormwater drainage arising from the proposed development shall be captured and disposed of on-site to the specification and satisfaction of the Town of Cottesloe, and full details shall be submitted as part of the application for a building licence. In addition, the Club shall bear the cost of all changes required to existing drainage, services, infrastructure, street furniture and signage caused by the proposed development, to the specification and satisfaction of the Town.
- (x) A hydraulic consultant report (if required) and revised geotechnical report shall be submitted for approval by the Town and the WAPC, taking into account the issues raised in this report and State Planning Policy.
- (xi) The external materials and finishes of the alterations and additions shall match the existing building, to the satisfaction of the Town.
- (xii) The Crown Reserve land at the Marine Parade level to the north of the existing Club premises and above the proposed extended lease area at the below-ground level shall remain as Crown Reserve land vested in the Town for the purpose of foreshore management and recreation.
- (xiii) The Club in conducting its activities, events and social functions shall have due regard to minimising impacts on the amenity of the locality, including nearby residents and businesses and the surrounding public foreshore area, dual-use path, footpaths/steps and roads.
- (xiv) The applicant shall submit a comprehensive Construction Management Plan to the satisfaction of the Manager Development Services prior to the issue of a building licence by the Town. This shall address the impact of construction on the public domain and nearby properties, including but not limited to: public access and safety, the beach (including dunes and vegetation), footpath, dual-use path, lawn, road reserve, construction vehicle parking, rubbish stockpiling and removal,

materials and equipment storage and security, windblown dust/debris, noise and hours/days of construction activity.

Advice notes:

- (i) The proposed development is to comply with the Health (Public Building) Regulations.
- (ii) Access to and within new toilets for those with disabilities is to comply with AS 1428.1.
- (iii) The Club is informed that the proposed development may be affected by coastal processes, including erosion, accretion, storm surge, tides, wave conditions and sea-level changes, due to its close proximity to the shoreline, and that the Town takes no responsibility for any such impacts on the Club premises.

Carried 9/0

Note: After the resolution 11.1.4 had been passed Cr Boland advised that his proposed amendment to item 11.1.5 was better dealt with as part of 11.1.4. He was therefore advised by the Mayor to propose a rescission motion (requiring an absolute majority) and then to propose his amendment.

## **RESCISSION OF MOTION**

**Moved Cr Boland, seconded Mayor Morgan**

**That the resolution in item 11.1.4 be rescinded.**

**Carried 9/0**

## **AMENDMENT**

**Moved Cr Boland, seconded Cr Cunningham**

**That condition (vii) of the officer recommendation be replaced with a new condition to read “The footpath on Marine Parade adjacent to the Club premises shall be widened at the cost of the Club to the specification and satisfaction of the Town, and this shall include the provision of a suitably-located access way and loading area required for the proposed bin enclosure, but shall not include any exclusive parking for the Club in this location, and the Club will be allocated with (3) three on-street parking bays located further north along Marine Parade”**

**LOST 4/5**

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Dawkins

That Council:

With respect to the proposed alterations and additions to the North Cottesloe Surf Life Saving Club at 151 Marine Parade, Cottesloe, as shown on plans date-stamped 24 November 2010 and labelled as Option J, advise the WAPC that the application, incorporating an extension to the lease boundary, is **SUPPORTED**, subject to the following conditions and advice notes:

- (i) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (ii) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written approval of Council and the WAPC.
- (iii) The proposed amendment to the existing lease boundary is required to be approved by the Crown prior to commencement of development within the affected area.
- (iv) The proposed planter boxes along the eastern façade of the new development shall not encroach upon the footpath and shall be located entirely within the Club's lease boundary.
- (v) All landscaped areas shown on the approved plans, including the grassed area to the north of the existing Club above the proposed addition, shall be reinstated/planted, reticulated and mulched as required, and maintained in good condition thereafter, to the specification and satisfaction of the Town.
- (vi) All bins shall be kept within the bin enclosure, the design and location of which shall be of sufficient size to service both the Club and the Blue Duck restaurant, to the satisfaction of the Town.
- (vii) The design, any construction, marking-out and signage for a maximum of three on-street parking bays for the exclusive use of the Club, as well as for the provision of a suitably-located access way and loading area required for the proposed bin enclosure, shall be to the specification and satisfaction of the Manager Engineering Services, and shall be provided at the Club's cost and coordinated as part of the overall development.
- (viii) Any works affecting the dual-use path shall be done to the specification and satisfaction of the Town, and completed prior to occupancy of the new development, at the cost of the Club, including any repair or upgrading of the dual-use path generally as a result of the proposed development. In addition, any necessary dune reinstatement or rehabilitation shall be undertaken at the cost of the Club to the specification and satisfaction of the Town.

- (ix) All stormwater drainage arising from the proposed development shall be captured and disposed of on-site to the specification and satisfaction of the Town of Cottesloe, and full details shall be submitted as part of the application for a building licence. In addition, the Club shall bear the cost of all changes required to existing drainage, services, infrastructure, street furniture and signage caused by the proposed development, to the specification and satisfaction of the Town.
- (x) A hydraulic consultant report (if required) and revised geotechnical report shall be submitted for approval by the Town and the WAPC, taking into account the issues raised in this report and State Planning Policy.
- (xi) The external materials and finishes of the alterations and additions shall match the existing building, to the satisfaction of the Town.
- (xii) The Crown Reserve land at the Marine Parade level to the north of the existing Club premises and above the proposed extended lease area at the below-ground level shall remain as Crown Reserve land vested in the Town for the purpose of foreshore management and recreation.
- (xiii) The Club in conducting its activities, events and social functions shall have due regard to minimising impacts on the amenity of the locality, including nearby residents and businesses and the surrounding public foreshore area, dual-use path, footpaths/steps and roads.
- (xiv) The applicant shall submit a comprehensive Construction Management Plan to the satisfaction of the Manager Development Services prior to the issue of a building licence by the Town. This shall address the impact of construction on the public domain and nearby properties, including but not limited to: public access and safety, the beach (including dunes and vegetation), footpath, dual-use path, lawn, road reserve, construction vehicle parking, rubbish stockpiling and removal, materials and equipment storage and security, windblown dust/debris, noise and hours/days of construction activity.

**Advice notes:**

- (i) The proposed development is to comply with the Health (Public Building) Regulations.
- (ii) Access to and within new toilets for those with disabilities is to comply with AS 1428.1.
- (iii) The Club is informed that the proposed development may be affected by coastal processes, including erosion, accretion, storm surge, tides, wave conditions and sea-level changes, due to its close proximity to the shoreline, and that the Town takes no responsibility for any such impacts on the Club premises.

**THE SUBSTANTIVE MOTION WAS PUT**

**Carried 8/1**

**11.1.5 NO. 151 MARINE PARADE – NORTH COTTESLOE SURF LIFE SAVING CLUB – PROPOSED PARTIAL ROAD CLOSURE ON MARINE PARADE TO FACILITATE ALTERATIONS AND ADDITIONS – FUTHER REPORT**

**File No:** 1825  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 6 December 2010

**Author Disclosure of Interest** Nil  
**Property Owner** Crown  
**Applicant** NCSLSC  
**Date of Request** 3 September 2010  
**Zoning:** N/A  
**MRS Reservation:** Parks & Recreation

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**BACKGROUND**

On 28 September 2010 Council considered the proposed partial road closure in Marine Parade and resolved:

*That Council:*

- 1. Supports the proposed closure of a portion of the road reserve along Marine Parade adjoining the North Cottesloe Surf Life Saving Club lease area, in order to enable the alterations and additions approved by the WAPC on 3 May 2010.*
- 2. Requests staff to carry-out the necessary procedures in accordance with Section 58 of the Land Administration Act; including advertising and consultations then reporting-back for Council to consider any responses received and determine whether to continue with the road closure. This is to include liaison with the NCSLSC and the WAPC as to whether the footpath needs to be widened, whereby the intended on-street parking bays and access way for the bin enclosure for the Club's purposes warrant review in relation to the approval*
- 3. Advise the NCSLSC of this resolution and the procedures and timeframe involved.*

Advertising

The following advertising and consultations have taken place as required in accordance with Section 58 of the Land Administrative Act:

- The West Australian – Advertised in Public Notices from 16 October to 22 November 2010;
- Post newspaper – Advertised from 30 October to 22 November 2010;
- Water Corporation;

- Westnet Energy;
- Western Power;
- Telstra; and
- WAPC.

Only Westnet Energy (WA Gas networks) has responded, stating no objection to the proposal. No other objections or responses have been received at this stage, although the Town has contacted each of the organisations to follow-up a response.

### **PLANNING COMMENT**

Since the previous report to Council, it has become apparent that the Survey Plan submitted by Driscoll Land Surveyors with the original request for the road closure and which was subsequently advertised, showed a minor change to the proposed lease boundary along the eastern and western boundaries, predominantly to the north of the existing Club building.

This effectively aligns the existing eastern boundary with the remaining proposed boundary along the section of Marine Parade. It does not alter the area of the development proposed at the below-ground level. The western change is to accommodate the proposed alterations and additions and does not affect the road closure.

The applicant has submitted a revised planning application for the proposed alterations and additions to the NCSLSC at the ground and below-ground levels. This supersedes the plans previously supported by Council in December 2009 and approved by the WAPC on 3 May 2010. It is the subject of a separate report in this agenda. The latest plans submitted (Drawings DA 01-Option J, DA02-Option J and DA03-Option J) show the correct proposed lease boundary and this is detailed in Drawing DA09-Option J. A second planning application by the Club also in this agenda relates to external infrastructure and landscaping proposals.

Given the two planning applications from the Club for Council support and the pending required responses to the road closure consultation process, a *subject-to* recommendation is made whereby staff can follow-through to attend to the formalities.

The Mayor and Council staff recently had an 'in-depth' meeting with the NCSLSC to consider the new proposals and the matter of the existing footpath width and the allocation of 'exclusive' car bays along Marine Parade was discussed. In brief, the Club advised that it would like up to 5 'exclusive' carbays and for the footpath to remain as existing.

The Manager Engineering Services has advised that the proposed road closure and new lease boundary will not reduce the width of the path along Marine Parade and that widening of the existing path was not considered necessary. Furthermore, if the path were widened it would necessitate potential loss of on-street car bays in Marine Parade which would not be a desirable option.

The proposed increased width of the dual-use path on the western side of the building to a minimum 3.5m, as required by the WAPC, would further improve general public access and reduce reliance on the eastern path along Marine Parade.

In respect to the proposed 'exclusive' carbays, this was previously discussed in the report to Council of 14 December 2009 (attached) whereby the following was stated:

*The extension towards Marine Parade does necessitate the removal of the existing 3 on-site carbays and the Club has requested that designated 'Permit Only' parking for 5 cars be provided on the street. In principle, this appears a more satisfactory arrangement as it will ensure that vehicles are parked parallel to the street, rather than in a haphazard way as is sometimes the current situation, and it will allow the removal of the existing crossovers which will improve pedestrian safety. However, 3 on-street bays, rather than 5 may be more appropriate to ensure that there is sufficient area outside the proposed bin enclosure for sanitation vehicles. The final design of the parking bays (including the number), the loading area and bin pick-up area should be submitted to the Town for approval by the Manager Engineering Services, and the Club could be required to pay for or lease the bays from Council.*

Council subsequently supported a maximum of 3 on-street parking bays for the exclusive use of the Club (Condition vii – 14 December 2010) and the WAPC imposed the following condition on the planning approval:

*The design, any construction, marking-out and signage for a maximum of three on-street parking bays for the exclusive use of the Club, as well as for the provision of a suitably-located access way and loading area required for the proposed bin enclosure, shall be to the specification of the Town of Cottesloe's Manager of Engineering Services, and shall be provided at the Club's cost and coordinated as part of the overall development to the satisfaction of the WAPC.*

Although Council is now considering two new development proposals for the NCSLSC the previous conditions of approval relating to the number of 'exclusive' car bays would be best retained so that there no resultant parking issues due to the loss of the existing on-site bays.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT:**

Committee was content to continue with the road closure process in support of the development and public domain / landscaping proposals as recommended and conditioned.

## **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Walsh, seconded Cr Dawkins**

**That Council subject to no objection being received in response to the road closure consultation process, and following approval by the Western Australian Planning Commission of the latest planning application for alterations and additions to the North Cottesloe Surf Life Saving Club, SUPPORTS the proposed closure of a portion of road reserve along Marine Parade adjoining the Club, and requests the Minister for Lands to consider the proposal in order to enable the new lease boundary for the Club to be created.**

**Carried 8/1**

*Cr Walsh declared a Proximity interest in Item 11.1.6 in relation to recommendations 1 and 2 as he owns a property which backs on to ROW 14 and left the meeting at 7:55 PM.*

### **11.1.6 RIGHTS OF WAY / LANEWAYS POLICY CLARIFICATIONS – FOLLOW-UP REPORT**

**File No:** E13.1  
**Attachments:** [Right of Way Tom Roberts.pdf](#)  
[Right of Way Extract.pdf.pdf](#)  
[Right of Way Letter of Declaration.pdf](#)  
[Right of Way Letters C Askew & G Trigg.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 06 December 2010  
**Author Disclosure of Interest:** Nil

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### **INTRODUCTION**

Council at the 25 October 2010 meeting considered a report (copy attached) regarding clarification of its Rights of Way / Laneways Policy. The report dealt in detail with generic aspects, exemption of ROW 14 from upgrading and the upgrading requirement for 41 Grant Street. Council's resolution below addressed the situation. key points 2, 4 and 7 are highlighted and are further addressed in this report.

