

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, 14 December, 2015

MAT HUMFREY
Chief Executive Officer

24 December 2015

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Agenda and minutes are available on the Town's website

www.cottesloe.wa.gov.au

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7:00 PM.

2 DISCLAIMER

The Presiding Member drew attention to the town's disclaimer.

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor welcomed everyone to the final Council meeting for 2015. The Mayor took the opportunity to raise awareness of the Road Ribbon for Road Safety Campaign which runs between 15 November 2015 and 8 January 2016. She stated that everyone can contribute directly by wearing a grey road ribbon and spreading the campaign message. The main, and key, items are to turn off mobile phones whilst driving, adapt speed to weather, traffic and road conditions, belt up, take a break or have a rest. If drinking alcohol, arrange a skipper, use public transport, walk, or stay the night. It is an admirable campaign and she urged Cottesloe to support it.

The Mayor drew attention to several important dates. The Town of Cottesloe's Annual Meeting of Electors on 16 December 2015 held at the War Memorial Town Hall, and Carols by Candlelight which will be held on Sunday 20th December at the Main Lawn Cottesloe Civic Centre. The carols event is held every year in conjunction with St Philips Anglican Church. Gates will be open from 6pm and the Carols will start at 7pm. She also reminded the meeting of Australia Day 2016 celebrations including citizenship and award ceremonies. It will be held in conjunction with the Shire of Peppermint Grove and the Town of Mosman Park at Manners Hill Park in Peppermint Grove, starting at 7.45am.

The Mayor took the opportunity to thank all Councillors for their time and deliberations in keeping Cottesloe the suburb that we all like to live in; it does take considerable effort and time away from family members. She also thanked the officers and expressed a sincere thank you to Andrew Jackson, Doug Elkins and Garry Bird and gave a special thank you to Mat Humfrey, the Town's Chief Executive Officer, who has also doubled up for several months as Manager Corporate & Community Services and Acting CEO until the appointment of Mr Bird.

She stated that this has been a busy year, with the election of new Councillors which always creates extra work for Officers. The Town is a small Council with limited resources, which can detract from the effective day to day running of a locality.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

- Q1: Is the officer recommendation the best that Council can do for its ratepayers?
- A1: Under the current lease arrangements, the recommended action is believed to be the best that the Town can achieve.
- Q2: Is this the best use of Council's money (even though its only \$24,000) or is this a governance issue?
- A2: The option presented to Council is a proactive option, which allows the Town to take control of the situation for this summer. The other option, of sending improvement notices when required, is reactive and requires the issue to arise before any action is taken. While there is a cost involved in moving to a proactive solution, it is felt this is an appropriate use of resources.
- Q3: What is Cottesloe Council so afraid of that investment for solving this problem is so much?
- A3: It is not a question of being afraid, it is matter of dealing with the situation as it is. The Town cannot under the lease prescribe a cleaning regime, so if the Town wishes to insist on a particular level of service then a proactive solution is needed, which is what is being presented.

4.2 PUBLIC QUESTIONSMr Bret Christian, 38 John Street, Cottesloe - 10.1.1 Council Meeting Dates 2016

Mr Christian referred to the 2016 meeting dates report and put the following questions:

- Q1: Will Council members receive council officer reports prior to each briefing session?
- A1: The Mayor stated yes – reports will be posted on the website as they are at the moment
- Q2: If so, will this full report be made available to the public prior to briefing session?
- A2: The Mayor stated yes

Mr Roger Weston, 3 De Bernales Walk, Cottesloe – 10.4.7 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

- Q1: Was there legal advice sought recently regarding the obligations of the lessee? And if that so, what was the advice? Are those rights and obligations enforceable? If so, who provided that advice and are those lawyers acknowledged as experts on commercial law? If applicable, why does Council not proceed with legal action against the lessee?
- Q2: What other redevelopment options has Council considered other than the current proposal? And what is Council's response to Laurie Scanlan's recent proposal for an alternative redevelopment?

Q3: How many public submissions were in support of the proposal and how many opposed to it? How many of those submissions were from Cottesloe ratepayers?

Q4: If there are already remedies existing within the lease, was there a simple alternative proposal to alleviate the current toilet problem? Why would Council proceed to spend so much money and take on the incalculable cost of maintenance and the ever increasing cost of cleaning?

The Mayor took the questions on notice and she advised that this item has been recommended for deferral and she stated if the item was discussed, it would be to consider legal advice received and the meeting will be closed to public.

Cathie Marshall, 1C Charles Street, Cottesloe – Re. Scout Hall parking issue

Ms Marshall is a resident in Charles Street. She stated she received communication from the Town regarding the Scout Hall proposal for specific community purposes, but the hall is also being rented to others, such as yoga classes, and the parking impact on local residents is significant. She asked what activities the planning approval for the Scout Hall allowed and what the Town intended to do about the parking problem.

Ms Gabrielle Gill - 63 Eric Street, – Re. Scout Hall parking issue

Ms Gill submitted photos of parking issues in Charles Street associated with the Scout Hall. She stated that it was quite irritating and was not what the residents understood the building would be used for. It is difficult getting into Charles Street and is dangerous as the road is narrow. On a recent weekend there were over 35 cars parked in the street. It affects her house and the amenity of surrounding residents. She said that people parked on her verge whereby the reticulation has had to be fixed many times and vehicles have parked in her driveway. She asked that the parking problem be addressed.

The Mayor acknowledged the issue and took the above questions on notice, for officers to consider traffic management and parking control.

5 PUBLIC STATEMENT TIME

Mr Aaron Sice, 6 Dowel Court, Ocean Reef – Re. Item 13.1.2 – No. 21 (Lot 18) Deane Street - Two-Storey Dwelling - Reconsideration of Council Resolution Pursuant to SAT Directions Hearing

Mr Sice represented the applicants and spoke to provide clarification in relation to the matter. He referred to discussion at the SAT directions regarding the deferral and proceeding to a hearing, as well as the jurisdiction issue. He advocated that Council had the opportunity to support the application rather than resolve reasons for refusal, on the basis that the Deane Street access proposal could be approved on design principles and that a two-day hearing to settle this matter seemed excessive to his clients.

The Mayor advised that the report will be considered *in camera*.

Mrs Kate Moore, 7 Deane Street, Cottesloe – Re. Item 13.1.2 – No. 21 (Lot 18) Deane Street - Two-Storey Dwelling - Reconsideration of Council Resolution Pursuant to Sat Directions Hearing

Mrs Moore and her husband live at 7 Deane Street and spoke as residents and ratepayers as well as the applicants.

She asked how much ratepayers' money the Town would spend at the SAT hearing and how much the matter has cost to date? She referred to a letter from the CEO stating the SAT had invited the Town to refuse the application, which she did not believe was correct. She also commented that the jurisdictional issue had been resolved. She felt that the Town was being adversarial.

She stated that the vehicle access proposal comes down to whether it satisfies the design principles. In this respect she also mentioned their belief that the officer report on the overall proposal had significant discrepancies.

She questioned why the Town had agreed upon the natural ground levels but was not prepared to reconsider regarding the vehicle access, despite their submissions. She also referred to written support from many neighbours and nearby residents to the proposal, none of whom had been pressured.

She asked whether Council would decide to approve the proposal rather than force them to a SAT full hearing at considerable cost to both parties.

The Mayor advised that the questions will be taken on notice.

Mr David Chadwick, Saladin Street, Swanbourne – Re. Item 10.4.2 – Cottesloe Tennis Club – Request For Self Supporting Loan, Council Grant And Extension To Lease Area

Mr Chadwick spoke on behalf of nearly 700 members of the Cottesloe Tennis Club. He stated that this court expansion project has been in the planning for a long period of time. The Club has previously requested a grant from the Department of Sport and Recreation in 2014 for the expansion, which was unsuccessful, and has submitted a similar application this year for which they are still waiting a response.

He stated that at a Special Meeting of the Club, 80% of members gave approval to go ahead with the project. The Club is of the view that night tennis will be a future strength of the club. He stated that the 20% of members who were against it were so on the basis of the borrowings required to finance the project, but generally speaking they are redesigning the club for the next 50 years. Mr Chadwick stated that with the 100th anniversary of the Club this year, they believe that they have been good contributors to the community of Cottesloe, and the volunteer effort that has gone in to this project has been enormous. They have enjoyed the support of Councillors and officers of Council in scoping this project and hope that this will continue.

Mr Philip Barron, 5/31 Claremont Crescent, Claremont – Re. Item 10.4.2 – Cottesloe Tennis Club – Request For Self Supporting Loan, Council Grant And Extension To Lease Area

Mr Barron spoke as the current President of the Club and with regard to the proposed court expansion project currently before Council.

Further to Mr Chadwick's statement, Mr Barron spoke on two additional points.

He stated that there was almost unanimous alignment amongst members of the need for extra all weather tennis courts. At their last AGM in June where nearly 120 members attended, 80% of the votes were cast in favour of the self-supporting loan of about \$420,000.

In assessing the funding of the project, Mr Barron stated that the management had tested its finances against a number of variables, including cost overruns, membership decreases, other capital and major expenses and ongoing operating cost increases that were in excess of increases in subscriptions. In all cases the result concluded that the club could comfortably support the loan. The Club would like Councillors to take note that they previously benefited from a self-supporting loan, for which the repayment schedule was approximately the same as anticipated under the proposed arrangements. The loan was completed in full as scheduled and in accordance with the loan agreement. The Club commends the recommendations of the Town's officers and trusts that Councillors will support the project which is well planned, clearly thought through and was supported by an overwhelming number of club members.

Mr John Hammond, 90 Railway Street, Cottesloe, – Re. Item 10.4.7 – Final Adoption – Business Plan For The Redevelopment Of The Indiana Tea House

On behalf of the Cottesloe Residents and Ratepayers Association he would like to urge Councillors to endorse the recommendation of the Works and Corporate Services Committee made on 8 December.

Mr Hammond further stated that he personally supported the recent Council decision to undertake the cleaning of the toilets at the Indiana Tearooms, however the redevelopment is a much bigger issue and he stated that he was getting a feeling of déjà vu. He believed that the building is severely degraded and asked; are you the Council who is going to commit future generations to the upkeep of that building? Is the Council going to commit future generations to at least a hundred thousand dollars per year in ongoing maintenance costs? He does not believe that Council should. What is in this is for the Cottesloe residents? He would like to see it clearly spelt out for residents of Cottesloe so that we don't continually fall further into a hole with the Indiana building.