*That Council:*

1. *Notes this report about the situation and operation pertaining to Council's Rights of Way / Laneways Policy.*
2. *Advises the architect for the approved development at 41 Grant Street that condition 7 requiring upgrading of the laneway is still required to be fulfilled, because ROW 14 is not considered by Council as exempted from upgrading under the Policy, as exemption can only occur in accordance with the process described in clauses 14-16 of the Policy.*
3. *Reminds the architect that condition 8 of the approval requiring removal of the existing crossover from Grant Street is required to be met.*
4. *For all exempted ROW / laneways, affirms the requirement for differential rating in the event of a future upgrading proposal pursuant to clause 16 of the Policy.*
5. *Directs that any exemptions are listed in a table attached to the Policy as follows:*



*TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED  
EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF  
THIS POLICY*

| <i>ROW / Laneway</i> | <i>Date of Council decision</i> |
|----------------------|---------------------------------|
|                      |                                 |

6. Authorises officers to make the following technical improvements to the wording of clauses 14-16 of the Policy as an administrative step for the sake of clarity:

*Deletions shown struck-out and additions shown underlined:*

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW / laneway to allow rear vehicular access, and the developer or subdivider believes there is a substantial negative attitude from other affected landowners for such ROW / laneway improvements, it is up to the developer or subdivider to demonstrate to Council that attitude.
15. Where no application for a development or subdivision has been received relating to the ~~drainage and~~ sealing and drainage of a ROW / laneway, and one or more landowner wishes to prevent the sealing and drainage of a ROW / laneway, then the concerned landowner(s) ~~would~~ may undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage.
16. The demonstration of a local landowner attitude against the ~~drainage and~~ sealing and drainage of a ROW / laneway to meet a development or subdivision condition must include the signatures of at least two-thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case, and at the same time accepting that any future request to Council from any affected (ie previous or subsequent) landowner to upgrade ~~or seal~~ that ROW / laneway must include an acceptance of at least two-thirds of those landowners for a differential rating payment system for those properties whose landowners support upgrading to fund such improvement works.

7. Requests officers to report-back to Council on the prospect of and process for considering the possible deletion of clauses 14-16 from the Policy.

## **SUBSEQUENT ACTIONS**

In response to Council's resolution the following actions have occurred:

1. Mrs Rosie Walsh as landowner of 35 Grant Street has written to the Town expressing her views on the matter.
2. The Town has written to the architect for 41 Grant Street advising of Council's resolution.
3. The architect has on behalf of his clients provided a covering letter dated 5 November 2010, together with a summary sheet and (undated but recently-

collected) forms signed by landowners along ROW14, requesting exemption of that laneway from upgrading pursuant to the Policy.

4. Mrs Andrewartha as landowner of 24 Hawkstone Street has provided a related letter dated 10 November 2010, together with the same and two additional forms plus supporting information about wildlife.
5. The Manager Development Services has liaised with the architect and Mr Pearce the landowner of 41 Grant Street regarding the requests and the differential rating aspect.

Relevant copies are attached.

### **PURPOSE OF REPORT**

Given the above the purpose of this report is to:

1. ROW14 – consider the requests for exemption from upgrading.
2. 41 Grant Street – thereby ascertain whether or not the planning approval condition to upgrade a portion of ROW 14 for the development of this property still stands.
3. Differential Rating – clarify how this policy requirement should operate.
4. Exemption clauses – evaluate whether or not clauses 14-16 of the Policy ought to remain and if not the process required to consider deleting them.

### **ROW 14 EXEMPTION REQUEST**

#### **Submitters**

The two covering letters make it clear that exemption from upgrading is sought. The letter from Mrs Andrewartha also objects, including on behalf of the other landowners, to deletion of clauses 14-16 from the Policy – this aspect is discussed further below.

The forms submitted in favour of not upgrading this ROW satisfy the minimum two-thirds threshold specified in clause 16 of the Policy. The Policy specifies landowners rather than residents and only one form is not from landowners.

As the N-S leg of ROW 14 is already sealed those properties to its east are not directly affected, whereby those landowners' signatures may be discounted. Nonetheless, as almost all of the landowners along the subject E-W leg are signatories, the threshold is still met.

#### **Rationale**

The various reasons for seeking exemption have been advanced since 2005, as previously reported and voiced at meetings or in dialogue. Factors briefly stated in the latest forms include: keeping the lane as a de facto nature strip-habitat-ecosystem with wildlife; the heritage of old lanes; the lane does not function as a traffic through- route and is a convenient, pleasant walking route; a paved lane would be undesirably hot; avoiding flooding due to runoff from pavement.

Overall, the current landowners have demonstrated that they like ROW14 as it is and do not want the laneway to be upgraded now or in the future.

**Process**

If Council supports the request for exemption, subject to how it decides to manage the differential rating requirement as discussed below, then the exemption would be listed in a table attached to the Policy as resolved by Council in October.

**41 GRANT STREET UPGRADING REQUIREMENT**

If Council agrees to exempt ROW 14 from upgrading, then the requirement for 41 Grant Street would become null and void, whereby the condition of planning approval would be waived and the development can proceed.

On the other hand, were Council inclined to not support the ROW exemption, then the condition would remain to be fulfilled.

**DIFFERENTIAL RATING REQUIREMENT**

Council has maintained that if and when any exempted laneway is later desired to be upgraded a differential rate should be applied to fund such. This is stipulated in clause 16 of the Policy.

The landowners seeking exemption of ROW14 have not objected to a possible future differential rate, and indeed have stated that the exemption clauses (which contain that requirement) should remain.

What is contended is when the landowners' commitment to possible future differential rating is required. This was discussed in the previous report as follows (underlining emphasis added):

*The agreement of other landowners to no upgrading is contingent on them also (ie, at the same time) accepting to incur a differential rate if and when in future they agree to upgrading. In practice this double agreement may prove difficult to achieve. It is detected that clause 16 if not read carefully is a little ambiguous here. To be clear, it definitely links the signatories against upgrading to concurrent acceptance of those signatories to differential rating if and when an upgrading proposition arises and they agree to it in future. It is then the minimum two-thirds landowners opting for upgrading who would pay, whether previously opposed, other landowners from before or more recent landowners. The emphasis in the Policy is that there must be prior acceptance to that should it eventuate. This is borne-out in the reports to Council in discussing maintenance implications and cost responsibilities, and the Manager Engineering Services has advised that this was always the intent.*

Council resolved to reinforce the need for differential rating and to clarify clause 16 of the Policy as follows (underlining emphasis added):

*The demonstration of a local landowner attitude against the sealing and drainage of a ROW / laneway to meet a development or subdivision condition must include the signatures of at least two-thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case, and at the same time accepting that any future request to Council from any affected (ie previous or subsequent) landowner to upgrade that ROW / laneway must include an acceptance of at least two-thirds of those landowners for a differential rating payment system for*

*those properties whose landowners support upgrading to fund such improvement works.*

It is logical and prudent that landowners are made aware up-front of the differential rating prospect and required to indicate acceptance of that requirement as a basis for Council considering an exemption request. Informing landowners only in the future would be potentially misleading and counter-productive.

The Policy does not compel today's landowners to agree to pay an actual amount in the future and it is tomorrow's landowners who would have to agree whether they wish to incur a differential rate, hence the current landowners need not be concerned about any financial outlay at this stage.

### **DETERMINATION OF EXEMPTION REQUEST**

The previous report in interpreting the Policy regarding the determination requests for exemption advised as follows:

*Council is to sanction the outcome in each instance, rather than officers under delegation. It is discerned that obtaining the threshold support is the first step and Council's consent is the second. Council's conscious decision each time is important, as circumstances might necessitate upgrading; eg, drainage problems, increased density, extensive subdivision and significant redevelopment.*

As the exemption request does not address the possible future differential rating component of the Policy, Council has the following options:

1. Decline the request as incomplete – this would leave the landowners to decide whether or not to pursue the matter.
2. Require that component to be addressed by the landowners before considering the request – this would defer the matter.
3. Support the request in-principle, subject to that component being met to the satisfaction of the Managers of Development and Engineering Services, then the Town confirming the exemption in writing – this would progress the matter.
4. Support the request and waive differential rating as a process component and future requirement in this particular instance – this would settle the matter.
5. Not support the request – this would conclude the matter at present.

It is considered that the exemption request should not be rejected at this juncture just due to the absence of agreement about the differential rating component. Instead, in determining the exemption request it is considered that differential rating should be adhered to and dealt with by option 2 or 3, so that the Policy prevails and landowners are apprised. A waiver would compromise the intent, substance and administration of the Policy, where equity and consistency are seen as important.

### **EVALUATION OF EXEMPTION CLAUSES**

The previous report and deliberations outlined a range of considerations about this departure from the core Policy, as follows:

*The exemption clauses vary conventional planning wisdom (ie, as reflected in the Residential Design Codes, etc) to take advantage of laneways for a range of gains, including: streetscape and urban design; traffic management and safety;*

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*access, convenience and security; high standards of infrastructure and amenity; efficient use of space; and adding value to properties. This was mentioned in the earlier reports to Council.*

*Exemption is arguably inequitable and doesn't cater for changing needs or aspirations over time; eg, properties selling, owners redeveloping, evolving planning rules, design innovations, and so on.*

*Discussion ensued regarding whether ROW 14 should be allowed as exempt in the circumstances (noting that it is relatively short and a dead-end), but that exemptions should then not be continued with. In this respect clauses 14-16 were seen as unwieldy and the differential rating requirement as difficult to administer.*

*It was suggested that it may be better to delete the exemption provisions altogether. Given the strategic outlook of the Policy and its district-wide application, the variation provision should be reviewed for all. Removal of clauses 14-16 would entail proper policy-amendment process including community consultation and Council approval*

In addition it is observed as follows:

1. Historically, laneways were created for access and as thoroughfares, especially for night-cart collections. They were not conceived as ecological corridors, although some have become de-facto micro environments, but weed growth and unauthorised planting can be problems.
2. There is no guarantee that unsealed lanes will protect incidental flora or fauna, as vehicles, utility works, construction activity, pets and humans can indiscriminately affect plants and wildlife.
3. Disused, unsealed lanes can attract rubbish and anti-social behavior, whereas upgraded lanes provide alternative access, manage drainage, improve surveillance / security, reduce fire risk, enhance amenity and foster property value – all of which make-up for the cost of contributing to upgrading.
4. Nowadays lanes offer the planning advantages of assisting local traffic management by reducing front crossovers, ameliorating parking impacts by facilitating off-street parking, and preserving / improving streetscapes by reducing the dominance of front garages / carports. They also provide potential for subdivision / denser development and allow design flexibility for sites, subject to the planning controls for each locality.
5. It could be contemplated that where a laneway is exempted from upgrading no additional access should be approved, in order to minimise impacts on the non-upgraded surface and general amenity. For new development the implication would be that the street frontage must be used for vehicular access and on-site parking. Special measures would be required to enforce such a restriction. Realistically, this approach may be expected to meet with resistance, as it would take away use and development rights, be inequitable, run counter to good planning and be difficult to achieve.

In this planning context the exemption clauses appear at odds with the thrust of the Policy and Council's intended five-year programme to upgrade laneways. On the other hand, the sociological dimension of laneways may justify provision for variation as the exception rather than the rule, and the occurrence of exemption requests is likely to be low.

## **CONCLUSION**

In view of the overwhelming wish of the abutting landowners to keep the non-upgraded portion of ROW 14 as-is, Council may invoke the exemption clauses. This could be made conditional upon the differential rating requirement first being attended to by the landowners, to the satisfaction of the Managers of Development and Engineering Services, before the exemption is confirmed. However, in the circumstances, it is considered that Council could instead elect to write to the affected landowners advising that the differential rating requirement would apply in future if upgrading is reverted to.

While exemption is essentially contrary to the Policy direction and planning philosophy, in this case the largely long term landowners have for many years wanted to leave the laneway in its traditional state and it is not a one of any particular significance. The housing is well-established and the locality is not earmarked for substantial subdivision or redevelopment in the foreseeable future. With this perspective exemption of this individual laneway may be supported.

As a result 41 Grant Street would no longer have to upgrade a section of the laneway and the architect may be advised accordingly.

The differential rating provision should be retained in the Policy as recently modified by Council.

The exemption clauses could remain as they would most likely be seldom used, but by the same token they could be deleted. If Council elected to do the latter, the formal policy-amendment process would be followed, including public consultation to canvass comments before deciding whether or not to proceed with the change.

## **VOTING**

Simple Majority

Owing to his proximity interest in relation to points 1 and 2 of the recommendation Cr Walsh left the meeting for those items after handing the chair to the deputy Cr Birnbrauer then returned to the meeting to chair the voting on the remainder of the recommendation.

## **COMMITTEE COMMENT:**

Committee queried whether the exemption of ROW 14 from upgrading was just in relation to redevelopment at 41 Grant Street, whereby further individual exemptions would be required as proposals arise. Mr Jackson explained that the exemption was in perpetuity unless in the future landowners agreed that they wanted upgrading.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Goldhorpe, seconded Cr \_\_\_\_\_

That Council AGREE to:

1. In respect of ROW 14, exempt the existing non-upgraded east-west aligned section from the need for sealing or drainage, and list that exemption in a table attached to its Rights of Way / Laneways Policy.
2. Advise in writing all landowners along the subject section of ROW 14 that the differential rating requirement of the Policy would apply in the event of any future move to upgrade that laneway.

THE MOTION LAPSED FOR WANT OF A SECONDER

Council discussed the report contents and recommendation in detail and Cr Cunningham proposed an alternative motion for consideration by Council as a replacement for the Committee recommendations 1 and 2. He also forshadowed an alternative recommendation 3 for when Cr Walsh returned to the chamber that *Council review the Policy with the intention of deleting clauses 14 to 16 using formal policy amendment process including public consultation before deciding to proceed with any changes.*

**AMENDMENT**

Moved Cr Cunningham, seconded Cr Dawkins

**That the items no. 1 and 2 of the officer recommendation be replaced with the following:**

**That Council**

1. **Acknowledge the thoroughness of the officer report.**
2. **Defers the request to exempt ROW 14 from sealing and drainage as incomplete and have administration notify the affected landowners that the differential rating requirement must be satisfied prior to their request being considered.**

**Carried 6/2**

*Cr Walsh returned to the meeting at 8:10 PM.*

On the basis of the prior discussion and Council resolution the Mayor advised Council that recommendation 3 could now not be implemented and as a consequence proposed that the existing items 4 and 5 be amended and re-numbered accordingly.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Rowell

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Rowell

That Council

3. In respect of the Policy provisions, retain the laneway upgrading exemption clauses 14-16 of the Policy as modified at the 25 October 2010 Council meeting, including the differential rating requirement in clause 16, for the time being.
4. Advise in writing the architect for 41 Grant Street of this overall outcome.

Carried 7/2

AGAINST THE MOTION: Crs Boland and Cunningham

**COUNCIL RESOLUTION**

That Council:

1. Acknowledge the thoroughness of the officer report.
2. Defers the request to exempt ROW 14 from sealing and drainage as incomplete and have administration notify the affected landowners that the differential rating requirement must be satisfied prior to their request being considered.
3. In respect of the Policy provisions, retain the laneway upgrading exemption clauses 14-16 of the Policy as modified at the 25 October 2010 Council meeting, including the differential rating requirement in clause 16, for the time being.
4. Advise in writing the architect for 41 Grant Street of this overall outcome.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

Carried 8/1



**11.1.7 NO. 109 BROOME STREET – STRUCTURAL REMEDIAL WORK AND RE-ROOFING OF COTTESLOE CIVIC CENTRE**

|                               |   |
|-------------------------------|---|
| <b>File No:</b>               | <b>2112</b>   |
| <b>Attachments:</b>           | <b>None</b>   |
| <b>Responsible Officer:</b>   | <b>Carl Askew</b><br><b>Chief Executive Officer</b> |
| <b>Author:</b>                | <b>William Schaefer</b><br><b>Planning Officer</b>  |
| <b>Proposed Meeting Date:</b> | <b>6 December 2010</b>                              |
| <b>Property Owner:</b>        | <b>Town of Cottesloe</b>                            |
| <b>Applicant:</b>             | <b>Town of Cottesloe</b>                            |
| <b>Date of Application:</b>   | <b>30 November 2010</b>                             |
| <b>Zoning:</b>                | <b>Local Scheme Reserve – Civic and Cultural</b>    |
| <b>Use:</b>                   | <b>N/A</b>  |
| <b>Lot Area:</b>              | <b>20993m<sup>2</sup></b>                           |
| <b>MRS Reservation:</b>       | <b>N/A</b>  |

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**SUMMARY**

This proposal is for structural remedial works and the re-roofing of the Cottesloe Civic Centre. The Town is the landowner and applicant as well as the responsible authority for the planning approval and building licence.

The improvements to the roof are expected to stop the leaks which have affected Council's offices since the refurbishments were completed in March 2009, and ensure structural integrity, safety and strength during strong winds/storms.

The plans were produced in response to an invitation for tender that was prepared by Council's Manager Engineering Services. Overall, the highly-specialised responses to the tender have produced a quality proposal which is worthy of support. No variations to any planning standards are sought.

Given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

**PROPOSAL**

The Town as applicant seeks to correct defects in the ageing roof of the Cottesloe Civic Centre. The proposed works comprise:

- Replace of the existing hand-made, clay roof tiles with machine-made, new clay roof tiles of the same pattern and colour.
- Replacement of unsound structural elements within the roof.
- Rationalisation of electrical infrastructure within the roof.

The extent of works covers the main Civic Centre building, but excludes the portion of roof over the more recent upstairs extension east of the Council Chamber. Lesser Hall and outbuildings are not included.

**BACKGROUND**

Whilst significant portions of the Civic Centre were renovated in 2008/2009, budget constraints were such that little work was performed on the roof.

The decades-old, Roman-style clay tiles are porous, and ill-fitting due to their having been made by hand. As such, the penetration of water through the roof has long been a problem at the Civic Centre, and with the tiles also susceptible to lifting in strong winds, Council's offices have suffered serious water damage during heavy downpours over the last 18 months.

In response to the above, a structural engineering firm was engaged to inspect the roof frame. The need for remedial work was reported to and authorised by Council in August 2009.

On 1 June 2010 Council's Manager Development Services liaised on a preliminary basis with the Heritage Council of Western Australia (HCWA) and provided an outline of the intended remedial works and tile replacement. On 2 June 2010 the HCWA indicated that it was supportive in-principle of the works, subject to a formal development application.

Tenders for the works were invited by Council's Manager Engineering Services and applications were received until Friday 26 November 2010.

**FINANCIAL IMPLICATIONS**

A fixed fee has been agreed upon as part of the tendering process. Council has approved of funding arrangements for the project. A grant from Lotterywest for \$261,000 has been sought and obtained.

**STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2 and Heritage Act or WA.

**CONSULTATION****Referral**

An official referral to the HCWA has now been made and a response is awaited. As mentioned the preliminary feedback is that the necessary re-roofing is desirable and supported, subject to seeing the detail for record purposes and any technical advice. The HCWA recognises the imperative to protect the Civic Centre as a heritage place.

The Civic Centre is also recognised by the National Trust, however, no referral is required to that non-decision-making body.

**Advertising**

Community consultation was undertaken as part of the process of approving the alterations and additions to the Civic Centre, with no objections being raised. No further consultation for the re-roofing has been deemed necessary, as there is no change to the roof profile and the works are remedial rather than cosmetic.

**LOCAL PLANNING SCHEME NO. 3**

Draft LPS 3 continues with the local Civic reserve classification of the site and consolidates Council's heritage approach. The proposal is consistent with this approach.

**HERITAGE****TPS 2**

The Civic Centre is included in Schedule 1 of TPS 2. As a scheme has the force and effect of law, properties in Schedule 1 are afforded statutory heritage protection. The place is described as: *Civic Centre based on original home constructed in 1889 and modified in 1936. Grounds fenced with high limestone walls with ornate concrete balustrading. Grounds and building recorded by the National Trust.*

Under Part VI of TPS 2: *Conservation and Preservation of Places of Natural Beauty and Historic Buildings and Objects of Historic or Scientific Interest*, Council's written consent is required for works proposed to Schedule 1 properties. This is in addition to the planning approval required under Part VII of TPS 2.

When considering proposals in a heritage context, Council is required by Clause 5.1.2 of TPS 2 to have regard to: *The need for preservation of existing trees or areas or buildings of architectural or historical interest; and the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally.*

**Municipal Inventory**

The property is classified in the MHI as Category 1, which is defined as: *Highest level of protection appropriate. Included in the State Register of Heritage Places. Provide maximum encouragement to the owner to conserve the significance of the place. Photographically record the place.* The MHI description of the place is: *Historic and architectural significance including grounds and caretaker's cottage.*

**HCWA**

Council is required to have regard to the advice and requirements of the HCWA and to make a decision consistent with such.

**PLANNING COMMENT & CONCLUSION**

The proposal is entirely appropriate to the planning and heritage considerations applicable to both physical development and restoration / conservation works. The HCWA has signalled support which is to be confirmed. Determination by Council in December will enable the re-roofing to proceed over summer ahead of winter, which is highly-desirable with regard to weather protection and the safety of staff.

Approval is recommended subject to works administrative and works management conditions respecting the heritage and public nature of the place.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Dawkins

That Council:

**GRANT its Written Consent and Approval to Commence Development for the proposed Structural Remedial Works and Re-roofing of the Civic Centre at No. 109 (Lot 38) Broome Street, Cottesloe, in accordance with the plans submitted on 30 November 2010, subject to the following conditions, all to the satisfaction of the Manager Development Services:**

- (1) A full photographic and documented record of the affected areas both internally and externally before, during and after the works shall be compiled and submitted to the Town as a heritage record.**
- (2) The external profile of the roof as shown on the approved plans shall not be changed in any way except with the written consent of the Town.**
- (3) The Building Licence application shall include a comprehensive schedule of all materials and finishes to be used in the works.**
- (4) The Building Licence application shall include a comprehensive Construction Management Plan including details of: proposed access, parking, site-office and storage on or adjacent the site (ie Council verges); safety and security of workers, Town of Cottesloe persons and the public; protection and rehabilitation of the heritage fabric of the Civic Centre building and grounds; and anything else deemed by the Manager Development Services.**
- (5) All storm-water drainage from the roof and its on-site disposal into soak-wells or otherwise shall be as directed by the Manager Engineering Services. The details shall be included in the Building Licence application and/or subsequently documented and approved prior to those works being undertaken, having regard to protection and rehabilitation of the heritage fabric of the building and grounds.**
- (6) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (7) The Town receiving formal confirmation of the support of the Heritage Council of Western Australia to the application prior to the issue of the Building Licence.**

**Carried 9/0**

**11.1.8 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE 2010-2011 HOLIDAY PERIOD RECESS OF COUNCIL**

**File No:** SUB/39  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 6 December 2010

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**SUMMARY**

A recommendation is made to delegate authority to the Manager Development Services (MDS), or the Senior Planning Officer in his absence, and Chief Executive Officer to make determinations on those applications for planning consent that are assessed during the period from Tuesday 14 December 2010 to Friday 18 February 2011 while the Council is in recess.

This arrangement is presented in a report to Council each December for ratification.

Last year the Senior Planning Officer was delegated the same authority as the MDS to determine or recommend upon development and subdivisional applications generally, in order to be available as a back-up in the event of leave or other absences from time to time (ie, not just annually but in perpetuity).

**STRATEGIC IMPLICATIONS**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2.  
Residential Design Codes.  
Fencing and Signage Local Laws.

**FINANCIAL IMPLICATIONS**

Nil.

**SUSTAINABILITY IMPLICATIONS**

Nil.

**BACKGROUND**

The following resolution was passed by Council at its December 2009 meeting:

*That Council:*

- (1) *In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby further delegates to the Manager Development Services, the Senior Planning Officer in the absence of the Manager Development Services and the Chief Executive Officer, under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 15 December 2009 to Friday 12 February 2010.*
- (2) *The exercise of those powers referred to in (1) is granted subject to:*
  - (a) *The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and*
  - (b) *A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:*
    - (i) *circulated on a weekly basis to all Councillors; and*
    - (ii) *subject to the current call-in arrangements for Delegated Authority Items.*
- (3) *Delegate to the Senior Planning Officer on an ongoing basis those ordinary development and subdivisional authorities already delegated to the Manager Development Services in order to provide a back-up to the MDS in the event of leave or other absences.*

## **STAFF COMMENT**

It is requested that the Manager Development Services, Senior Planning Officer and Chief Executive Officer be granted additional delegated authority to determine applications beyond their current delegation powers in consultation with the Development Services Chairperson or Deputy during the 2010-2011 Christmas and New Year recess (ie, until the cycle for referral to the February round of meetings commences).

In practice this arrangement works well and ensures that the processing of applications is not unduly delayed (as there is a right of appeal after 60 days). Also, during the holiday period there are usually fewer applications and any significant or problematic ones can be identified for referral to Council from February onwards – the trend is that usually due to the industry also being in recess the delegation is either not called upon or if so for no more than a few applications.