Ms Diana Lalor, 82 Marine Parade, Cottesloe - Re. Item 10.4.1 - Amendment To Beaches And Beach Reserve Local Law 2012 – Restrictions On The Use of Watercraft

Ms Lalor spoke to the proposal put forward for the kite and windsurfing landing zone contained between Rosendo Street and the Dutch Inn Groyne to ensure that the Deane Street beach location is not included in the proposal.

She stated that she has lived in Marine Parade, on the corner of Deane Street, for 23 years. She has observed the rise in popularity of kite surfing over the past 10 years and in particular along the ocean front in Cottesloe. She thinks it's a great water sport along with windsurfing, stand up paddle boarding, and swimming. She also observed that the beach on Deane Street was the most popular by far for the kite surfers, even though it is not an area designated for kite surfing. When the conditions are ideal for the sport, there will be between 15 to 20 kitesurfers and some windsurfers joining them, either setting or packing up from the Deane street location. Apart from the unfortunate death at Deane Street of a kite surfer, she stated that she has personally experienced and witnessed many near misses, including a kite landing on the roof of her house. She also saw a kite land in the middle of traffic on Marine Parade and has seen adults and children on the beach running away from long ropes and kites in order not to get caught up in them. She believes that the kitesurfers will not move from the Deane Street location until proper services are provided for them in the new zone, i.e. off road parking, showers and a drinking tap with easy access to the beach. She requested that Council confirm the new landing zone will not include Deane street and that they would be provided with the necessary facilities to encourage them to use the new zone.

6 ATTENDANCE

Present

Mayor Jo Dawkins
Cr Sandra Boulter
Cr Rob Thomas
Cr Mark Rodda
Cr Jay Birnbrauer
Cr Philip Angers
Cr Katrina Downes
Cr Sally Pyvis

Officers Present

Mr Mat Humfrey	Chief Executive Officer
Mr Garry Bird	Manager Corporate & Community Services
Mr Doug Elkins	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Lydia Halim	Executive Officer

6.1 APOLOGIES

Cr Helen Burke

Officer Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Nil

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Mayor Dawkins declared an impartiality interest in item 10.4.2 due to being a member of the Cottesloe Tennis Club.

Cr Downes declared an impartiality interest in item 10.4.2 due to being a member of the Cottesloe Tennis Club.

Cr Downes declared an impartiality interest in Item 13.1.2 due to knowing the applicant in a social capacity.

Cr Rodda declared an impartiality interest in item 13.1.1 due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta).

Cr Thomas declared an impartiality interest in item 10.4.7 due to knowing the Public Relation Advisor of the lessee via his involvement with the Mens Shed.

8 CONFIRMATION OF MINUTES

Moved Cr Angers, seconded Cr Rodda

[Minutes November 23 2015 Council.DOCX](#)

The Minutes of the Ordinary meeting of Council held on Monday, 23 November, 2015 be confirmed.

Carried 8/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

For the benefit of the members of public present, the Mayor advised that items 10.3.2 and 10.3.3 have been withdrawn from the Development Services Committee. Items 10.4.1, 10.4.2, 10.4.4, 10.4.7 have been withdrawn from the Works and Corporate Services Committee. all other items were dealt with 'En Bloc'. Item 13.1.1, 13.1.2 and 10.4.7 were dealt at the end of the meeting behind closed doors.

10 REPORTS

10.1 REPORTS OF OFFICERS

10.1.1 COUNCIL MEETING DATES 2016

File Ref: SUB/1980
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Mat Humfrey
Chief Executive Officer

Proposed Meeting Date: 14 December 2015
Author Disclosure of Interest Nil

SUMMARY

A resolution is required to set Council and Committee Meeting dates and times for 2016.

STRATEGIC IMPLICATIONS

Objective 7: Organisation Development

To effectively manage Council's resources and work processes.

- Deliver high quality professional governance and administration.

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

Regulation 12 of the Local Government (Administration) Regulations applies:

Public Notice of Council or Committee meetings –s.5.25(g):

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which –*
- (a) *the ordinary council meetings; and*
 - (b) *the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.*
- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).*

Please note that the Development Services Committee, Works and Corporate Services Committee and Strategic Planning Committee do not have any delegated authority and as such are not meetings required to be open meetings under the Act.

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

A review of the current meeting cycle was distributed to elected members and feedback received.

STAFF COMMENT

Following an administrative review of the meeting cycle and structure, it is recommended that a new meeting cycle be trialled in 2016.

In the new meeting cycle, the standing committees (Development Services, Works and Corporate Services and Strategic Planning) will cease meeting and instead a whole of Council briefing session will be held in their place. The briefing session will retain many of the characteristics of the committees, save that the elected members will not be required to form a recommendation. In this sense, the officer's recommendation will be forwarded directly to Council.

The briefing sessions will be open to the public and an Agenda for the briefing session will be published on the Friday before the briefing session, as they are now for committees.

Following much consideration, it is also recommended that the both the Council meetings and briefing sessions be held on a Tuesday night, starting at 6.00pm. This will allow more time between the release of the Agenda and the meetings. Secondly, Easter Monday, Anzac Day and the Queen's Birthday public holidays all occur on the 4th Monday of a month.

The changes proposed in this report are intended to improve the efficiency of meetings, while maintaining the level of community input the Council currently enjoys.

VOTING

Simple Majority

OFFICER RECOMMENDATION**Moved Mayor Dawkins, seconded Cr Downes**

THAT Council adopt the following meeting dates for 2016 and:

1. Observe a recess in January 2016, with no ordinary meeting of Council;
2. Advertise the ordinary Council meeting dates for 2016 as generally the fourth Tuesday in the month commencing at 6:00pm;-

January	No meeting
February	Tuesday 23
March	Tuesday 29

April	Tuesday 26
May	Tuesday 24
June	Tuesday 28
July	Tuesday 26
August	Tuesday 23
September	Tuesday 27
October	Tuesday 25
November	Tuesday 22
December	Tuesday 12

3. Advertise the Full Council Briefing Session dates for 2016 as being held on generally the third Tuesday of each month, commencing at 6:00pm

January	No meeting
February	Tuesday 16
March	Tuesday 22
April	Tuesday 19
May	Tuesday 17
June	Tuesday 21
July	Tuesday 19
August	Tuesday 16
September	Tuesday 20
October	Tuesday 18
November	Tuesday 15
December	Tuesday 06

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Pyvis

That in condition 2, 6:00pm be replaced with 7:00pm.

Carried 6/2

COUNCIL RESOLUTION

THAT Council adopt the following meeting dates for 2016 and:

- 1. Observe a recess in January 2016, with no ordinary meeting of Council;**
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July	Tuesday 19
August	Tuesday 16
September	Tuesday 20
October	Tuesday 18
November	Tuesday 15
December	Tuesday 06

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 8/0

10.2 REPORTS OF COMMITTEES**10.3 DEVELOPMENT SERVICES COMMITTEE MINUTES - 07 DECEMBER 2015****10.3.1 1 NAPOLEON STREET - VANS - PROPOSED ALFRESCO STRUCTURE**

File Ref: 3194
Attachments: [1 Napoleon Aerial](#)
[Planning Consultant Letter](#)
[Applicant Submission](#)
[Application Plans](#)
[Submissions on Proposal](#)

Responsible Officer: **Mat Humfrey**
Chief Executive Officer

Author: **Andrew Jackson**
Manager Development Services

Proposed Meeting Date: 7 December 2015

Author Disclosure of Interest: Nil

Property Owner: Crown / Town of Cottesloe

Applicant: Vans Café – Kevin McCabe

Date of Application: 8 June 2015

Zoning: LPS3 Local Road Reserve

Use: Outdoor eating facility

SUMMARY

This report presents a proposed substantial structure for an outdoor eating facility for Vans Café, occupying part of the adjacent footpath on the corner of Napoleon and Railway Streets.

The proposed structure is called a “parklet”, which is the term coined to describe innovative structures created in the public domain, such as mini “parks”, constructed outdoor eating facilities, rest areas, etc.

Parklets and similar creative or pop-up structures and their associated activities are a modern urban trend. Typically they are placed on and around existing infrastructure rather than significantly affecting it, whether they are temporary or longer-term, and are readily removable.

It is necessary to distinguish between public and private parklets. A public parklet is an informal place freely available to all and usually managed by the local government. A private parklet for an alfresco facility is essentially a fancy outdoor eating area dedicated to the adjacent food/beverage business. They do, nonetheless, share some common considerations.

PROPOSAL

The application is supported by:

- Plans and images showing the layout and design of the development.
 - The proprietor’s submission describing and explaining the proposal.
-

- A submission from TPG planning consultants elaborating on the proposal, including examples of how parklets are permitted elsewhere.

Proprietor's submission

This submission accompanies the plans. It outlines the concept of parklets and their role in place-making, as well as the design details. The structure is designed to integrate with the public infrastructure and to form an anchor element in the street. It would comprise modular components that can be removed if necessary and would respect the functioning of existing infrastructure (eg drainage). Materials, finishes, colours and planting would complement the street. The structure, furniture and planting would be continually maintained in accordance with a Maintenance Plan; whilst the outdoor eating health requirements would be adhered to.

Planning consultant's submission

TPG's letter provides additional information about parklets generally, specific policy examples from other local governments and key features of the proposal. It references the Cities of Fremantle, Vincent, Adelaide and San Francisco and summaries common considerations. It then analyses the characteristics of Napoleon Street and the potential for parklets, as well as suggests appropriate controls; and outlines how the proposal would satisfy established parameters for parklets. The submission appends expressions of support and sample parklet policies (not attached due to large volume), and an image of the proposal (attached).

In response to the submissions received, TPG has commented as follows:

To accommodate the proposed Vans Café Parklet, we understand that one car parking bay would be temporarily resumed for such a purpose; however, following this, the car parking bay will be returned to its former condition at the end of the approval period.

In the context of the number of car parking bays available within the immediate locality (within a 120 metre catchment area, 263 bays excluding those within Napoleon Street are available for public use), the proposed Parklet is considered to have minimal impact on the accessibility and parking needs of the locality, with a number of subsequent benefits being achieved as a result – importantly the proposed Parklet will enhance the interest, amenity and vitality of Napoleon Street.