This special delegation is only useful if the Chair and/or Deputy are available during the holiday period.

## **VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Walsh, seconded Cr Dawkins**

**That Council:**

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby further delegates to the Manager Development Services, the Senior Planning Officer in the absence of the Manager Development Services and the Chief Executive Officer, under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 14 December 2010 to Friday 18 February 2011.**
- (2) The exercise of those powers referred to in (1) is granted subject to:**
  - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and**
  - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:**
    - (i) circulated on a weekly basis to all Councillors; and**
    - (ii) subject to the current call-in arrangements for Delegated Authority Items.**

**Carried 9/0**

**11.1.9 PLANNING INSTITUTE OF AUSTRALIA 2011 NATIONAL CONGRESS  
(HOBART) – CRITICAL MASS: PLANNING ENGAGES THE WORLD**

**File No:** SUB/38  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 6 December 2010

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**SUMMARY**

Every year a major national congress is arranged by the Planning Institute of Australia (PIA). For next year's congress, delegates will hear from national and international leaders talking about innovative solutions to the challenges facing planners.

The conference will be held in Hobart from 6 - 9 March 2011.

This report recommends Council approval for the Senior Planning Officer to attend.

**STATUTORY ENVIRONMENT**

Relates to the global town planning system.

**POLICY IMPLICATIONS**

Council's *Conferences Policy* applies:

**CONFERENCES****OBJECTIVE**

Provide guidelines for the approval of attendance of Members and Officers at Conferences/Seminars/Training.

**PRINCIPLES**

Council supports the attendance of Members and Officers at conferences/seminars/training when the benefits to the organisation from attendance can be clearly identified.

**ISSUES**

The extent to which Council supports and funds attendance at conferences is a contentious issue. The benefits of attendance are not always readily identifiable and consequently there can be problems convincing a sceptical community that the expenditure is justified. For this reason, it is important that the benefits of attendance can be readily identified, especially when attendance involves interstate or overseas travel.

**POLICY**

Employees who wish to attend a conference/seminar/training shall complete a Request for Training application form and submit it to the Chief Executive Officer through their Supervisor.

The Chief Executive Officer is authorised to approve attendance by Officers at intrastate conferences, seminars and training that forms part of the normal training and professional development of those Officers.

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The Chief Executive Officer is authorised to actively promote and approve the attendance of elected members at training courses provided under WALGA's Elected Members Development Program.

In determining attendance, the Chief Executive Officer shall take into account identified priorities and funding availability.

When funding for a conference/seminar/training is not provided in the budget, authorisation must be sought through the Corporate Services Committee.

Attendance at any interstate or international conference must be the subject of an application to be considered by the Chief Executive Officer and referred to the Works & Corporate Services Committee for recommendation to Council.

The following expenses for approved conferences/seminars/training will be met by Council:

- (a) Registration fees;
- (b) Return fares and other necessary transport expenses;
- (c) Reasonable accommodation and living expenses.

Where possible expenses are to be prepaid.

All expenditure is to be accounted for prior to reimbursement.

## **STRATEGIC IMPLICATIONS**

Fosters strategic planning knowledge and skills.

## **FINANCIAL IMPLICATIONS**

The estimated cost of registration, accommodation, meals and travel for the congress is \$3,500 and can be met by the current budget for training and conferences for Planning staff.

## **BACKGROUND**

The PIA is recognised nationally and internationally as the peak professional body representing town planners in Australia.

This conference is *the* major annual local government planners' event and attracts a variety of overseas representatives and speakers.

The program, over four days at the Hobart Grand Chancellor Hotel, includes such topics as:

- Transit orientated developments
- Urban renewal
- Built form controls
- Sustainable design
- Integrating active living principles into the approval process
- Ideas for the City of Perth
- Technology and cities
- Coastal climate risk

There are a number of additional papers being delivered and several concurrent sessions with a range of themes and speakers. Virtually all the topics listed cover a worthwhile combination of practical and strategic aspects.

**STAFF COMMENT**

One of the most important sources of current information and training for experienced local government planners is conferences and seminars, particularly if delivered by high quality, practicing experts working in the industry, both here and overseas.

In addition, new ideas are acquired from these presentations, as trends occurring become obvious and new ways of thinking or techniques are presented.

The opportunity to attend an international-standard conference targeted at planners is an excellent form of professional development.

For staff from small local governments such as Cottesloe it is also a welcome way to avoid becoming too isolated or insular by gaining exposure to the bigger picture both internationally and nationally.

Another advantage for Cottesloe is that the redevelopment of the Town Centre, Railway reserve land, Foreshore and other areas will be assisted by broader exposure to industry knowledge. This includes environmental considerations such as design-for-climate, sustainability and coastal factors.

Professional fraternity is equally valuable to swap notes, make contacts and develop a network of colleagues and resources.

The Senior Planning Officer is committed to the role and is motivated to maintain and enhance his professional knowledge and experience.

Both he and the Town would gain from attendance at the conference.

For this reasons the request for approval is supported.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Walsh, seconded Cr Dawkins**

**That Council APPROVE the attendance of the Senior Planning Officer at the Planning Institute of Australia 2011 National Congress, Critical Mass: Planning Engages the World, in Hobart from 6 - 9 March 2011, and request that a report on the congress be provided within two months of attending the event.**

**Carried 9/0**

**11.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 07  
DECEMBER 2010****11.2.1 DONATIONS - REFUSE SERVICES**

**File No:** POL/17  
**Attachments:** [Policy - Donations - Refuse Services.DOC](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services

**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The Town of Cottesloe policy for Donations – Refuse Services has been reviewed by Council staff. This report recommends that Council adopt the unchanged policy.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

This report relates to the Donations – Refuse Services policy.

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Manager Corporate and Community Services has confirmed with the Health & Building Secretary that the North Cottesloe Pre-Primary is not being charged for rubbish collection. They are the only group listed on the policy.

**VOTING**

Absolute Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council note the policy has been reviewed and maintain the Donations – Refuse Services Policy as per the attachment.**

**Carried 9/0**

**11.2.2 UNIFORMS - OFFICE STAFF POLICY REVIEW**

**File No:** POL/70  
**Attachments:** [Uniform Policy - Office Staff Amended.doc](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Patrick  
Manager Corporate & Community Services

**Proposed Meeting Date:** 7 December 2010

**Author Disclosure of Interest** The author receives the annual staff uniform allowance.

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**SUMMARY**

The Town of Cottesloe policy for Staff Uniforms has been reviewed by Council staff. This report recommends that Council adopt the amended policy.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Uniforms - Office Staff: (Resolution No: C9, Adopted: February,2000)

**STATUTORY ENVIRONMENT**

None known

**FINANCIAL IMPLICATIONS**

Sufficient funds are allocated in the current budget for this expense.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

Council is required to regularly review policies. The policy has had some minor amendments.

The changes allow for greater flexibility for staff in relation to where they may purchase their uniforms. Myers has been substituted for Country Road for this purpose. There were some anomalies that were also addressed in the old policy including:

- Staff on probation have to wait until they are made permanent before ordering uniforms

- Any person commencing part way through a year will receive a pro-rata uniform allowance
- Some staff had uniforms provided and received a payment equivalent to the annual uniform allowance. These staff will now have the choice of either having their uniforms provided or being re-imbursed for uniform purchases.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council note the policy has been updated and adopt the modified Uniforms – Office Staff Policy as per the attachment.**

**Carried 9/0**

**11.2.3 CHANGE ROOMS/TOILETS - OPENING TIMES - INDIANA****MOTION TO MEET BEHIND CLOSED DOORS****Moved Mayor Morgan, seconded Cr Boland**

In accordance with Standing Order 15.10 "That the Council meets behind closed doors – Effect of Motion" (LG Act s5.23) that Council discuss item 11.2.3 Change Rooms/Toilets - Opening Times - Indiana.

In accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public, with the following aspect(s) of the Act being applicable to this matter:

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and  
(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

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**Carried 8/1**

*Mayor Morgan adjourned the meeting at 9:02pm*

*Mayor Morgan reconvened the meeting at 9:03pm*

**ATTENDANCE:**

|                        |                  |
|------------------------|------------------|
| Mayor Kevin Morgan     | Presiding Member |
| Cr Jack Walsh          |                  |
| Cr Rob Rowell          |                  |
| Cr Greg Boland         |                  |
| Cr Dan Cunningham      |                  |
| Cr Jo Dawkins          |                  |
| Cr Davina Goldthorpe   |                  |
| Cr Patricia Carmichael |                  |
| Cr Ian Woodhill        |                  |

|                    |  |
|--------------------|--|
| Mr Carl Askew      | Chief Executive Officer                |
| Mr Graham Pattrick | Manager Corporate & Community Services |
| Mr Geoff Trigg     | Manager Engineering Services           |
| Mr Andrew Jackson  | Manager Development Services           |
| Mrs Lydia Giles    | Executive Assistant                    |

**11.2.3 CHANGE ROOMS/TOILETS - OPENING TIMES - INDIANA**

**File No:** PRO/2414  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick/Elizabeth Cox  
Manager Corporate Services/Consultant  
Environmental Health Officer

**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report provides the outcomes of officer investigations into the opening times for the change room and toilet facilities at Indiana.

**BACKGROUND**

Council at the ordinary meeting of the 21 September 2010 as part of a multi faceted resolution resolved in part 5. That Council, *be provided with a further report ensuring that this facility can remain open 24/7 with suitable safe guards if needed for community safety.*

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

Potential increases in opening hours will have a financial impost on Indiana in relation to security, monitoring, cleaning and maintenance.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Discussions have been held with the Cities of Wanneroo, Joondalup, Stirling, Fremantle, Perth, Rockingham, Mandurah and the Town of Cambridge relating to the opening and closing times of the change rooms and public toilets, and the associated issues of anti social behaviour and vandalism. Discussions were also held with the Cottesloe police and the Office of Crime Prevention relating to issues associated with a 24/7 opening regime. Information was also obtained from the private operators at Mindarie in an endeavour to identify the most appropriate operation.



**STAFF COMMENT**

Two sets of male and female public ablutions (showers, change rooms and toilets) are located on the western side of Marine Parade. The facilities are cleaned and maintained as part of a lease containing other commercial activities. There are two sets of public facilities along Marine Parade at 149 (near Eric Street – Barchetta) and 99 (near Forrest Street – Indiana). Both sets of facilities are managed through a lease between the Town of Cottesloe and the respective businesses. The current lease with the owners of Barchetta requires the Lessee to ensure that on each day the facilities are open to the general public between the hours of 5am and 10pm during summer and 5:30am and 10pm during winter. The lease for 99 Marine Parade (Indiana) is silent on the opening and closing times of the public ablutions under the current arrangement the facilities are opened daily at 6:30am when the first clean takes place and closed at the close of business when the premises are secured for the evening, usually between 10pm and 11pm or later during the weekends. Comments received from Indiana reported that in the majority of occasions the beach areas are uninhabited at the time of the lock up.

Issues identified during the consultation with other Councils, where toilets facilities were open 24 hours per day included concerns with anti social behaviour and maintenance from vandalism. Of significant concern were instances where people had taken to sleeping in the toilets, the location of the facilities should a person be in need of police assistance, crime, fires and the opportunity for anti social activities to develop. Maintenance issues extended to broken fixtures and fittings, graffiti and blockages. To address these issues the Cities of Mandurah, Fremantle and Perth lock all except a few selected (Northbridge) public toilets at around 10pm.

In the opinion of officers, and on supported by comments from local police and other Councils, it is recommended that the current opening and closing times be maintained.

**VOTING**

Simple Majority

**COMMITTEE COMMENTS:**

Mayor Morgan questioned how Administration had dealt with the request from Council to research appropriate safeguards that would be necessary if Indiana toilets/change rooms were opened 24 hours/7 days a week. There was a long discussion regarding the current lease of the building and if the Town of Cottesloe can request Indiana's to open the toilets/changerooms at hours specified by Council. Cr Rowell discussed the possibility that there would be a clause in the current lease about when these facilities need to be opened. Cr Carmichael expressed that she was aware that certain food businesses along the beachfront closed and opened their toilet facilities in line with their opening and closing times. This was to ensure that the toilets were maintained and cleaned while the food businesses were open. Committee debated appropriate opening and closing hours of the toilets and change rooms and agreed with the information in the officers report, that toilets should be opened in the summer between the hours of 5am till 10pm. The committee requested that Administration provide them with further information regarding the lease and specified opening hours before the December full Council meeting.