REQUIREMENT FOR PLANNING APPLICATION

Outdoor eating or alfresco areas are regulated under the Town's *Activities On Thoroughfares and Trading In Thoroughfares and Public Places Local Law*, by way of a permit to conduct an outdoor eating facility. The permit controls the area, furniture, number of patrons and operating days/hours. It entails: compliance with Health laws; having regard to sightlines at intersections; not impeding pedestrian movement; and assigning public liability to the permit holder (ie indemnifying the Crown and Town). An annual fee is levied.

Traditional footpath alfresco areas involve the furniture being placed out and taken in each day, whilst any remaining objects such as planter boxes or awnings can be

moved or retracted if required – that is, they are essentially temporary installations. It is only when a substantial structure of a fixed nature is proposed to be built in the public domain that planning approval is required in addition to an outdoor eating permit. The alfresco structure for Elba small bar in Napoleon Street involved a planning application/approval.

Under LPS3 Napoleon Street is “zoned” as a Local Road Reserve. In the event of proposed use and development of such land for a substantial alfresco structure, the Scheme in clause 3.4 requires an application for planning approval in the normal manner. In determining the application Council is to have due regard to the matters set out in clause 10.2 (ie relevant planning considerations) and the ultimate purpose intended for the Reserve.

As vestee the Town has authority to consent to the application being made on behalf of the landowner (the Crown) and the CEO has signed the form accordingly. This is purely to enable the application and does not imply support for the proposal.

In the event of a planning approval, a separate outdoor eating permit will be required to operate the alfresco facility. Extending the liquor licence to the new alfresco area would require a separate approval via the Department of Racing, Gaming and Liquor.

STRATEGIC IMPLICATIONS

Relates to future of Town Centre.

POLICY IMPLICATIONS

May influence a policy or guidelines for such.

FINANCIAL IMPLICATIONS

No direct cost to Town.

STATUTORY ENVIRONMENT

- Local Planning Scheme No. 3.
- Activities On Thoroughfares and Trading In Thoroughfares and Public Places Local Law.

SUSTAINABILITY IMPLICATIONS

Fosters sustainability of Town Centre.

CONSULTATION

Initially the proprietor of Vans Café liaised with relevant Officers and some Elected Members to float the idea and discuss how it could be progressed, with input from an urban designer who prepared a preliminary concept.

The proposal was firmed-up and a planning application lodged. Discussions ensued in relation to the recent Napoleon Street improvements, while the proprietor continued to liaise with Elected Members and other traders about the proposal.

The Town advertised the application to all property owners and business proprietors in Napoleon Street, and three submissions were received as follows:

Procott Inc – Michael Tucak, Co-President

The proposal was presented to Procott by the proprietor and is supported as a positive approach for the street and town centre, subject to appropriate safety and consideration of parking, as described; while observing that the parklet would be integrated with the public domain infrastructure in its location. The sentiment is that the loss of a car bay would be compensated by the contribution to the street and activation/attraction of the town centre.

Cimbalino – David Morgan, co-proprietor

Objects to the proposed loss of a car bay, given the need for parking and the retail downturn. This business withdrew its own application to expand its alfresco area, which would have occupied a car bay. Considers that market umbrellas as depicted would be hazardous and obtrusive. Considers that the proposal would be dominant in the street, to the detriment of other businesses and limiting choice.

Motion Lifestyle – Jane Crump, proprietor

Opposed to the proposal if the loss of a car bay cannot be replaced elsewhere in the street, such as in front of the former Dome café which recently closed.

Note: a new café is intended for the former Dome premises, including an alfresco area, which will prevent creation of another car bay.

PLANNING COMMENT**Planning considerations**

Relevant matters to be considered by Council are set out in the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which replace clause 10.2 of LPS3. These include: the Scheme aims; orderly and proper planning; compatibility of the development with its setting; amenity, including character of the locality and any social impacts; landscaping and tree preservation; risk to human health and safety; traffic generation; loss of any community benefit (excluding commercial competition); the site's history; impact on the community as a whole; any submissions received; and any other appropriate consideration.

Against this framework the overall assessment is that alfresco structures can be supported in-principle as suitable for the street and that the proposal represents a logically-located and well-designed facility that would enhance the visual interest and social enjoyment of the place.

In terms of the purpose of the Local Road Reserve, an alfresco facility is consistent with the use of footpaths for such and with the established food and beverage premises along Napoleon Street featuring varied alfresco areas.

Consultation and submissions

The application has had above-average exposure through direct liaison by the proprietor and comprehensive advertising by the Town. Informal feedback to the proprietor indicates a good degree of support from a number of owners, businesses

and elected members (on a preliminary basis). Formal submissions to the Town comprise support from Procott, plus two objections from other businesses to the loss of a car bay (but not to the proposal *per se*). From this it is apparent that the support clearly outweighs the objections.

Loss of car bay

It is appreciated that property owners, businesses and customers are sensitive about the provision of car bays in Napoleon Street. At the same time these stakeholders have supported alfresco areas as important to the attraction and life of the street/Town Centre, yet which often occupy a car bay. It is difficult to sustain that the loss of one bay to the proposal would be so detrimental that it should not be supported for that reason. TPG for the applicant has referred to the availability of ample parking in the immediate vicinity. In 2012 the Town surveyed parking for the Town Centre and tallied in excess of 1000 public and private bays in the locality.

When outdoor eating permits occupying car bays have been granted under the Local Law, the Town has not been empowered to charge a cost for that, instead deriving income from the annual fee for the alfresco area. The parking demand from alfresco areas is seen to be part of the total demand from patrons of premises and catered for by private or public parking.

With this application, the Town is in effect approving development on its own land, as distinct from development or a new use on private land. As the café use exists, the application does not raise a parking requirement; and in any case the Scheme allows Council to reduce or waive parking for changes of use in the Town Centre. Neither is the option of cash-in-lieu of parking raised, as the land in question is Local Road Reserve rather than Town Centre Zone.

Infrastructure and safety

The Manager Engineering Services has participated in discussions about the proposal from conception and supports the application. The design takes into account the Town's infrastructure and can be partially or wholly removed if necessary (which the Town can readily enforce).

As to traffic safety, the structure would be setback from the carriageways of both streets and behind the light pole and signposts, with a barrier edge of planter boxes. The physical presence and visual prominence of the parklet would calm traffic, whilst affording sightlines and pedestrian passage.

The parklet would coexist with the current alfresco area adjacent to the shopfront. The plans indicate this being rationalised to be narrower, to ensure sufficient pedestrian passage, which is suitable.

As to lighting, the parklet would be lit by the street lights and café lights.

CONCLUSION

The introduction of a parklet-style alfresco facility to Napoleon Street would be an innovative addition to the public domain. The proposed corner location would serve

to define the Town Centre's main-street and would not unduly affect existing infrastructure.

The loss of one car bay in the street would be inconsequential in itself; although over time the cumulative loss of car bays to alfresco areas or parklet installations could become a concern. However, the incidence of parklets is likely to be fairly low, as not all sites or associated businesses lend themselves to structures. If Council wished to formulate a policy or guidelines for future parklets in the district that could be done, which for the Town Centre would be linked to the proposed Activity Centre Plan.

It is concluded that the application may be approved subject to conditions as below. The Town's ability to remove the infrastructure or discontinue the outdoor eating permit would prevail should the structure or alfresco operation become problematic.

COMMITTEE COMMENT

Committee clarified a few technical details and expressed support for the proposal as advantageous to the vibrancy of the street and Town Centre.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Downes, seconded: Cr Angers

THAT Council grant planning approval to the proposed outdoor eating facility parklet for Vans Café at 19 Napoleon Street, Cottesloe, to be located on the road reserve adjacent to the premises, as shown on the plans received on 15 June 2015, subject to the following conditions:

- 1. This approval is for an initial period of one year, whereby continuation of the parklet beyond the expiry date shall require a prior further planning approval.**
- 2. At the end of the approval period, unless otherwise allowed (ie a renewal application is under consideration) the applicant/proprietor shall remove the parklet and the Town's infrastructure shall be repaired/reinstated to its satisfaction.**
- 3. All costs of construction, maintenance and removal of the parklet and of the repair/reinstatement of the Town's infrastructure shall be borne by the applicant/proprietor.**
- 4. Prior to installation of the parklet, the applicant shall submit to the Town to its satisfaction:**
 - a) detailed construction plans for a building permit and engineering approval as appropriate, including universal access;**
 - b) details of all proposed materials, finishes and colours, as well as of the proposed furniture and planting;**

- c) a maintenance and management plan for the parklet and the Town's infrastructure it affects, including the plants being well-maintained and replaced/refreshed as needed so as to be continuously attractive;
 - d) a certificate of currency for public liability/indemnity insurance of \$10 million minimum for the parklet structure and its use; and
 - e) a bond estimated by the Town to cover the default costs of removal of the parklet and repair/reinstatement of its infrastructure.
5. The existing tables and chairs for outdoor eating along the shopfront shall be rearranged as shown in the approved plans, in order to ensure a minimum 2m wide pedestrian passage between them and the parklet, to the Town's satisfaction.
6. This approval excludes any awning, canopy, shade sail or shelter structure. Market umbrellas may be approved by the Town, subject to the submission of details showing their location and anchoring to avoid being a physical or visual obstruction or a safety hazard, and will be required to be taken-in overnight.

Advice:

- 1. To operate the parklet as an alfresco facility an Outdoor Eating Permit will be required from the Town.
- 2. A separate application to the Department of Racing, Gaming and Liquor will be required for the service/consumption of alcohol at the parklet.

Carried 8/0

**10.3.2 LOCAL PLANNING SCHEME NO. 3 - RESTRICTED FORESHORE CENTRE
ZONE DESIGN GUIDELINES - REPORT FOLLOWING ADVERTISING**

File Ref: SUB/335
Attachments: [Previous Report 21 Sept 2015](#)
[Advertised Guidelines](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 07 December 2015
Author Disclosure of Interest: Nil

SUMMARY

This report presents finalised Local Planning Scheme No. 3 (LPS3) Design Guidelines for the Restricted Foreshore Centre Zone for Council adoption.

BACKGROUND

In September 2015 Council received a report on the proposed Design Guidelines and resolved that they be advertised, which was undertaken during October.

The previous report, attached, explains the reason for the Design Guidelines, how they are created, how they would operate and their detail. In summary, LPS3 requires design guidelines specifically for setbacks in the subject zone, to enable development proposals and their assessment.

Attached to the report is the Scheme Map showing the locations of the zone and cadastral plans showing the subject lots.

Also attached is the actual Design Guidelines document, which is a concise policy statement describing the setback controls.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Scheme Local Planning Policy Design Guidelines are to be had regard to.

STATUTORY ENVIRONMENT

LPS3.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

The proposed Design Guidelines were advertised for 21 days as required, including notices in the *Post* newspaper, at the Town's office and on its website, as well as letters to all affected property owners (63 in total, due to strata units).

One submission was received, attached, which drew attention to a technical error. This is useful as the identified reference in the proposed policy to *north-west* should read *north-east*. The Design Guidelines document attached has been corrected accordingly.

STAFF COMMENT

Following adoption of the Design Guidelines policy by Council, notification of such will be published in the *Post* newspaper, whence it becomes applicable, and the policy will be available for inspection at the front counter and on the website.

COMMITTEE COMMENT

Committee discussed whether 150 Marine Parade on the corner with Eric Street should have nil or 2m setbacks to the two street boundaries. The Manager Development Services explained the planning rationale for nil setbacks, which overall were considered justified.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Angers, seconded: Mayor Dawkins

THAT Council note the submission and resolve to proceed with the Restricted Foreshore Centre Design Guidelines local planning policy, subject to modification of the words *north-west* in the second paragraph of section 5 of the document to *north-east*.

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Boulter

That for 150 Marine Parade on the corner with Eric Street, the street boundary setback specified in the *Northern Node Minimum Boundary Setbacks* table of the Restricted Foreshore Centre Design Guidelines be changed from "Nil to both street boundaries" to "2m".

Lost 2/4

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Birnbrauer

THAT Council note the submission and resolve to proceed with the Restricted Foreshore Centre Design Guidelines local planning policy, subject to modification of the words *north-west* in the second paragraph of section 5 of the document to *north-east*.

AMENDMENT

Moved Cr Boulter, seconded Cr Pyvis

That the adoption of the Restricted Foreshore Centre Design Guidelines local planning policy be deferred until a review is being completed by Design Advisory Panel.

Lost 3/5

For: Crs Boulter, Pyvis, and Thomas

Against: Mayor Dawkins, Crs Rodda, Downes, Birnbrauer, and Angers

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

THAT Council note the submission and resolve to proceed with the Restricted Foreshore Centre Design Guidelines local planning policy, subject to modification of the words *north-west* in the second paragraph of section 5 of the document to *north-east*.

THE SUBSTANTIVE MOTION WAS PUT

Carried 5/3

For: Mayor Dawkins, Crs Rodda, Downes, Birnbrauer, and Angers

Against: Crs Boulter, Pyvis, and Thomas

10.3.3 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE 2015-2016 HOLIDAY PERIOD RECESS OF COUNCIL

File Ref: SUB/39
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 07 December 2015
Author Disclosure of Interest: Nil

INTRODUCTION

Under Local Planning Scheme No. 3 (LPS3) Council has delegated its Scheme powers to the CEO, who in turn has delegated them also to the Manager Development Services (MDS). In practice, decision-making on planning applications is governed by a Delegation of Planning Powers Statement approved by Council, effectively a policy managing which proposals are done under delegation and which are referred to Council or called-up from the weekly Delegation Notice.

Each December, to cover the period when Council is in summer recess so is not available to make decisions on the more substantial applications, a report is presented for Council to agree to the Delegation Statement to be operated by special arrangement as described below.

BACKGROUND

LPS3 commenced on 1 August 2014. The Delegation Statement was reviewed and streamlined by Council in September 2014 consistent with the new Scheme and the revised Residential Design Codes.

The annual arrangement for the summer recess is to extend the Delegation Statement to allow planning applications that would ordinarily proceed to Council to be determined by the CEO or MDS under delegation, should the need arise. Traditionally this has been subject to consultation with the Presiding Member or Deputy Presiding Member of the Development Services Committee (DSC).

This arrangement has worked well and ensured that the processing of applications is not unduly delayed, for efficiency and as there is a right of appeal after certain periods. Also, during the holidays there are usually fewer applications, while any significant or problematic ones can be identified for referral to Council from February onwards. Experience has been that the extended delegation is sometimes not required or there is only a small number of such applications.

However, as the arrangement is only useful if the DSC Presiding Member or Deputy is available to be consulted and satisfied with such delegated decisions, it is now suggested that the Mayor or another DSC member could be included on behalf of Council.

Further, if Council is satisfied with this new arrangement, it could be added to the Delegation Statement as a standing arrangement rather than requiring a report to Council each December.

COMMITTEE COMMENT

Committee clarified that the recommendation required one more elected member to operate the special delegation, and felt that it was beneficial to have the delegation in place, even if seldom used; while noting the that usual call-up procedure would still apply.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Downes

THAT Council:

1. Pursuant to clause 11.3 of Local Planning Scheme No. 3 and in relation to the adopted Delegation of Planning Powers Statement for determination of planning applications, extend its decision-making authority to the Chief Executive Officer and the Manager Development Services to determine all types of applications during the Council recess period from Tuesday 15 December 2015 to Friday 12 February 2016, subject to:
 - a. the relevant officer discussing each application that falls within the extended delegated authority with the Presiding Member or Deputy Presiding Member of the Development Services Committee, together with the Mayor or one other Committee member, prior to a decision being made on the application; and
 - b. a list of applications intended to be determined under this extended delegated authority being included and highlighted in the weekly Delegation Notice circulated to all Councillors and subject to the normal call-in arrangement.
2. Agree to this annual procedure being incorporated into the Delegation of Planning Powers Statement as a standing arrangement.

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Angers

That a new condition 3 be added to read: “That Council, in respect of the overall delegation of its powers under the Scheme, including the delegation arrangement for its summer recess the subject of this report, resolve to recognise the revised clauses setting out delegation authority contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*”.

Carried 8/0

COUNCIL RESOLUTION**THAT Council:**

1. Pursuant to clause 11.3 of Local Planning Scheme No. 3 and in relation to the adopted Delegation of Planning Powers Statement for determination of planning applications, extend its decision-making authority to the Chief Executive Officer and the Manager Development Services to determine all types of applications during the Council recess period from Tuesday 15 December 2015 to Friday 12 February 2016, subject to:
 - a. the relevant officer discussing each application that falls within the extended delegated authority with the Presiding Member or Deputy Presiding Member of the Development Services Committee, together with the Mayor or one other Committee member, prior to a decision being made on the application; and
 - b. a list of applications intended to be determined under this extended delegated authority being included and highlighted in the weekly Delegation Notice circulated to all Councillors and subject to the normal call-in arrangement.
2. Agree to this annual procedure being incorporated into the Delegation of Planning Powers Statement as a standing arrangement.
3. That Council, in respect of the overall delegation of its powers under the Scheme, including the delegation arrangement for its summer recess the subject of this report, resolve to recognise the revised clauses setting out delegation authority contained in the *Planning and Development (Local Planning Schemes) Regulations 2015*

THE AMENDED SUBSTANTIVE MOTION WAS PUT**Carried 8/0**

**10.4 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 08
DECEMBER 2015****10.4.1 AMENDMENT TO BEACHES AND BEACH RESERVE LOCAL LAW 2012 –
RESTRICTIONS ON THE USE OF WATERCRAFT**

File Ref: SUB/207-02
Attachments: [Cottesloe Kite Surfing Map](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Following concerns raised by Councillors in regards to the kite surfing activities along the Cottesloe beach foreshore, it is proposed to use powers conferred on Council by the Town of Cottesloe *Beaches and Beach Reserves Local Law 2012* (‘the Local Law’) to further restrict these activities to certain areas and prohibit them in the main swimming and recreational areas.

A map depicting the area where sailing craft and sailboards would be permitted to set up and launch from the beach is attached.

BACKGROUND

The Town of Cottesloe Local Law currently prohibits the use of watercraft (as defined in the Local Law) within the town boundary and extending 200 metres out to sea, with exceptions as specified including:

8.1 Restrictions on the use of watercraft

Watercraft are prohibited within defined area with the following exceptions -

- a) surf life saving craft, used in their capacity as training and competition boats of a Life Saving Club, at both Cottesloe Beach and North Cottesloe Beach;*
- b) surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person;*
- c) subject to clause 4.2 surf skis may be used -
 - (i) at Cottesloe Beach and North Cottesloe Beach only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides; and*
 - (ii) At other beaches where safe to do so;**
- d) sailing craft and sail boards south of the Cottesloe Groyne and north of the northern boundary of the North Cottesloe Surf Saving Club building; and*
- e) any watercraft taking part in an event authorised by the local government in accordance with these local laws.*

As a result of a recent incident at the “Beach Street Playground ” where a beach goer was accidentally hit by a windsurfer, officers received emails expressing concern

about kite surfers and windsurfers being so close to a playground, officers were requested to examine how this situation could be remedied.

An amendment to the existing Local Law is the most suitable mechanism to control these activities and the following amendment to 8.1 (d) of the Local Law is suggested for consideration;

- 8.1 (d) sailing craft and sail boards between Rosendo Street and Princes Street.

In consultation with representatives from Kite Surfing Western Australia, the area north of the North Cottesloe Surf Club is recommended to be removed from the permitted areas as in practice it is not an area recommended by the Association due to the large numbers of other beach users present in this area.

In order to effect this amendment, statewide public notice is required to inform of Council's intention to amend the Local Law and public submissions invited.

STRATEGIC IMPLICATIONS

Priority Area 3 – Enhancing Beach Access and Foreshore

Major Strategy 3.2 – Continue to improve access to beach facilities.

Adoption of the proposed amendment to the Local Law would be in keeping with this stated strategic objective by ensuring windsurfers, kite surfers etc have continued access to their preferred location on Cottesloe beaches for set up and launching of their craft while ensuring other recreation assets such as playgrounds are safe and free from potential obstacles.