**OFFICER RECOMMENDATION**

Moved Cr Woodhill, seconded Cr Strzina

THAT Council:

1. Note the information provided and receives the report.
2. Request that Indiana consider opening the change room and toilets to accommodate early morning beach users and swimmers during summer.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

That point (2) of the recommendation be deleted and replaced with, *'That Council be provided with a report from Administration prior to the December full Council meeting on the legal entitlements for Council to determine the opening/closing times of the Indiana changerooms and toilets. Additionally that feedback is obtained from Indiana regarding their willingness to open the toilets/changerooms at 5am till 10:00pm in the summer months.'*

That a point (3) be added to the recommendation to state, *'Subject to confirmation that Council is able to direct Indiana they be notified on preferred closing and opening times for the changerooms and toilets. The report to Council is to include costing for measures to safeguard the toilets if they are kept open'.*

Carried 6/0

**COMMITTEE RECOMMENDATION**

THAT COUNCIL:

1. Note the information provided and receives the report.
2. That Council be provided with a report from Administration prior to the December full Council meeting on the legal entitlements for Council to determine the opening/closing times of the Indiana changerooms and toilets. Additionally that feedback is obtained from Indiana regarding their willingness to open the toilets/changerooms at 5am till 10:00pm in the summer months. '
3. Subject to confirmation that Council is able to direct Indiana, they be notified on preferred closing and opening times for the changerooms and toilets. The report to Council is to include costing for measures to safeguard the toilets if they are kept open.

AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/0

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Rowell

That the item be deferred for further consideration to seek other possible options.

Carried 9/0

**COUNCIL RESOLUTION**

That the item be deferred for further consideration to seek other possible options.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 9/0**

**11.2.4 WARD BOUNDARY REVIEW NUMBERS OF ELECTED MEMBERS**

**File No:** SUB/41  
**Attachments:** [Report to Council August 2010 Ward Review Discussion Paper September 2010 Ward Review Ward Boundaries with variations.pdf](#)  
[Wards as per Electoral Commission August 2010.pdf](#)  
[Cottesloe Ward Boundaries Map.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
**Proposed Meeting Date:** 7 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

In August 2010 Council resolved as follows:

THAT Council:

1. *Commence the process of a review of wards and representation.*
2. *Affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across four (4) Wards, retaining a directly elected Mayor.*
3. *Give local public notice that a review is to be carried out and seek submissions from the public.*
4. *Receive a subsequent report which considers all submissions and relevant factors, and;*
5. *Submit a report to the Local Government Advisory Board for its consideration.*

This report addresses part four (4) of the above resolution and recommends:

That Council:

1. Note that no submissions from the public have been received in relation to its local public notice that a ward review is to be carried out
2. Endorse the reduction from ten (10) to eight (8) elected members across four (4) wards retaining a directly elected Mayor, from October 2011, as per map option one (1) attached, with associated changes to its ward boundaries and representation
3. Declare all Councillor positions vacant at the next election (October 2011) and conduct elections for eight (8) members, with four (4) to serve a four (4) year term and four (4) to serve a two (2) year term, recognising that some current members will not serve their full term.
4. In accordance with Schedule 2.2 (9) of the *Local Government Act 1995* (the Act), recommend to the Local Government Advisory Board that;

- a. An order be made under s 2.2 (1) to amend the existing ward boundaries as detailed in the map (ref: CEO's report to Council dated 22 November 2010).
- b. An order be made under s 2.3 to retain the existing ward names
- c. An order be made under s 2.18 to designate the following number of offices of councillor for each ward: North (2), South (2), East (2) and Central (2).
- d. The local government to undertake another review of wards and representation in eight years time.

## BACKGROUND

Council is required to review its ward boundaries and number of offices of councillors for each ward *from time to time so that not more than eight (8) years elapse between successive reviews*. The typical review process involves a number of steps;

- Council resolves to undertake a review on ward boundaries and the number of offices of councillor
- Prior to conducting a review a local government is to give local public notice that a review is to be carried out
- Public submission period opens (local advertising and website) – minimum of 42 days
- Information provided to community for discussion including a range of alternatives to the current ward system
- Public submission period closes – minimum of 42 days from date of notice
- Council considers all submissions and relevant facts and makes a decision
- Council submits a report to the Local Government Advisory Board for consideration (the Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district with no resulting ratio being plus or minus 10% of the average ratio for that local government).
- If a change is proposed the Board submits a recommendation to the Minister for Local Government
- Any changes approved by the Minister, where possible, will be in place for the next ordinary election

Boundaries and representation are generally assessed against a number of criteria including;

- community of interest,
- physical and topographic features,
- demographic trends,
- economic factors, and
- the ratio of councillors to electors in the various wards.

According to the Department of Local Government in their circular of November 2008 related to *Review of Wards and Representation*, after the community comment period any feedback should be assessed and summarized and presented to Council for consideration and resolution. It needs to be clear from the consideration of submissions and the assessment of options against the factors why an option has been chosen as the best one for the district. If the Council proposes to maintain the status quo then reasons for this **must** be included in the resolution. If the Council decides to make a change, then an **absolute majority** is required. The resolution of the Council must propose the making of an order under s2.2 (1), s2.3 (3) and/or s2.18 (3) of the Act. Once a decision is made the local government may consider the impact of implementing any change at the next ordinary election. In some circumstances elected members may be unable to complete their term of office in view of the implementation of changes.

After the local government has completed its review, it must provide a written report about the review to the Local Government Advisory Board. If a local government expects changes to be in place in time for an ordinary election, it must submit its report to the Board by the **end of December** in the year prior to an ordinary election day. This will allow sufficient time for any changes to be considered and processed for the beginning of the election cycle. The report must outline the process and outcome of the review and include any recommendations for change. The officer's report to the Council forms the basis of this report. If any changes to boundaries are recommended then the maps must show the current situation and the proposed changes. These are required by the Department of Land Information to assist the preparation of new technical descriptions for the proposed new ward boundaries.

The Board considers all review reports submitted by local governments and assesses them against the requirements of the Act. If the Board determines that some part of a review does not meet the requirements of the Act, then the local government may be requested to undertake another review (or part of a review) that does meet the requirements. The Board will consider all recommendations for change submitted as part of the review. The Board makes recommendations to the Minister who has the final decision and may accept or reject the Board's recommendations.

If the Minister accepts the Board's recommendations, then several other processes follow. Changes to wards and representation are subject to an order to be signed by the Governor and then published in the *Government Gazette*. The order will include the date of implementation of changes which may be the date of gazettal or the next ordinary election day) and any resulting elections arising from the changes. Where there are changes to boundaries, the order will also include a new technical description of the ward boundaries, prepared by Landgate at the local government's cost. If a boundary change affects electors, then the WA Electoral Commission prepares new rolls for those affected wards.

The current situation at Cottesloe has a Mayor elected "by the community" plus a total of 10 Councillors elected from four (4) wards as follows:

| Ward         | Number of Electors | Number of Councillors | Councillor: Elector Ratio | % Ratio Deviation |
|--------------|--------------------|-----------------------|---------------------------|-------------------|
| North        | 2391               | 4                     | 598                       | -11.21%           |
| East         | 1009               | 2                     | 505                       | 6.14%             |
| South        | 1035               | 2                     | 518                       | 3.72%             |
| Central      | 940                | 2                     | 470                       | 12.56%            |
|              |                    |                       |                           |                   |
| <b>Total</b> | <b>5375</b>        | <b>10</b>             | <b>538</b>                |                   |

*Note: Data is from the Electoral Commission as at August 2010.*

The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole local government and the councillor/elector ratio for each ward. It can be seen that there is a significant imbalance in representation across the Town. According to the Advisory Board it is recommended that a balanced representation would be reflected in the % ratio deviation being within plus or minus 10%.

## STRATEGIC IMPLICATIONS

Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2010/11 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform, including changes to the number of elected members. The impact of changing the number of elected members affects elector representation ratios, Committee and Council membership/functions and, in some circumstances, elected members may be unable to complete their term of office based upon endorsed implementation timeframes.

## POLICY IMPLICATIONS

Nil

## STATUTORY ENVIRONMENT

Local Government Act 1995, particularly Section 2.1, 2.2, 2.3, 2.18 and Schedules 2.1 and 2.2.

### Part 2 — CONSTITUTION OF LOCAL GOVERNMENT

#### Division 1 — Districts and Wards

#### 2.1. State divided into districts

- (1) The Governor, on the recommendation of the Minister, may make an order —
  - (a) declaring an area of the State to be a district;
  - (b) changing the boundaries of a district;
  - (c) abolishing a district; or
  - (d) as to a combination of any of those matters.
- (2) Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect.

- (3) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.1 that the order in question should be made.

## **2.2. Districts may be divided into wards**

- (1) The Governor, on the recommendation of the Minister, may make an order —
  - (a) dividing a district into wards;
  - (b) creating new wards in a district that is already divided into wards;
  - (c) changing the boundaries of a ward;
  - (d) abolishing any or all of the wards into which a district is divided; or
  - (e) as to a combination of any of those matters.
- (2) For the purposes of this Act —
  - (a) an order that divides a district into wards is to be regarded as establishing a ward system for the district; and
  - (b) an order that abolishes all of the wards into which a district is divided and does not create new wards, is to be regarded as discontinuing the ward system for the district.
- (3) Schedule 2.2 (which deals with wards and representation) has effect.
- (4) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

## **2.3. NAMES OF DISTRICTS AND WARDS**

- (1) An order under section 2.1 designating an area of the State to be a district is to include an order naming the district.
- (2) An order under section 2.2 establishing a ward system for a district is to include an order naming the wards.
- (3) If a local government proposes under Schedule 2.2 that an order be made changing the name of the district or a ward, the Minister may recommend to the Governor that the order be made, and the Governor may make the order accordingly.
- (4) The Minister can only make a recommendation under subsection (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

## **2.18. FIXING AND CHANGING THE NUMBER OF COUNCILLORS**

- (1) When a local government is newly established the Governor, by order made on the recommendation of the Minister, is to —
  - (a) specify the number of offices of councillor on the council of the local government; and
  - (b) if the district is to have a ward system, specify the numbers of offices of councillor for the wards.



- (2) When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.
- (3) The Governor, on the recommendation of the Minister, may make an order —
  - (a) changing the number of offices of councillor on a council;
  - (b) specifying or changing the number of offices of councillor for a ward; or
  - (c) as to a combination of those matters.
- (4) The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

### **Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts**

[Section 2.1(2)]

#### **1. Interpretation**

In this Schedule, unless the contrary intention appears —

**“affected electors”**, in relation to a proposal, means —

- (a) electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- (b) where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;

**“affected local government”** means a local government directly affected by a proposal;

**“notice”** means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;

**“proposal”** means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.

#### **2. Making a proposal**

- (1) A proposal may be made to the Advisory Board by —
  - (a) the Minister;
  - (b) an affected local government;
  - (c) 2 or more affected local governments, jointly; or
  - (d) affected electors who —
    - (i) are at least 250 in number; or
    - (ii) are at least 10% of the total number of affected electors.
- (2) A proposal is to —
  - (a) set out clearly the nature of the proposal and the effects of the proposal on local governments;
  - (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
  - (c) comply with any regulations about proposals.

**3. Dealing with proposals**

- (1) The Advisory Board is to consider any proposal.
- (2) The Advisory Board may, in a written report to the Minister, recommend\* that the Minister reject a proposal if, in the Board's opinion —
  - (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made; or
  - (b) the proposal is frivolous or otherwise not in the interests of good government.

*\* Absolute majority required.*

- (3) If, in the Advisory Board's opinion, the proposal is —
  - (a) one of a minor nature; and
  - (b) not one about which public submissions need be invited,

the Board may, in a written report to the Minister, recommend\* that the Minister reject the proposal or that an order be made in accordance with the proposal.

*\* Absolute majority required.*

- (4) Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.

**4. Notice of inquiry**

- (1) Where a formal inquiry is required the Advisory Board is to give —
  - (a) notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
  - (b) a report to the Minister.
- (2) The notice and report under subclause (1) are to —
  - (a) advise that there will be a formal inquiry into the proposal;
  - (b) set out details of the inquiry and its proposed scope; and
  - (c) advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —
    - (i) the proposal; or
    - (ii) the scope of the inquiry.
- (3) If, after considering submissions made under subclause (2)(c), the Advisory Board decides\* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —
  - (a) another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
  - (b) another report to the Minister.
- (4) The notice and report under subclause (3) are to —
  - (a) set out the revised scope of the inquiry; and
  - (b) advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.

*\* Absolute majority required.*

**5. Conduct of inquiry**

- (1) A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
- (2) In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
  - (a) community of interests;
  - (b) physical and topographic features;
  - (c) demographic trends;
  - (d) economic factors;
  - (e) the history of the area;
  - (f) transport and communication;
  - (g) matters affecting the viability of local governments; and
  - (h) the effective delivery of local government services,

but this does not limit the matters that it may take into consideration.

**6. Recommendation by Advisory Board**

- (1) After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend\* —
  - (a) that the Minister reject the proposal;
  - (b) that an order be made in accordance with the proposal; or
  - (c) if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.

*\* Absolute majority required.*

- (2) The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —
  - (a) given\* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;
  - (b) afforded adequate opportunity for submissions to be made about the intended order; and
  - (c) considered any submissions made.