POLICY IMPLICATIONS

There are no direct implications arising from the Town of Cottesloe Beach Policy.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Town of Cottesloe Local Government Beaches and Beach Reserves Local Law 2012

The *Local Government Act 1995* specifies the process to amend a local law is the same as which a new local law is introduced. This process is as follows;

3.12. PROCEDURE FOR MAKING LOCAL LAWS

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
 - (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
 - (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
-

- (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
- * Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
- (a) *stating the title of the local law; and*
 - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*
- making*** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

The above provision requires the presiding officer of the meeting where the amendment is being considered to give notice to the meeting of the purpose and effect of the proposed amendment. In order to satisfy this requirement, the following Statement of Purpose and Effect is provided.

Amendment to Town of Cottesloe *Beaches and Beach Reserves Local Law 2012 - Section 8.1 Restrictions on the use of watercraft*

Purpose To improve safety of all beach users by restricting the area to set up and launch sailing craft and sailboards to the area between Rosendo Street and Princes Street.

Effect Users of sailing craft and sailboards will be permitted to use this area for set up, beach launch or use of their watercraft in the water but not permitted to use all other beach foreshores.

FINANCIAL IMPLICATIONS

The Local Law prescribes a \$100 penalty for use of a watercraft in a prohibited area however income to be received is expected to be minimal, with Council Rangers undertaking an education first approach with those who may use their craft in a prohibited area.

STAFFING IMPLICATIONS

Rangers will ensure compliance with the amendment if adopted by Council, which will be done as part of their regular patrols and as such there will be no major staffing implications.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Kite Suring Association of Western Australia Inc

The Kite Surfing Association of Western Australia Inc (KSAWA) have been consulted about the potential amendment to the Local Law and are supportive of Council's efforts to better define areas that are considered both safe for kitesurfers, windsurfers etc. and create minimal interruption for other beach users. In practice, KSAWAA Inc recommend on their website the area designated on the attached map as a set up and beach access point due to the wide grass road verge and wider sand dune system that provides a safety buffer from the road if someone was to lose control of their craft.

STAFF COMMENT

Nil

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed meeting the needs of different user groups and potential alternatives to the officer recommendation at length. Committee decided to amend the officer recommendation to better delineate the areas where kite surfers and windsurfers can set up there equipment and safely access the ocean.

OFFICER RECOMMENDATION

Prior to considering the following recommendation, the Presiding Member read the following statement to the Meeting;

The Purpose and Effect of the proposed amendment to the Beaches and Beach Reserves Local Law 2012 is as follows;

Purpose To improve safety of all beach users by restricting the area to set up and launch sailing craft and sailboards to the area between Rosendo Street and Princes Street.

Effect Users of sailing craft and sailboards will be permitted to use this area for set up, beach launch or use of their watercraft in the water but not permitted to use all other beach foreshores.

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council, with respect to the proposed amendment to the Town of Cottesloe Beaches and Beach Reserves Local Law 2012:

1. Advertise the following proposed amendment for a period of not less than 42 days invite public submission in regards to the proposal.
 - 8.1 (d) sailing craft and sail boards between Rosendo Street and Princes Street.
2. Invite public submission in regards to the proposed amendment and consider at a Meeting of Council after the specified closing date for submissions.

AMENDMENT

Moved Mayor Dawkins, seconded Cr Angers

That the words "Princes Street" be removed from point one (1) and replaced with the "South Cottesloe Groyne".

That a new point three (3) be added that reads "Consider alterations to the playground in the 2015/2016 budget review".

Carried 6/0

COMMITTEE RECOMMENDATION

Moved Cr Rodda, seconded Cr Boulter

THAT Council, with respect to the proposed amendment to the Town of Cottesloe Beaches and Beach Reserves Local Law 2012:

1. Advertise the following proposed amendment for a period of not less than 42 days invite public submission in regards to the proposal.
 - 8.1 (d) sailing craft and sail boards between Rosendo Street and South Cottesloe Groyne.
2. Invite public submission in regards to the proposed amendment and consider at a Meeting of Council after the specified closing date for submissions.
3. Consider alterations to the playground in the 2015/2016 budget review.

AMENDMENT

Moved Cr Pyvis, seconded Downes

That in condition 3, the words 'Consider' be replaced with 'provide for' and the words 'and installation of additional combined shower and tap at the beach access west of Salvado Road' be added after the word 'review'.

Carried 8/0

COUNCIL RESOLUTION

THAT Council, with respect to the proposed amendment to the Town of Cottesloe *Beaches and Beach Reserves Local Law 2012*:

1. Advertise the following proposed amendment for a period of not less than 42 days invite public submission in regards to the proposal.
 - 8.1 (d) sailing craft and sail boards between Rosendo Street and South Cottesloe Groyne.
2. Invite public submission in regards to the proposed amendment and consider at a Meeting of Council after the specified closing date for submissions.
3. Provide for alterations to the playground in the 2015/2016 budget review and installation of additional combined shower and tap at the beach access west of Salvado Road.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 8/0

Mayor Dawkins declared an impartiality interest in item 10.4.2 due to being a member of the Cottesloe Tennis Club, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she could consider the matter on its merits and vote accordingly.

Cr Downes declared an impartiality interest in item 10.4.2 due to being a member of the Cottesloe Tennis Club, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she could consider the matter on its merits and vote accordingly.

10.4.2 COTTESLOE TENNIS CLUB – REQUEST FOR SELF SUPPORTING LOAN, COUNCIL GRANT AND EXTENSION TO LEASE AREA

File Ref: SUB/1873
Attachments: [Correspondence from Cottesloe Tennis Club](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

To consider a request from the Cottesloe Tennis Club Inc ('Tennis Club') to assist with the proposed expansion of the Tennis Club courts, by:

1. Granting an extension to the current lease area;
2. Approving a self-supporting loan from Council for an amount not to exceed \$420,000; and
3. Requesting a grant of \$80,000 as a contribution towards the costs of the redevelopment.

A copy of the correspondence received from the Tennis Club is attached.

BACKGROUND

These matters have previously been considered by Council in June 2014 and August 2015, where the following Resolutions were adopted:

Council Resolution 23 June 2014

THAT Council confirms its support for expansion of the Cottesloe Tennis Club as indicated in the development application submitted to the Western Australian Planning Commission, and recommends the following conditions of approval to address the detailed design and construction requirements:

1. *In order to obtain any necessary Building Permit or construction works approvals from the Town affecting the Tennis Club site and the public domain, prior to the commencement of development the Club shall liaise with the Town and submit details of the following for approval:*

- a. *A land survey of the extension area, affected features and proposed infrastructure in relation to the Tennis Club site, John Black Dune Park and the surrounds.*
 - b. *All retaining walls, cut and fill, earth batters/bunds or other ground level treatments to the boundaries of and within the Tennis Club site.*
 - c. *The surface material and colour of all new or modified tennis courts.*
 - d. *The layout, design, height, materials and colours of all new or modified perimeter and internal fencing.*
 - e. *The design, height, materials, colours, specification and control of all new or modified lighting within the Tennis Club site, having regard to the amenity of surrounding areas. This may include night-time limits on lighting.*
 - f. *The drainage system for the tennis courts, grounds, buildings and structures within the Tennis Club site and in relation to surrounding areas, in order to manage stormwater runoff.*
 - g. *The location, extent and type of landscaping envisaged within the Tennis Club site or the buffer area within the lease boundary under the lease from the Town, particularly in relation to John Black Dune Park.*
2. *A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of a Building Permit or works approvals, and shall address (amongst other things): construction access including affecting John Black Dune Park; traffic management and safety for the site and surrounding footpaths, verges and streets; worker parking; machinery and materials storage and security; dust and noise control; days and times of construction activity; notification to nearby properties and complaints handling; verge and tree protection and rehabilitation; and any staging of the development.*
3. *All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.*

Council Resolution 24 August 2015

THAT Council:

1. *Endorse the application from the Cottesloe Tennis Club and forward it to the Department of Sport and Recreation; and*
2. *Include an amount of \$58,428 in the Long Term Financial Plan as a self supporting loan for the one third contribution from the Town.*

The basis for the request by the Tennis Club and the need to expand the number of courts is explained in depth in the attached correspondence. In summary, the request to extend the lease would allow the Tennis Club to expand the number of hard courts from 6 to 10, group hard and grass courts together and develop infrastructure, such as additional lights.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The following policies apply to the request/s from the Tennis Club.

Loans – Self Supporting Policy

Organisations seeking assistance from Council to raise a loan shall:

- *be an incorporated body*
- *provide a copy of the last three years' audited trading and balance sheet statements;*
- *agree to enter into a Deed of Agreement for the period of the loan repayments;*
- *provide whatever security or guarantees that Council considers appropriate to ensure that the loan is repaid;*
- *insure and keep insured premises where the premises are security over repayment of a loan;*
- *pay all costs associated with the preparation and stamping of legal documents concerned with the raising of the loan;*
- *provide a copy of the minutes of a legally constituted meeting of the organisation showing the formal resolution agreeing to the raising of the loan;*
- *provide any other information that Council requires.*

Donations Policy**ASSESSMENT CRITERIA**

Donation requests will not be considered where;

- *The applicant is a private and for profit organisation or association.*
- *The applicant is an individual person.*
- *The application is in relation to general fundraising.*
- *The application is for funding for conferences and conventions.*

Priority will be given where ;

- *The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or with in the Western Suburbs;*
 - *The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.*
 - *The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.*
 - *The funds are required for a new initiative or significant once off project.*
 - *The applicant has not received a donation from Council within the previous two years.*
 - *If the donation is for an event entry to the event is free of charge to Cottesloe residents to attend and participate.*
 - *The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.*
-

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Local Government (Financial Management) Regulations 1996

There are several statutory implications arising from the request by the Tennis Club. The relevant sections of the applicable legislation are reproduced below for the information of Elected Members.

LOCAL GOVERNMENT ACT 1995 S3.58 DISPOSING OF PROPERTY

- (1) *In this section —*
- dispose** *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*
- property** *includes the whole or any part of the interest of a local government in property, but does not include money.*
- (2) *Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a*
-

true indication of the value at the time of the proposed disposition.

- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

Local Government Act 1995 s6.20 Power to Borrow

- (1) *Subject to this Act, a local government may —*
- (a) *borrow or re-borrow money; or*
 - (b) *obtain credit; or*
 - (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,*

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

- (2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —*
- (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
 - (b) *the resolution to exercise that power is to be by absolute majority.*

Local Government (Functions and General) Regulations 1996 r30 Dispositions of property excluded from Act s3.58

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if —*
- (a) *the land is disposed of to an owner of adjoining land (in this paragraph called the **transferee**) and —*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
- or*
- (b) *the land is disposed of to a body, whether incorporated or not —*

- (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
- (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

Local Government (Financial Management) Regulations 1996 r20 When local public notice not required for exercise of power to borrow

- (1) *A local government is not required to give local public notice of a proposal to exercise a power to borrow when the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution) except where the re-financing or continuation is a major variation.*

From the above, it can be ascertained that the Tennis Club request to extend the area of the lease would be considered disposition of property and further would be considered an exempt disposition and as such there is no requirement to advertise the proposed lease.

In regards to the loan, as the new loan has not been included in the 2015/16 budget, there is a requirement to advertise the intention to borrow the funds.

FINANCIAL IMPLICATIONS

There are several financial implications arising from the request from the Tennis Club, as follows:

1. Although the loan requested is a self-supporting one in that the funds will be repaid by the Club over the life of the loan, the loan principal and interest repayments will still be shown in the statement of financial position and operating Statements and impact on Council's ratios.
2. There is no provision in the current budget to accommodate a grant of \$80,000.
3. Minor costs will be incurred in amending the lease (if so approved) and lodging with Landgate.

Upon receiving the request, Council staff contacted the Western Australian Treasury Corporation (WATC) and obtained indicative repayments on a loan of \$420,000. Based on the current interest rate, the loan repayments would be \$24,814.30, paid every six months, in addition to the payment of the indicative guarantee fee of \$773.72 per repayment (averaged over the life of the loan).

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Western Australian Treasury Corporation Staff
Cottesloe Tennis Club Inc

STAFF COMMENT

From the above, it can be ascertained that the Tennis Club request to extend the area of the lease would be considered disposition of property and further would be considered an exempt disposition and as such there is no requirement to advertise the proposed lease.

In regards to the loan, as the new loan has not been included in the 2015/16 budget, there is a requirement to advertise the intention to borrow the funds.

The Tennis Club have previously received a similar loan from Council which was repaid in full by the due date (2014) and required a similar annual payment to that proposed in the new loan.

As there is no budget allocation for the requested grant of \$80,000, it is recommended that this matter be deferred for consideration with other budget amendments in the Six Month Budget Review, to be presented to Council at the first available meeting in 2016.

If Council was to approve the request for a grant of \$80,000, the total amount of the loan required would be reduced to \$340,000, with the repayments adjusted accordingly.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Downes, seconded Cr Rodda

THAT Council, with respect to the request received from the Cottesloe Tennis Club Inc resolve as follows;

1. Approve the request to extend the area of the current lease as per the attached diagram;
2. Advertise the intention to take out an unbudgeted self supporting loan of \$420,000; and
3. Defer consideration of the request for a grant of \$80,000 until the Six Month Budget Review is presented to Council for consideration.

AMENDMENT

Moved Cr Boulter, seconded Cr Pyvis

That condition 3 be deleted.

Lost 2/6

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

THAT Council, with respect to the request received from the Cottesloe Tennis Club Inc resolve as follows;

- 1. Approve the request to extend the area of the current lease as per the attached diagram;**
- 2. Advertise the intention to take out an unbudgeted self supporting loan of \$420,000; and**
- 3. Defer consideration of the request for a grant of \$80,000 until the Six Month Budget Review is presented to Council for consideration.**

THE SUBSTANTIVE MOTION WAS PUT

Carried 8/0

10.4.3 CANCER SUPPORT WA INC – REQUEST FOR CHANGE OF PURPOSE OF COUNCIL DONATION

File Ref: SUB/1166
Attachments: [Cancer Support WA Correspondence](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

The 2015/16 budget contains provision for a donation of \$3,000 to Cancer Support WA Inc being a contribution towards the cost of staging the proposed Christmas Markets.

Due to the large number of similar events being staged at the same time, Cancer Support WA have decided not to proceed with the event and have requested the funds be used for their next major fundraising event, 'Afternoon Delights' on 28 February 2016.

BACKGROUND

The Afternoon Delights event is a well established local event that has historically been held at the North Cottesloe Primary School, however, it will be held at the Civic Centre this year for the first time due to the growing popularity of the event.

There is a fee for admission, with children under 12 admitted free of charge. The event features musicians performing jazz, classical and modern contemporary music in a relaxed atmosphere, with accompanying food stalls. Patrons are welcome to bring their own picnic basket and rug.

This location for the event was approved by Council at the 29 September 2015 Ordinary meeting of Council as per the following resolution;

THAT Council approve the application to hold the 'Afternoon Delights' Fundraiser Concert for Cancer Support WA at Cottesloe Civic Centre, on Sunday 28 February 2016, from 3.00pm to 6.30pm, subject to the following conditions:

- 1. Adequate arrangements are made for rubbish collection and removal, including the provision for recycling;*
 - 2. Compliance with the Environmental Protection (Noise) Regulations 1997;*
 - 3. Compliance with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the Health (Public Buildings) Regulations 1992;*
 - 4. Class this event as a "charitable" event and charge no fees;*
-

5. *All appropriate environmental health food and beverage permits are in place prior to the event;*
6. *Provision of 'certificates of currency' to certify that organisers have adequate public liability and event insurance, to the satisfaction of the Chief Executive Officer, prior to the event;*
7. *Provision of a 'risk assessment document' or 'event management plan', to the satisfaction of the Chief Executive Officer, prior to the event;*
8. *Neighbouring properties to the Cottesloe Civic Centre are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required;*
9. *No activity to take place in the Secret Garden or Lower Lawn; and*
10. *All concert music ceasing by 7.00pm on Sunday 28 February 2016.*

Approximately 300 people are expected to attend the event.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council Policy Donations provides guidance on what organisations and activities will be funded by the Town in the form of donations as follows;

ASSESSMENT CRITERIA

Donation requests will not be considered where;

- *The applicant is a private and for profit organisation or association.*
- *The applicant is an individual person.*
- *The application is in relation to general fundraising.*
- *The application is for funding for conferences and conventions.*

Priority will be given where;

- *The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or with in the Western Suburbs;*
- *The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.*
- *The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.*
- *The funds are required for a new initiative or significant once off project.*
- *The applicant has not received a donation from Council within the previous two years.*

- *If the donation is for an event entry to the event is free of charge to Cottesloe residents to attend and participate.*
- *The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.*

It is noted that the Afternoon Delights event does not meet some of the above criteria, namely:

- Entry is not free of charge; and
- It is not a new initiative or significant one off project.

That said, given the worthwhile cause and that Cancer Support WA is moving the event to a new location, the request is supported by staff.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

As the donation has already been provided for in the adoption of the 2015/16 budget (Account 20029.204.58) there are no financial implications arising from the request for the change of purpose of the donation.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Cancer Support WA

STAFF COMMENT

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council approve the request from Cancer Support WA Inc to change the purpose of the \$3,000 donation received in the 2015/16 budget from a contribution to the staging of the Christmas Markets to a contribution towards the Afternoon Delights event on 28 February 2016.

Carried 8/0

10.4.4 PROPOSED REDEVELOPMENT OF LESSER HALL – ACCEPTANCE OF ESTIMATED COSTS

File Ref: DD005.2015.00003304.001; PR53200
Attachments: [Lesser Hall Floor Plan](#)
Responsible Officer: **Mat Humfrey**
Chief Executive Officer
Author: **Doug Elkins**
Manager Engineering Services
Proposed Meeting Date: **08 December 2015**
Author Disclosure of Interest: **Nil**

SUMMARY

Council is asked to endorse the Lesser Hall project budget, and the calling of tenders for the works.

BACKGROUND

As part of developing the long-term financial plan, as a tool to implement the Corporate Business Plan, Council identified the need to update and upgrade the Lesser Hall. Consequently, in the 2014/15 financial year, Council included an amount in the annual budget to engage a heritage architect to design the updated building.

The Lesser Hall has been designed to a detailed concept level, and has been estimated by a quantity surveyor. In order to progress the project from this point, it is necessary for Council to endorse the anticipated budget.

Including contingencies (design and construction contingencies), the anticipated total project cost is \$653,000. This estimate includes \$53,000 of contingencies, \$51,000 to remove and reconstruct the floor, and \$47,000 to remove the roof tiles, reinforce the roof structure, and to install roof waterproofing.

Last financial year, a budget allocation of \$80,150 was made for this project. In the current financial year, there is a budget allocation of \$350,500 for this project. Accordingly, so far there is an allocation of \$430,650. In order for the project to proceed to tender, Council will need to commit to allocating up to \$221,500 in the 2016/17 financial year.

STRATEGIC IMPLICATIONS

The Lesser Hall is a very high use community facility. The room is normally used six or seven days a week, with numerous uses on the same day not being uncommon. The Lesser Hall is also used as a storage facility for events in the grounds.

If Council proceeds with the Lesser Hall upgrade, it is expected that utilisation will increase, including increased use for Council events.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Upgrading the Lesser Hall will require assessment by the Heritage Council and a planning approval. These processes are currently underway, with approval likely to be issued by officers in the near future.

The value of the building contract will exceed the tender threshold. Accordingly, a tender will be required to complete the proposed works.

FINANCIAL IMPLICATIONS

The refurbishment of the Lesser Hall is a project being funded out of the proceeds from the sale of the depot. The commitments in the last and the current financial year are the total of the previous budget commitment. The proposed funding of \$221,500 in the 2016/17 financial year is in addition to the original budget. This allocation will need to be managed within the total of the available funds.

Each of the depot funded projects is budgeted based on an estimate developed from a broad scope. Accordingly, there are significant variations in total actual project costs, as scopes are refined. Offsetting the additional funds required to complete the Lesser Hall project, is a lower refined estimate for the Indiana Tea House redevelopment (approximately \$400,000), and project management costs that have not been required, and are not likely to be required (approximately \$500,000). The latter savings, project management, was based on the need to accelerate the depot funded projects, due to the urgency created by the proposed amalgamations. With the amalgamation question being resolved for now, projects are being managed within current staff resources. Based on the savings noted above, the additional allocation, to complete the Lesser Hall, can be accommodated.