*\* Absolute majority required.*

**7. Minister may require a poll of electors**

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

**8. Electors may demand a poll on a recommended amalgamation**

- (1) Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts (“**the districts**”) and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.

- (2) The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).
- (3) If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.
- (4) This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.

**9. Procedure for holding poll**

Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —

- (a) the Advisory Board is to —
  - (i) determine the question or questions to be answered by electors; and
  - (ii) prepare a summary of the case for each way of answering the question or questions;
- and
- (b) any local government directed by the Minister to do so is to —
  - (i) in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and
  - (ii) conduct the poll under Part 4 and return the results to the Minister.

**10. Minister may accept or reject recommendation**

- (1) Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.
- (2) If at a poll held as required by clause 8 —
  - (a) at least 50% of the electors of one of the districts vote; and
  - (b) of those electors of that district who vote, a majority vote against the recommendation,the Minister is to reject the recommendation.
- (3) If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.

**10A. Recommendations regarding names, wards and representation**

- (1) The Advisory Board may —
  - (a) when it makes its recommendations under clause 3 or 6; or
  - (b) after the Minister has accepted its recommendations under clause 10,in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.
- (2) In making its recommendations under subclause (1) the Advisory Board —
  - (a) may consult with the public and interested parties to such extent as it considers appropriate; and
  - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

**11. Transitional arrangements for orders about districts**

- (1) Regulations may provide for matters to give effect to orders made under section 2.1 including —
  - (a) the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;
  - (b) the extinguishment of rights of a local government;
  - (c) the winding up of the affairs of a local government;
  - (d) the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;
  - (e) the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;
  - (f) if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;
  - (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.
- (2) Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.
- (3) Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).
- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —
  - (a) compensation acceptable to the person is made; or
  - (b) a period of at least 2 years has elapsed since the order had effect.
- (5) The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.
- (6) If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —
  - (a) any written law made after the order was made; and
  - (b) any order made by the Governor under subclause (8).
- (7) Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).
- (8) The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).

*[Schedule 2.1 amended by No. 64 of 1998 s.52.]*

**Schedule 2.2 — Provisions about names, wards and representation**

[Section 2.2(3)]

**1. Interpretation**

In this Schedule, unless the contrary intention appears —

“**affected electors**”, in relation to a submission, means electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission;

“**review**” means a review required by clause 4(4) or 6 or authorized by clause 5(a);

“**submission**” means a submission under clause 3 that an order be made to do any or all of the things referred to in section 2.2(1), 2.3(3) or 2.18(3).

**2. Advisory Board to make recommendations relating to new district**

- (1) When a local government is newly established, the Advisory Board —

- (a) at the direction of the Minister; or
- (b) after receiving a report made by a commissioner appointed under section 2.6(4) after carrying out a review,

is, in a written report to the Minister, to recommend the making of an order to do all or any of the things referred to in section 2.2(1)(a), 2.3(2) or 2.18(1).

- (2) In making its recommendations under subclause (1) the Advisory Board is to take into account the matters referred to in clause 8(c) to (g) so far as they are applicable.

**3. Who may make submissions about ward changes etc.**

- (1) A submission may be made to a local government by affected electors who —

- (a) are at least 250 in number; or
- (b) are at least 10% of the total number of affected electors.

- (2) A submission is to comply with any regulations about the making of submissions.

**4. Dealing with submissions**

- (1) The local government is to consider any submission made under clause 3.

- (2) If, in the council's opinion, a submission is —

- (a) one of a minor nature; and
- (b) not one about which public submissions need be invited,

the local government may either reject the submission or deal with it under clause 5(b).

- (3) If, in the council's opinion, a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise) within the period of 2 years immediately before the submission is made, the local government may reject the submission.

- (4) Unless, under subclause (2) or (3), the local government rejects the submission or decides to deal with it under clause 5(b), the local government is to carry out a review of whether or not the order sought should, in the council's opinion, be made.

**5. Local government may propose ward changes or make minor proposals**

A local government may, whether or not it has received a submission —

- (a) carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made;
- (b) propose\* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
  - (i) one of a minor nature; and
  - (ii) not one about which public submissions need be invited;or
- (c) propose\* to the Minister the making of an order changing the name of the district or a ward.

*\* Absolute majority required.*

**6. Local government with wards to review periodically**

A local government the district of which is divided into wards is to carry out reviews of —

- (a) its ward boundaries; and
- (b) the number of offices of councillor for each ward,

from time to time so that not more than 8 years elapse between successive reviews.

**7. Reviews**

- (1) Before carrying out a review a local government has to give local public notice advising —
  - (a) that the review is to be carried out; and
  - (b) that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.
- (2) In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.

**8. Matters to be considered in respect of wards**

Before a local government proposes that an order be made —

- (a) to do any of the matters in section 2.2(1), other than discontinuing a ward system; or
- (b) to specify or change the number of offices of councillor for a ward,

its council is to have regard, where applicable, to —

- (c) community of interests;
- (d) physical and topographic features;
- (e) demographic trends;
- (f) economic factors; and
- (g) the ratio of councillors to electors in the various wards.

**9. Proposal by local government**

On completing a review, the local government is to make a report in writing to the Advisory Board and may propose\* to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit.

*\* Absolute majority required.*

**10. Recommendation by Advisory Board**

- (1) Where under clause 5(b) a local government proposes to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3), and the Board is of the opinion that the proposal is —

- (a) one of a minor nature; and
- (b) not one about which public submissions need be invited,

the Board, in a written report to the Minister, is to recommend the making of the order but otherwise is to inform the local government accordingly and the local government is to carry out a review.

- (2) Where under clause 9 a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, correctly takes into account the matters referred to in clause 8(c) to (g), the Board, in a written report to the Minister, is to recommend the making of the order.

- (3) Where a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, does not correctly take into account the matters referred to in that clause —

- (a) the Board may inform the local government accordingly and notify the local government that a proposal that does correctly take those matters into account is to be made within such time as is set out in the notice; and
- (b) if the local government does not make a proposal as required by a notice under paragraph (a), the Board may, in a written report to the Minister, recommend\* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account those matters.

*\* Absolute majority required.*

- (4) Where a local government fails to carry out a review as required by clause 6, the Advisory Board, in a written report to the Minister, may recommend\* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account the matters referred to in clause 8.

*\* Absolute majority required.*

**11. Inquiry by Advisory Board**

- (1) For the purposes of deciding on the recommendation, if any, it is to make under clause 10(3)(b) or (4), the Advisory Board may carry out any inquiry it thinks necessary.
- (2) The Advisory Board may recover the amount of the costs connected with an inquiry under subclause (1) from the local government concerned as if it were for a debt due.

**12. Minister may accept or reject recommendation**

- (1) The Minister may accept or reject a recommendation of the Advisory Board made under clause 10.
- (2) If the recommendation is accepted the Minister can make a recommendation to the Governor for the making of the appropriate order.

*[Schedule 2.2 amended by No. 64 of 1998 s.53.]*

**FINANCIAL IMPLICATIONS**

There will be costs associated with any proposal for ward boundary changes (including community consultation) and associated elections as a consequence of any change to elected member numbers.

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**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

In accordance with statutory obligations, advertisements were placed in the POST (17 September 2010) and Western Suburbs Weekly (21 September 2010) and information was placed on the Town's website, including a detailed discussion paper and supporting information with potential boundary options.

Information was also included in the Cott News page in September and again in October 2010. At the time of preparing this report no public submissions had been received.

Consultation with Council's Strategic Planning Committee took place in November 2010.

**STAFF COMMENT**

The ideal number of elected members for a local government is for the local government to determine. There is a diverse range of councillor/elector ratios across Western Australia reflecting the sparsely populated remote areas and the highly populated urban areas. The structure of the Council's operations will provide some input into the number of elected members needed to service the local government.

As part of the community consultation period a discussion paper was prepared which outlined the factors considered and against which options are to be assessed, as well as including maps to show the current situation and possible alternative options. The Local Government Advisory Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district. In relation to timing, and as mentioned above, conducting a ward and representation review can be a lengthy process and, according to the Department of Local Government any changes to be implemented before the 2011 local government elections must be gazetted 80 days before the election date.

During the last twelve (12) months many Council's have been focussed on the Minister for Local Government's reform agenda, including potential amalgamation of local governments. Based upon Council's current position with regard to reform and the lack of willingness of its nominated partners to participate in a Regional Transition Group (RTG) process, little voluntary advancement can be achieved at this time.

The discussion paper and supporting documentation outlined the factors to be considered in the review including community of interest, physical and topographical features, demographic trends, economic factors and ratio of councillors to electors in the various wards. Given the size and nature of the Town it is considered that these factors do not create a significant variation between wards across the local government area. The options outlined in the discussion paper included (i) maintaining the current ward system (ii) reducing the number of councillor offices from ten (10) to eight (8) across four wards and (iii) no wards. Information, maps and ratios were provided to explain the advantages and disadvantages of each option.

Maintaining the current ward boundaries also maintains an imbalance in representation and will create difficulties if the number of councillor positions is reduced. Option two was provided in four (4) variations to demonstrate how changes in boundaries can affect ratios and option three (no wards) could be considered given the size of the local government area however this option does affect *local* representation and impacts on election costs. The ward system has served the Town well for many years and there is no reason to suggest that it cannot continue to do so. Given the lack of community feedback it could be assumed that there is no dissatisfaction with the current ward structure. Similarly there is no suggestion that the names of the wards require change.

Cottesloe is a relatively small LGA of 4 km<sup>2</sup> and is bounded by the Towns of Claremont and Mosman Park, the Shire of Peppermint Grove and the City of Nedlands. Its western boundary is the ocean. It is predominantly a residential community with a small town centre and strong coastal focus. It is divided by the Perth to Fremantle rail line and a major highway (Stirling Highway) running North to South. The population is relatively static with only small growth predicted. Current ward boundaries reflect one ward (North) as having twice the population and elected representatives and, as indicated above, the % ratio of representation between it and the Central ward has, over time, become slightly in excess of the preferred 10% limit.

The proposal to reduce the overall number of councillor positions requires a reconsideration of existing boundaries. Given the Council's preferred position as expressed in May 2009 and reaffirmed in August 2010 to retain four wards, there is a need to amend the boundaries accordingly. As can be seen from the four options proposed in the discussion paper all except option two (2) would be well within the preferred ratios, however the new boundaries will change the wards, and elected members will need to consider which new alignments are best suited to the new wards. In particular changes to the East ward, which currently uses the railway line as its western boundary, will be most affected but needs to change if ratios are to be maintained.

On the basis of receiving no submissions from the public during the advertising period and noting Council's resolution from August 2010, specifically part two (2) which stated *affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across four (4) Wards, retaining a directly elected Mayor* it is recommended that Council now endorse that position, confirm its proposed ward boundaries and advise the Local Government Advisory Board accordingly. In addition Council should also consider the implications for change at the next elections in October 2011 and the impact upon existing Councillor terms.

At present Council has ten (10) elected members and elections for five (5) positions are held every two years. Currently this involves elections for two (2) members in the North ward and one (1) in each of the South, East and Central wards. If the overall numbers are reduced to eight (8) there is only a need for three (3) councillors to be elected in 2011, however this will have a flow on effect for future elections and the number of councillor positions facing election.

The following options are suggested for consideration by Council and once endorsed will require the support of the LGAB and Minister;

1. Maintain current election terms for all existing members and only hold elections for three positions in October 2011 (one each for South, East and Central wards) – noting that this will create an imbalance in election numbers for one election cycle. The North ward will continue with its existing two (2) members but would not have an election in 2011. At the 2013 election two positions in the North Ward would be available for election and, in order to rebalance numbers, one should be advertised for a four (4) year term and one for a two (2) year term.
2. Declare all positions vacant at the next election (October 2011) and conduct elections for eight (8) members, with four (4) to serve a four (4) year term and four (4) to serve a two (2) year term, recognising that some current members will not serve their full term.

There are advantages and disadvantages to both options but on balance, and noting the impact on members with existing terms of office, it is recommended that option two be endorsed.

## **VOTING**

Absolute Majority

## **OFFICER & COMMITTEE RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Boland  
THAT Council

1. Note that no submissions from the public have been received in relation to its local public notice that a ward review is to be carried out
2. Endorse the reduction from ten (10) to eight (8) elected members across four (4) wards retaining a directly elected Mayor, from October 2011, as per map option one (1) attached, with associated changes to its ward boundaries and representation
3. Declare all Councillor positions vacant at the next election (October 2011) and conduct elections for eight (8) members, with four (4) to serve a four (4) year term and four (4) to serve a two (2) year term, recognising that some current members will not serve their full term
4. In accordance with Schedule 2.2 (9) of the *Local Government Act 1995* (the Act), recommend to the Local Government Advisory Board that;
  - a. An order be made under s 2.2 (1) to amend the existing ward boundaries as detailed in the map (ref: CEO's report to Council dated 22 November 2010).
  - b. An order be made under s 2.3 to retain the existing ward names
  - c. An order be made under s 2.18 to designate the following number of offices of councillor for each ward: North - Two (2), South - Two (2), East - Two (2) and Central - Two (2).
  - d. The local government to undertake another review of wards and representation in eight years time (2019).

**AMENDMENT**

Moved Cr Dawkins, seconded Cr Rowell

That item 3 be replaced with new condition to read: Maintain current election terms for all councillors and conduct elections for the 50% due for election.

Lost 1/8

**AMENDMENT**

Moved Cr Rowell, seconded Cr Dawkins

That in point 3 the word 'Councillor' be replaced with "Elected Members" and the following words be added after "...conduct elections for" "a directly elected Mayor for a 4 year term, and", to read as follows:

"Declare all Elected Member positions vacant at the next election (October 2011) and conduct elections for a directly elected Mayor for a 4 year term, and eight (8) members, with four (4) to serve a four (4) year term and four (4) to serve a two (2) year term, recognising that some current members will not serve their full term.

Lost 4/5

**COUNCIL RESOLUTION**

**THAT Council**

1. Note that no submissions from the public have been received in relation to its local public notice that a ward review is to be carried out
2. Endorse the reduction from ten (10) to eight (8) elected members across four (4) wards retaining a directly elected Mayor, from October 2011, as per map option one (1) attached, with associated changes to its ward boundaries and representation
3. Declare all Councillor positions vacant at the next election (October 2011) and conduct elections for eight (8) members, with four (4) to serve a four (4) year term and four (4) to serve a two (2) year term, recognising that some current members will not serve their full term
4. In accordance with Schedule 2.2 (9) of the *Local Government Act 1995* (the Act), recommend to the Local Government Advisory Board that;
  - a. An order be made under s 2.2 (1) to amend the existing ward boundaries as detailed in the map (ref: CEO's report to Council dated 22 November 2010).
  - b. An order be made under s 2.3 to retain the existing ward names
  - c. An order be made under s 2.18 to designate the following number of offices of councillor for each ward: North - Two (2), South - Two (2), East - Two (2) and Central - Two (2).

- d. The local government to undertake another review of wards and representation in eight years time (2019).**

**THE SUBSTANTIVE MOTION WAS PUT**

**Carried 8/1**

*The CEO declared a financial interest in Item 11.2.5 as this matter directly relates to his contract of employment and left the meeting at 8.58PM. After some initial discussion by Council a request was made for an additional report to be provided. The CEO returned to the meeting at 9.03PM. The meeting continued and this matter was deferred to the end of the meeting. With the additional report available the CEO again declared an interest and left the meeting at 9.15PM and returned to the meeting at 9.23PM.*

#### **11.2.5 PERFORMANCE & REMUNERATION REVIEW AND KEY RESULT AREAS (KRA'S) FOR THE CHIEF EXECUTIVE OFFICER**

|                                      |  |
|--------------------------------------|--|
| <b>File No:</b>                      | <b>PER/94</b>  |
| <b>Attachments:</b>                  | <u>CONFIDENTIAL - CEO Annual Performance Review 2010 – Report</u>  |
| <b>Responsible Officer:</b>          | <b>Carl Askew</b><br><b>Chief Executive Officer</b>  |
| <b>Author:</b>                       | <b>Carl Askew</b><br><b>Chief Executive Officer</b>  |
| <b>Proposed Meeting Date:</b>        | <b>07 December 2010</b>  |
| <b>Author Disclosure of Interest</b> | <b>The CEO declared an interest in this matter as it directly relates to his contract of employment.</b> |

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#### **SUMMARY**

This report recommends that Council note and endorse the recommendations of the CEO's Performance Review Panel as per the attached "confidential" reports.

#### **BACKGROUND**

Refer to the confidential reports attached.

#### **STRATEGIC IMPLICATIONS**

The achievement of Council's Future Plan is directly related to the performance of the CEO.

#### **POLICY IMPLICATIONS**

None Known.

#### **STATUTORY ENVIRONMENT**

Local Government Act 1995.

The Review is to be conducted in accordance with sections 5.38 and 5.39(3) (b) and Regulation 18D of the Local Government Act 1995, which requires that:

- *The performance of the CEO be reviewed at least once a year;*
- *The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review. and,*

- *A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.*

### **5.23. MEETINGS GENERALLY OPEN TO THE PUBLIC**

- (1) Subject to subsection (2), the following are to be open to members of the public —
  - (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
  - (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person,where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

### **FINANCIAL IMPLICATIONS**

Any proposed increase has an impact on Council's budget. Provision has been made in the Council budget for performance related pay increases.

### **SUSTAINABILITY IMPLICATIONS**

Nil

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**CONSULTATION**

- Strategic Planning Committee (CEO's Performance Review Panel)
- Mr John Phillips (Executive Manager) Workplace Business Solutions WALGA
- All Elected Members

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

THAT Council note and endorse the recommendations of the CEO's Performance Review Panel as per the attached "confidential" reports.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Cunningham

That the officer recommendation be replaced with the following:

Point (1) be added to state, *'Note and endorse report'*

Point (2) be added to state *'Receive advice prior to the December full Council meeting on disclosure or otherwise of any recommended salary increase'*.

Point (3) be added to state, *'That council receive from Administration prior to the December full Council meeting a summary of the Councillors feedback'*.

Carried 6/0

**COMMITTEE RECOMMENDATION**

THAT COUNCIL:

1. Note and endorse report
2. Receive advice prior to the December full council meeting on disclosure or otherwise of any recommended salary increase.
3. That Council receive from Administration prior to the December full council meeting a summary of the councillors feedback.

AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/0

**COUNCIL DISCUSSION**

The advice and summary of councillor feedback as requested in the Committee recommendation was forwarded separately by e-mail to all elected members prior to the Council meeting. The advice confirmed that the full recommendation listed in the confidential attachment report should be included in the Council resolution and be made public.



**AMENDMENT**

Moved Cr Cunningham, seconded Mayor Morgan

That an additional KRA (3.11) be added to those already listed to read; 'That the CEO conducts a desktop review of the Town's Standing Orders with the review to address the application of clause 12.1'.

Carried 9/0

**COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Goldthorpe

**THAT Council:**

- 1 Receive the Performance and Remuneration Review reports and endorse the overall rating of "Satisfactory - meeting the performance requirements of the position of Chief Executive Officer of the Town of Cottesloe".**
- 2 Increase the Chief Executive Officer's annual remuneration package to \$166,123 pa (3.8%), effective from 5<sup>th</sup> January 2011 (noting the increase to the remuneration package remains within Band 3 of the SAT recommended structure).**
- 3 Adopt the following Key Result Areas for the 2011 appraisal period.**
  - 3.1 Finalise the gazettal of the Local Planning Scheme No. 3 including the preparation of draft policies.**
  - 3.2 Progress the preferred solution for Council's Depot services and redevelopment of the current site.**
  - 3.3 Manage the Local Government Reform Strategy as determined and supported by Council.**
  - 3.4 Develop a strategy to promote Council services and activities at the beachfront in order to better align with expectations for the wellbeing and enjoyment of the local community and visitors to the Town of Cottesloe, including completing the review of the Beach and Beach Reserves Local Law.**
  - 3.5 Subject to external funding, develop a strategy to oversee the realisation of the Foreshore Concept Plan**
  - 3.6 Endeavour to progress Council's preferred solution for Curtin Avenue and the railway line.**
  - 3.7 Finalise and adopt a plan for the Town Centre and Station Street**
  - 3.8 Finalise a short and long term asset management plan and accompanying financial plan.**
  - 3.9 Assist Council with a review of its Future Plan 2006 – 2010.**
  - 3.10 Manage the introduction of the Local Government Industry Award 2010 inclusive of the development and implementation of a new Enterprise Bargaining Agreement (EBA No. 4) for the Town.**

- 3.11 That the CEO conducts a desktop review of the Town's Standing Orders with the review to address the application of clause 12.1.
- 4 Conduct the next review of the CEO's performance by December 2011, in accordance with the contract of employment between Council and Mr Askew.

Carried 9/0

**11.2.6 CIVIC CENTRE ROOF REFURBISHMENT - TENDER**

**File No:** SUB/1131  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

Council has budgeted in its 2010/2011 budget to structurally strengthen the Cottesloe Civic Centre roof and replace the majority of the roof tiled area. The cost of this work is in excess of \$100,000 and therefore a tender was called for the work, including a mandatory advertising period.

Tenders closed on Friday 26<sup>th</sup> November, 2010, and the recommendation is that Council accept the tender lodged by KMC Group for the Structural remedial Works and Re-roofing of the Cottesloe Civic Centre for \$399,700 (excluding GST) and that all unsuccessful tenderers be notified of Councils decision.

**BACKGROUND**

In August 2009, Council received a report from the Structerre Consulting Group, which provided photographs, plans and an explanation of the structural issues of the roof supporting timbers and joints. This report had been commissioned because of visible sagging in sections of the memorial hall ceiling. In addition, it was known that the waterproof membrane or sarking under the roof tiles had badly degenerated. There has been problems with roof water soaking through the original tiles. These tiles had been found to be semi-absorbant and not waterproof. Based upon these issues, Council resolved to include \$500,000 in the 2010/2011 budget for a major roof renovation and tiling upgrade.

**STRATEGIC IMPLICATIONS**

Under Councils' Future Plan, 2006 to 2010, Objective 5 is to "Maintain infrastructure and Council Buildings in a sustainable way". The Major Strategy dealing with this objective is No 5.6 – Develop a long term asset management plan and accompanying financial plan. This applies directly to the needs of Councils' foremost public building, the Cottesloe Civic Centre and War Memorial Hall.

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

No statutory requirement applies.

**FINANCIAL IMPLICATIONS**

Council has budgeted \$500,000 for its work. Recently, a grant of \$261,000 was approved by Lottery West for the project, which will reduce Councils' financial impact by that amount.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

The project was advertised as a tender in excess of \$100,000 for 3 weeks. Including by newspaper, internet and notice board at the Civic Centre.

**STAFF COMMENT**

Tenders closed on Friday, 26<sup>th</sup> November, with four tenders being received and opened:

|                             |              |                     |
|-----------------------------|--------------|---------------------|
| 1. KMC Group:               | \$399,700.00 | (not including GST) |
| 2. Robinson Buildtech       | \$463,209.79 | (not including GST) |
| 3. Loxam Developments       | \$443,108.18 | (not including GST) |
| 4. Olympic Holdings Pty Ltd | \$950,000.00 | (not including GST) |

The works involved fall into two sections.

(A) The removal of tiles and remnants of the old sarking plus the installation of new sarking and tiles. All tenders included the cost of the new tiles being supplied by Bristle Roofing.

(B) Structural replacement and improvement works as detailed in the Strutterre Consulting report, on the timber beams and general structure plus a variety of connection and jointing issues.

All works must commence in early January and be completed by the end of March 2011. A total of 14 sets of plans and specifications had been sent out, with 5 companies undertaking the mandatory roof-space inspection prior to tendering.

Of the four tenders received, the \$950,000 tender was discarded from consideration due to price. The three remaining tenderers supplied a varying level of support and justification details which were worked through by staff. All three tenderers are within Councils' budget allocation have committed to the time constraints, ie. start early January and finish by the end of March.

All tenderers will follow the plans and specifications provided by Council, without reservation. There is a \$10,000 contingency figure included in the tendered amounts, as required, for standard extras and minor additions exposed during the works program. All tenderers visited the site and inspected within the roof cavity, a mandatory requirement before tendering. With regards to the lowest tender received, \$399,700 (not including GST) from the KMC Group, the following advantages apply:

- Lowest tender
- Most recent building experience including the upgrading of the Civic Centre and hall in 2008. This allows fore-knowledge of the site and features of the building not applying to other tenderers.
- The KMC supervisor for this work would be the supervisor who has completed all finishing works for the end of the liability period for the building refurbishment contract.
- KMC invested substantial time on site with staff to determine the logistical requirements of the contract prior to tendering. This reduces the potential for 'surprise' extra works.

Therefore after consideration of the tenders received, the KMC Group is recommended for the awarding of the contract for the Structural Remedial Works and Re-roofing of the Cottesloe Civic Centre.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council accept the tender lodged by KMC Group for the Structural Remedial Works and Re –roofing of the Cottesloe Civic Centre for \$399,700 (excluding GST) and that all unsuccessful tenderers be notified of Councils decision.**

**Carried 9/0**

**11.2.7 GRANT STREET PARK AND ROW 17 COTTESLOE. REQUEST FOR DEVELOPMENT.**

**File No:** PRO/3625  
**Attachments:** [Email from resident about grassed area adjacent Grant Street Marine Park.pdf](#)  
[Map Grant Marine Park & Row 17.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A request has been received from an adjacent property owner to have the unwatered part of the Grant Marine Park on the south east corner landscaped with natural vegetation and to have the unsealed ROW 17 off Hamersley Street sealed due to dust problems.