The current estimate of the required additional funds is \$221,500. It is noted above that the original budget was developed based on a broad scope. It is the author's understanding that the original budget estimate was based on repairing leaks to the roof, and performing a basic upgrade, such as new fixtures and paint. The current estimate is based on a new scope that intends to invest in a more useful facility for the longer-term, as well as fully funding the repair of structural defects. Although the new scope comes at a greater cost, it is considered to be a better use of Council funds.

Finally, although the estimate is based on the opinion of a quantity surveyor, the estimate is considered the high end of the likely cost, based on the built in contingencies, estimates being based on previous construction costs, which recently appear to have reduced, and some of the professional services likely to be included in the quantity surveyor rates. Further, as these funds will be drawn from reserve, ultimately, only the funds actually used will be drawn.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The main users of the facility have been provided an opportunity to make comment on the alternative floor plans and the finishes. Councillors have also been provided opportunity to make comment on the floor plan and finishes. The feedback from the main users, and Councillors, has been very consistent, with any detail included in comments included in the final design.

STAFF COMMENT

The existing Lesser Hall is in poor condition. The roof leaks, the floor is significantly out of level, there are structural cracks in the walls, and the kitchen and female toilet layouts are 'clunky' at best. The male and disabled toilets are accessed from the exterior of the building.

The existing layout of the Lesser Hall, along with the age of the fixtures, makes the space generally uninviting. The existing kitchen is of limited value for catering, and the current toilet arrangement does not work for current regular users of the building.

The major outcomes of the proposed upgraded building are to achieve a more usable floor plan, resolve the structural issues and to provide a community space of more value. The proposed floor plan is attached. The new layout provides additional storage, allows toilets to be accessed by parents, without disturbing a class, makes toilets available to users of the Sunken Lawn (such as for weddings), without providing access to the remainder of the Lesser Hall, and provides a reheat kitchen suitable for catering a function in the Lesser Hall or in the Civic Centre grounds. The new floor is a superior surface for dance and yoga type activities, which are a major community use of the current facility. The space will be air-conditioned and is to be fitted with modern audiovisual equipment, making the space useable as a training facility, and a space for public meetings. Finally, the new space includes partitioning, allowing intimacy to be created for small user groups and meetings.

The resolution of the existing floor structural defects requires the entire floor substructure to be removed and rebuilt. The finished floor will be overlaid with the original floorboards, followed by the installation of a floating floor, which is more suited to the use of the facility and will protect the original boards. The repair of the roof requires all tiles to be removed, additional timbers to be installed, a waterproofing layer to be installed, followed by the replacement of the original tiles.

The finished design has been developed by an architect specialising in upgrading heritage buildings. As part of the architect scope, the architect has liaised with the Heritage Council in order to develop a design that is sympathetic to the heritage values of the building and the Civic Centre in general.

The proposed Lesser Hall upgrade is considered to be a community investment, providing a high quality community meeting place and activity centre, as well as a support centre for Civic Centre functions. The investment will resolve current structural defects and will extend the life of the old building. It is recommended that Council endorse the project budget, and subsequently include the required additional funds in the 2016/17 financial year budget. Providing Council desires to proceed with the project, construction commencement is planned at the end of the current wedding season.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Downes

THAT Council:

1. **Endorse the Lesser Hall project budget of \$653,000;**
2. **Endorse the calling of tenders for the construction of the Lesser Hall upgrade, in accordance with the attached floor plan, subject to planning approvals being in place; and**
3. **Consider including an amount of \$221,500 in the 2016/17 financial year budget, for the Lesser Hall upgrade project.**

Carried 8/0

10.4.5 REQUEST TO NAME RIGHT OF WAY 16 – DELAMARE LANE

File Ref: SUB/256
Attachments: [Plan of ROW 16](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Doug Elkins
Manager Engineering Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Council is asked to endorse the naming of Right of Way ('ROW') 16 as Delamare Lane.

BACKGROUND

In response to a medical emergency, requiring residents to direct an ambulance to the unnamed ROW 16, a request has been received to name the laneway. Previously, Council created a Nomenclature Working Group to develop names for roads and right of ways, among other things. This group has developed a list of suitable names, with this list being approved by Council.

The proposed name for ROW 16 is Delamare Lane, which recognises the grazing lands of the Delamare Dairy in the North Ward. It is recommended that Council endorse this name for consideration by the Geographic Names Committee.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Naming of roads is controlled by the *Land Administration Act 1997* ('Act'). Under the Act, naming of streets and roads is the role of the Minister for Lands on advice of the Geographic Names Committee, generally on request and advice of Local Government. Accordingly, the ultimate decision rests with the Minister for Lands.

FINANCIAL IMPLICATIONS

There will be a minor cost associated with producing and installing a sign.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

A letter was sent to every resident adjoining the laneway. Including the original requester, six responses were received. Each of the responses supported naming of the laneway, due to difficulties in giving directions to ambulances, taxis and couriers. Out of the six responders, five supported the name Delamare Lane.

The final responder did not object to the proposed name, however, suggested the names Barking Dog Lane, Myrtle Lane and Denny Lane - the latter two names being the names of an aunt who had previously lived in the same house. Of these three suggestions, the only name that might be accepted is Denny Lane. The first suggestion is a double barrelled name, which are no longer accepted by the Geographic Names Committee. The second suggestion is a first name, which is not accepted by the Geographic Names Committee. In addition, the name Myrtle is well used as a street name, for its botanical relevance.

The final of the three suggestions might be acceptable, although could still be excluded due to being within 10 km of Denny Way in Myaree (it is 16km by road, but less than 10km straight line).

STAFF COMMENT

The proposed name was selected using a committee of community members. The feedback from the adjacent residents is support for the name, although one responder has provided a suggestion of alternatives.

On receipt of the possibly acceptable alternative name of Denny Lane, officers reviewed the Ruth Marchant James' Cottesloe A Town of Distinction book, to determine any historical relevance. The particular resident and the name generally are not recognised in the book, suggesting the historical relevance of the name is limited to the residence adjacent to the lane. In view of the name developed by the Nomenclature Working Group being based on a robust process of consideration, and recognises an interesting part of Cottesloe history, it is recommended that Council endorse the name Delamare Lane.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council endorse the name Delamare Lane for the naming of Right of Way 16.

Carried 8/0

10.4.6 FINANCIAL STATEMENTS FOR THE MONTH ENDING 30 NOVEMBER 2015

File Ref: SUB/1878
Attachments: [Monthly Financial Statements for the Period 1 July 2015 to 30 November 2015](#)
Responsible Officer: Garry Bird
Author: Manager Corporate & Community Services
Wayne Richards
Finance Manager
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

It is a requirement of the *Local Government Act 1995* that monthly financial statements are presented to Council, in order to allow for proper control of the Town's finances and ensure that income and expenditure are compared to budget forecasts.

The attached financial statements and supporting information are presented for the consideration of Elected Members. Council staff welcomes enquiries in regard to the information contained within these reports.

BACKGROUND

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified;

- Reconciliation of all bank accounts
- Reconciliation of rates and source valuations
- Reconciliation of assets and liabilities
- Reconciliation of payroll and taxation
- Reconciliation of accounts payable and accounts receivable ledgers
- Allocations of costs from administration, public works overheads and plant operations
- Reconciliation of loans and investments

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Town of Cottesloe Accounting Policy
Town of Cottesloe Investments Policy
Town of Cottesloe Investment of Surplus Funds Policy

STATUTORY ENVIRONMENT

Local Government Act 1995
Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

Income and expenditure received to date for the 2015/16 financial year is in keeping with budgeted income and expenditure.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENTKey Financial Indicators at a Glance

The following comments and/or statements provide a brief summary of major financial /budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statements.

Please note the Financial Statements for the year ended 30-06-2015 have been signed off by the auditors and depreciation has now been processed for the period to 30-11-2015.

- The net current funding position as at 30-11-2015 is \$5,950,745 and is in line with previous financial years as shown on pages 2 and 22 of the attached Financial Statements.
- Rates receivable as at 30-06-2015 stood at \$2,821,252 and again is in line with previous financial years as shown on pages 2 and 25 of the attached Financial Statements.
- Operating expenditure is less than year to date budget by \$308,389 with a more detailed explanation of material variances provided on page 21 of the attached Financial Statements.
- The Capital Works Programme is approximately 27% complete as at 30-11-2015. Capital expenditure is greater than year to date forecasts by \$308,345 with material variances again detailed on page 21 and a full capital works programme listing shown on pages 32 to 36.
- Whilst Salaries and Wages are not reported specifically, they do represent the majority proportion of Employee Costs which are listed on the Statement of Financial Activity (By Nature and Type) on page 7 of the attached Statements. As at 30-11-2015 Employee Costs were \$29,025 less than year to date forecasts. This is largely attributable to a vacancy for in the position of Senior Ranger for several months and also the timing of the Enterprise Bargaining Agreement negotiations.
- Various transfers to and from Reserve Funds have not been made for 2015/2016 and are generally undertaken in the latter half of the financial year, depending on the progress of specific projects to which these transfers relate.

List of Accounts for November 2015

The List of Accounts paid during November 2015 is shown on pages 37 to 44 of the attached Financial Statements. The following significant payments are brought to Council's attention:-

- \$80,542.00 to Geraldine Nominees T/A Daimler Truck for a new truck
- \$49,460.40 to F J Fitzsimmons & Co for right of way construction works
- \$163,761.40 for Council's quarterly contribution towards the Grove Library
- \$49,148.28 to Perthwaste Green Recycling for waste collection and disposal services
- \$31,554.28 to Surf Life Saving Western Australia for the monthly surf life saving service
- \$82,196.35 and \$84,018.83 to Town of Cottesloe staff for fortnightly payroll
- \$300,000.00 to Council's investment account with National Australia Bank

Investments and Loans

Cash and investments are shown in Note 4 on page 23 of the attached Financial Statements. Council has approximately 37% of funds invested with National Australia Bank, 30% with Bankwest, 18% with Westpac Banking Corporation and 15% with the Commonwealth Bank of Australia.

Information on borrowings is shown in Note 10 on page 29 of the attached Financial Statements.

Rates, Sundry Debtors and Other Receivables

Rating information is shown in Note 9 on page 28 of the attached Financial Statements. As displayed on page 2, rates receivable is trending in line with the previous year.