The recommendation is that Council:

1. Include consideration in its next 5 year plan for Natural Areas Management to convert the un-watered south east corner of Grant Marine Park, adjacent to the Hawkstone Street/Hamersley Street intersection, into an extension of the nature species area already established in this park.
2. Include consideration for the sealing of ROW 17 in the first draft 5 Year Plan for the sealing and drainage of all Council controlled laneways, to be considered in February 2011.
3. Inform the applicant of Councils decision on these matters.

**BACKGROUND**

ROW 17 is currently owned by the Town of Cottesloe but is included with all other Council-owned laneways in the process underway to convert them to Crown ownership but vested in Council. It is unsealed and has a mixture of road base and limestone as a loose surface layer.

The south east corner of Grant Marine Park has a piped reticulation system as part of the total park area bore water – supplied resource. However, because of the lack of use by the public for any purpose, the water has been turned off over the area for the past 2 years. This corner is separated from the majority of Grant Marine Park by the curved junction of Hamersley Street with Hawkstone Street.

The file shows that there was some consideration of this junction becoming two cul de sacs opposite Grant Marine Park, to stop through traffic, but no conversion took place.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

No applicable policy.

**STATUTORY ENVIRONMENT**

There are not statutory requirements for sealing the laneway or for any form of park development.

**FINANCIAL IMPLICATIONS**

All costs for development of Grant Marine Park and sealing of ROW17 would normally be through Council. There are long term programs that could include these works in conjunction with similar works throughout Cottesloe.

**SUSTAINABILITY IMPLICATIONS**

The reticulation of this section of Grant Marine Park has been turned off to save bore water. The remainder of the grassed areas of Grant Marine Park continue to be reticulated. These areas receive a variety of public use. Without any projected future uses requiring the south east corner of the park to be reticulated, the long term nature of this section could be native vegetation planting as an extension to the coastal vegetation already established within the park.

**CONSULTATION**

Nil

**STAFF COMMENT**

There are no plans for the south east portion of Grant Marine Park. It used to be watered, mowed, weeded and fertilised regularly but received no use. In order to meet the Water Corporations restrictions on the bore water allocation, this area has not been watered from the nearby bore for two years. This area could become an extension of the nature vegetation portion of Grant Marine Park, with local species being planted and mulched after all grass on the site has been treated. Financial provision for this work could be included in the 5 Year Program for the Natural Areas Management Plan.

With regards to the possible sealing of ROW17, Council requested a 5 year program for the sealing and drainage of Council – controlled laneways at its June 2010 meeting. This laneway (ROW17) will be included in that draft 5 year program for consideration with all other programs in February, 2011.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Cr Cunningham discussed that community consultation may be appropriate with this item.

**OFFICER RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Rowell

THAT Council

1. Include consideration in its next 5 year plan for Natural Areas Management to convert the un-watered south east corner of Grant Marine Park, adjacent to the Hawkestone Street/Hamersley Street intersection, into an extension of the nature species area already established in this park.
2. Include consideration for the sealing of ROW17 in the first draft 5 Year Plan for the sealing and drainage of all Council controlled laneways, to be considered in February 2011.
3. Inform the applicant of Council decision on these matters.

**AMENDMENT**

Moved Cr Cunningham, seconded Mayor Morgan

That point 3 of the recommendation becomes point 4. That a new point (3) be added to the recommendation to state, *'that consideration of the above two points be accompanied by appropriate community consultation.'*

Carried 6/0

**COUNCIL DISCUSSION**

Cr Walsh requested clarification in relation to item 3 and the extent of consultation. The manager Engineering Services confirmed that a letter box drop of all those in the immediate vicinity would be undertaken.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Rowell

THAT Council

1. Include consideration in its next 5 year plan for Natural Areas Management to convert the un-watered south east corner of Grant Marine Park, adjacent to the Hawkestone Street/Hamersley Street intersection, into an extension of the nature species area already established in this park.
2. Include consideration for the sealing of ROW17 in the first draft 5 Year Plan for the sealing and drainage of all Council controlled laneways, to be considered in February 2011.
3. That consideration of the above two points be accompanied by appropriate community consultation.
4. Inform the applicant of Council decision on these matters.

**AMENDED SUBSTANTIVE MOTION WAS PUT**

Carried 8/1



**11.2.8 SPECIFIED AREA RATE LEVY PROCOTT**

**File No:** SUB/47  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Wayne Richards  
Finance Manager  
**Proposed Meeting Date:** 7 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report recommends Council support and approve a correction to the 2010-2011 Budget relating to the rate in the dollar charge for the specified area rate from 1.1999 cents in the dollar, to 1.305 cents in the dollar.

**BACKGROUND**

As part of the annual budget cycle, the Town receives advice from PROCOTT as to the level of increase for the specified area rate for the coming financial year. This year, the request from PROCOTT was received in June. PROCOTT requested an increase of 15 per cent on the previous year which was to yield approximately \$86,250. The rate in the dollar to achieve this increase and yield was calculated at 1.305 cents in the dollar. However, the rate that was actually adopted by Council was 1.1999 cents in the dollar, which represented an increase of 5.72 per cent. This was the increase in the general rate in the dollar, and it meant that only \$79,352 was actually levied, leaving a shortfall of \$6,897. The budget document which formed an attachment to the June 2010 agenda item reflected the 1.305 cents in the dollar figure, however the minutes in point 2 (g) of the Committee Recommendation and Council Resolution of Item 11.2.1 show a rate in the dollar of only 1.1999 cents in the dollar.

**STRATEGIC IMPLICATIONS**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

Section 6.16 (3) of the Local Government Act 1995 provides for the following:-

6.16. Imposition of fees and charges

6.16(3) . Fees and charges are to be imposed when adopting the annual budget may be –

(b) amended from time to time during a financial year.

**FINANCIAL IMPLICATIONS**

There would be no financial resource impact on Council, however, at present, PROCOTT will have a shortfall of funding of approximately \$6,897 if this item is not adopted.

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**CONSULTATION**

PROCOTT have been consulted on this matter and have confirmed their wishes (in writing) for the full budget request of \$86,250 to be levied as a specified area rate in 2010-2011.

**STAFF COMMENT**

There was an administrative error on the budget recommendation. The total amount required to be raised from the Special Area Rate was correct but the rate in the dollar shown was incorrect. To correct this problem and allow Pro-Cott to achieve the requested yield of \$86,250, Council will need to raise an interim rate notice on those businesses that are part of the specified area.

Pro-Cott have been consulted and given 2 options:

1. Operate with a reduced budget; or,
2. Request Council to process an interim levy.

Pro-Cott have requested we raise the interim levy to enable them to carry out their planned activities for the year.

**VOTING**

Absolute Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council change the rate in the dollar for the specified area rate adopted as part of the 2010-2011 Budget from 1.1999 cents in the dollar to 1.305 cents in the dollar, raise the associated interim rates notices and provide an accompanying written explanation.**

**Carried 9/0**

**11.2.9 STATUTORY FINANCIAL REPORT FOR THE MONTH OF  
NOVEMBER 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services

**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October 2010, to Council.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD net profit of \$905,639 as at 30 November 2010. Operating Revenue is above budget by \$92,846 (1%). Operating Expenditure is \$2,847 (0.1%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 November 2010 is shown on page 7. As discussed last month, it is important to note that the YTD variance is distorted by \$518,018 in grant funds distributed from the Shire of Peppermint Grove relating to the Library project and \$215,000 of parking revenue received as in lieu from development projects.

The Capital Works Program is listed on pages 22 - 27 and shows total expenditure of \$2,155,444 compared to YTD budget of \$2,407,466. Included in this section is an anomaly relating to the new library. The report currently shows YTD expenditure against this project of \$1,501,298 compared to a total budget of \$789,848. Part of the reason for the \$711,450 unfavourable variance is that we have not offset the grant funds (\$581,018 as mentioned above) from the Shire of Peppermint Grove.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November, 2010, as per the attached Financial Statements, submitted to the 7 December 2010 meeting of the Works and Corporate Services Committee.**

**Carried 9/0**

**11.2.10 SCHEDULE OF INVESTMENTS AND LOANS AS AT 30 NOVEMBER 2010**

**File No:** SUB/150 & SUB/151  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services

**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 November 2010, as per attachment, to Council

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Schedule of Investments on page 18 of the Financial Statements shows that \$3,627,400.96 was invested as at 30 November 2010.

Reserve Funds make up \$650,478.95 of the total invested and are restricted funds. Approximately 30% of the funds are invested with the National Australia Bank, 40% with Westpac, 14% with Commonwealth Bank and 16% with BankWest.

The Schedule of Loans on page 19 shows a balance of \$6,679,066.39 as at 30 November, 2010. There is \$440,894.71 included in this balance that relates to self supporting loans.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 November 2010, as per the attached Financial Statements, as submitted to the 7 December 2010 meeting of the Works and Corporate Services Committee.**

**Carried 9/0**

**11.2.11 ACCOUNTS FOR THE MONTH OF NOVEMBER 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the list of accounts paid for the period ending 30 November 2010 to Council, as per the attached financial statements.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement under the Local Government Act 1995.

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The list of accounts commencing on page 9 of the Financial Statements has the following significant payments that are brought to your attention:

- \$15,216.54 to WA Local Government Superannuation Plan for superannuation contributions.
- \$28,869.22 to BCITF for development contributions towards the Building and Construction Industry Training Fund.
- \$15,311.37 to WA Local Government Superannuation Plan for superannuation contributions.
- \$10,993.40 to Kyocera Mita Australia Ltd for a new replacement photocopier.
- \$29,870.50 to LGIS Liability for Council's second and final instalment of liability insurance for 2010-2011.

- \$40,557.00 to LGIS Workcare for Council's second and final instalment of workers compensation insurance for 2010-2011.
- \$55,763.93 to Transpacific Cleanaway for waste collection services for October 2010.
- \$20,428.57 to Surf Life Saving WA for lifesaving services at Cottesloe beach for November 2010.
- \$14,743.03 to Red 11 for the purchase of new computers.
- \$10,560.00 to Breac Ltd for the provision of consultancy services in the area of health and waste for October 2010.
- \$54,477.46 to the Shire of Peppermint Grove for Council's contributions towards the new joint library building.
- \$10,622.61 to Wilson Technology Solutions for Council's monthly instalment towards the purchase of meter eye technology and also a new hand held pideon unit.
- \$23,785.26 to WMRC for transfer station tipping fees for the period ended 07-11-10.
- \$67,075.31 & \$69,826.53 for fortnightly staff payroll for November 2010.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council receive the List of Accounts for the period ending 30 November 2010, as per the attached Financial Statements to the 7 December 2010 meeting of the Works and Corporate Services Committee.**

**Carried 9/0**



**11.2.12 PROPERTY AND SUNDRY DEBTORS REPORT FOR NOVEMBER 2010**

**File No:** SUB/145  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
**Proposed Meeting Date:** 07 December 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Report for the period ending 30 November 2010 to Council.

**BACKGROUND****STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement under the Local Government Act 1995.

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Sundry Debtors Report commences on page 20 of the Financial Statements and shows a balance of \$305,096.34 of which \$27,887.08 relates to the current month. The balance of aged debtors stood at \$277,209.26, including an amount of \$200,000.00 for cash in lieu of parking which is due prior to occupation.

Property Debtors are shown in the Rates and Charges analysis on page 21 of the Financial Statements and shows a balance of \$1,830,731.93. Of this amount \$197,117.74 and \$375,415.53 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$1,633,740 as compared to \$1,346,436 this time last year. The

main reason for this increase is the increased number of ratepayers who have chosen to pay on instalments.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Morgan, seconded Cr Goldthorpe**

**THAT Council receive the Property and Sundry Debtors Report for the period ending 30 November 2010 meeting of the Works and Corporate Services Committee.**

**Carried 9/0**

**11.2.13 WESTERN POWER/PUBLIC TRANSPORT AUTHORITY – TREE REMOVAL**

At the Strategic Works and Corporate Committee meeting 6 December 2010 Mayor Morgan moved a motion in relation removal of trees from land near the Western Power substation in Curtin Avenue, adjacent to Forrest Street.

Moved Mayor Morgan, seconded Cr Stzina

**THAT the above matter be considered as new business of an urgent nature introduced by the elected members by decisions of meeting.**

Carried 6/0

Mayor Morgan expressed concern that the notice that was given by Western Power provided insufficient time for the Town of Cottesloe to respond and did not clearly identify how quickly the trees were going to be removed. The Town of Cottesloe desires to have an improved relationship with Western Power including better communication to ensure there is no repeat of this type of incident.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Boland

**That a letter be sent to the Premier, Minister of Energy and Chairman of Western Power expressing the Town of Cottesloe's disappointment at the late notice and lack of consultation given by Western Power regarding the removal of trees from land near the Western Power substation in Curtin Avenue, adjacent to Forrest Street.**

Carried 9/0

**12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**

Nil

**14 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 9:34 PM

CONFIRMED: MAYOR ..... DATE: ..... / ..... / .....