Sundry debtors are shown on Note 6, page 25 of the attached Financial Statements with 17% older than 90 days. Debt recovery action is due to commence shortly on outstanding accounts that are older than 90 days.

Other receivables, which are listed on the Statement of Financial Position on page 9 of the attached Financial Statements, and consists of outstanding infringements written from the new infringement software solution recently introduced. Over the next few months Council is operating both the old and new software systems which will be combined into one in the first half of 2016. As a part of the change in software systems, infringements are now brought to account at the time they are written rather than when the monies are received, and a separate report on outstanding infringements will be included in the Financial Statements included once this transition to the new system is completed.

Budget Amendments

Budget amendments are summarised on pages 12 and 13 of the attached Financial Statements and listed in more detail on page 24.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council receive the Financial Statements for the period ending 30 November 2015 including the List of Accounts for November 2015 as submitted to the 8 December 2015 meeting of the Works and Corporate Services Committee meeting.

Carried 8/0

Due to legal advice received the Mayor requested that the report be considered in camera as a confidential matter and be discussed after item 13.1.2.

Moved Cr Pyvis, seconded Cr Rodda

That item 10.4.7 Final Adoption – Business Plan for the Redevelopment of The Indiana Tea House be considered in Matters for Which the Meeting May be Closed.

Carried 8/0

Cr Thomas declared an impartiality interest in item 10.4.7 due to knowing the due to knowing the Public Relation Advisor of the lessee via his involvement with the Mens Shed, and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he could consider the matter on its merits and vote accordingly.

10.4.7 FINAL ADOPTION – BUSINESS PLAN FOR THE REDEVELOPMENT OF THE INDIANA TEA HOUSE

File Ref: SUB/2057
Attachments: [Attachment 1 Public Submissions Received](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Mat Humfrey
Chief Executive Officer
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider the feedback received on the Business Plan and Concept Plans for the redevelopment of the Indiana Tea House and the consider adopting the Plans, with or without amendments.

BACKGROUND

For some time now, the Indiana building on Cottesloe Beach has presented the Town with significant issues. Primarily these issues are;

1. The state of the public toilets contained within the building;
2. The capacity of the public toilets within the building; and
3. The constraints that the lease document places on the Town in seeking to achieve a facility in line with community expectations.

The Business Plan and Concept Plans, as presented for public comment, seek to provide a high quality and permanent solution to this problem.

STRATEGIC IMPLICATIONS

The Town's Strategic Community Plan lists a number of strategies that will be positively impacted by this project, being;

Priority Area 1 – Protecting and enhancing the wellbeing of residents and visitors

Major Strategy 1.5 – Continue to improve access and inclusion of aged persons and those with disabilities.

Priority Area 3 – Enhancing beach access and foreshore

Major Strategy 3.1 – Implement the ‘Foreshore Redevelopment Plan’ in consultation with the community.

Major Strategy 3.2 – Continue to improve beach facilities

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT**3.59. COMMERCIAL ENTERPRISES BY LOCAL GOVERNMENTS**

(1) In this section —

acquire has a meaning that accords with the meaning of **dispose**;

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

land transaction means an agreement, or several agreements for a common purpose, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

major land transaction means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

major trading undertaking means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

trading undertaking means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of **land transaction**.

(2) Before it —

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or

(c) *enters into a land transaction that is preparatory to entry into a major land transaction,*

a local government is to prepare a business plan.

(3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*

(a) *its expected effect on the provision of facilities and services by the local government; and*

(b) *its expected effect on other persons providing facilities and services in the district; and*

(c) *its expected financial effect on the local government; and*

(d) *its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and*

(e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*

(f) *any other matter prescribed for the purposes of this subsection.*

(4) *The local government is to —*

(a) *give Statewide public notice stating that —*

(i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*

(ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*

(iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

and

(b) *make a copy of the business plan available for public inspection in accordance with the notice.*

(5) *After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*

** Absolute majority required.*

(5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*

(6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*

(7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*

- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
- (a) prescribe any land transaction to be an exempt land transaction;*
 - (b) prescribe any trading undertaking to be an exempt trading undertaking.*

FINANCIAL IMPLICATIONS

There are no direct financial implications from considering the Business Plan, the financial implications of the overall project are described in the Business Plan.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Section 3.59 requires that the Town prepare and advertise a Business Plan for public comment prior to entering into a binding agreement. The required Business Plan has been prepared and advertised as required. The submissions have been included in Attachment 1 for Council's consideration.

STAFF COMMENT

The consideration of the Business Plan is the latest step in reaching a permanent solution to the issue of public facilities on Cottesloe Beach. The Business Plan also seeks to address issues with the Indiana building itself and the lease associated with it.

In February 2012, Council adopted the Foreshore Redevelopment Plan. This plan was developed after extensive community consultation and with the assistance of prominent experts. In this Plan, two locations were shown for additional toilet facilities. These locations were the area immediately south of the current Indiana Building (location 4) and opposite the end of Napier Street (location 10). In October 2012, the implementation of the Foreshore Redevelopment Plan was made the highest priority by Council. The Chief Executive Officer at the time was given the task of implementing the plan. When the plan was analysed by staff, the additional toilets

were seen as the highest priority as their placement would affect other projects, such as the location of shared use paths and so on.

In November 2012, an architect's brief was drawn up and distributed for the design of two new toilet facilities at the locations shown on the Foreshore Redevelopment Plan. Suitable architects were then shortlisted and asked to make a presentation to Council. In September 2013, the two successful companies presented their designs to a Council workshop.

Following the election in October 2013, the two designs were advertised for public comment. The initial response was not positive and at the Annual Electors' Meeting held in January 2014, the following motion was put;

Moved R Sadlier, Seconded G Boland

That Council immediately cause the flushing mechanism in the Indiana women's toilets to be renewed;

All work and expenditure on the proposal (as part of the Foreshore Redevelopment Plan) for a new toilet block on the grass anywhere west of Marine Parade be suspended;

Council's Environmental Officer to inspect the Indiana's toilets daily during peak times, providing a report on health and cleanliness conditions

Carried – no dissent.

The meeting then heard a second motion which stated;

Moved G. Boland, seconded S. Freeth

As the problem of the state of the Indiana toilets has been ongoing for many years under current lease agreements, the Town of Cottesloe is to take action by the end of March 2014 for a change to the lease agreement, so that the Town of Cottesloe has full responsibility for the toilet maintenance and Indiana pays a greater rental as a result.

Carried – no dissent.

In February 2014, the Design Advisory Panel also raised concerns with the designs. Following this, Council resolved to accept the Minutes of the Annual Electors' Meeting and the projects were effectively cancelled.

In order to put in place the resolutions of the Electors' Meeting, two things needed to be put in place. The first was that the lease for the facility would need to be renegotiated, or at the very least amended, to allow the Town to take on this responsibility. Secondly, the toilets themselves would need to be considered and possibly redeveloped.

To this end a concept plan was developed showing one possible way the toilets could be redeveloped. This proposal showed a significant increase in natural ventilation as well as an increased capacity, which would cater for peak demand. The

concept was costed, but was well beyond the Town's finances at that time. Until such a time the Town had the required resources, the project was again set to one side.

The issues around the lease continued to be discussed. The discussions focused on the possibility of the lessee being willing to redraw the lease document.

In August 2014, Council considered the Depot Funds Strategy, which documented Council's priorities at the time for the allocation of the funds that would be received from the imminent settlement of the former depot site. In this plan, an allocation of \$2.2 million was set aside for the works required at the Indiana site.

Discussions with lessee revealed that the lessee was not willing to give up the kiosk space on the middle level, as would be required for the redevelopment option the Town was pursuing. As such the concept plan was amended showing the kiosk relocating to the upper level (street level), which would allow the toilets to be expanded and improved.

In April 2015, costings on the updated concept were received. These costing showed that in order for the project to go ahead, contributions would be needed from both the lessee and the State Government. In the same month, the Town was awarded with the inaugural "toilet seat of shame" by Cottesloe Residents and Ratepayers Association. The award was made on the basis that the Town had not done enough to remedy the situation with toilets in the Indiana building.

In May 2015, Council was briefed on the progress of the Indiana project and of the need to seek State Government assistance with the project. During May, contact was made with the State Government, seeking assistance with the project. Council has been informed that such assistance will be considered in the 2016/2017 State Budget deliberations – as has been reported in the press.

Following this, a Heads of Agreement was entered into, which allowed the Town to advertise a business plan and concept plan for public comment. The Heads of Agreement is not binding on the Town and simply stated each party's intentions if the redevelopment is to go ahead.

The Business Plan (and associated Concept Plans) was advertised in accordance with the *Local Government Act 1995* and the Town's Consultation Policy. The issue received further coverage in local and state media, with several stories being printed about the plans in the press. The Town also held an information evening on the plans during the submission period.

The response to the submission period was less than expected by officers. For a project of this significance, it would be normal to receive 100 plus submissions. It would also be fair to say that attendance at the public information evening was also lower than expected, with approximately 30 members of the public in attendance.

The feedback received in favour of the project comprised largely simple statements of support. Many of these statements were along the lines of "I'm glad that something is finally being done" and stated support of the concept.

The submissions that were against the project, tended to go into more detail – as would be expected. The issues identified with the against submissions can be broadly categorised as follows;

1. Respondents had issues with the use of ratepayers' money to remedy the issue.
2. Respondents did not want to see any further building on the west side of Marine Parade.
3. Respondents felt that the lessee was receiving too much benefit from the proposal or that the Town should take legal action against the lessee.
4. Respondents were concerned about the risk associated with the project.
5. Some suggestion was made that the project cease until the Foreshore Redevelopment works are complete.

While the issue of ratepayers' funds being used to maintain public facilities should not be dismissed, there is an obligation on the Town to ensure there are adequate and useable public toilets in public areas. While there may well be an argument that the Town should receive additional funding to assist with the maintenance of the beach, this is largely a separate issue. Council may also wish to consider what it charges and when it permits events at the beach as a way of increasing the income that can be attained from it.

With regards to the concerns around additional buildings, the Town does state in its Beach Policy that *“the policy of the Town of Cottesloe shall be to limit the construction of any enclosed roof structures west of Marine Parade to replacement only without significant expansion of the footprint, height or mass of the structure”*. When the previous project of building additional toilets was considered, this was one of the main reasons for that project being set aside. Having said this, the area in which the “new” building will occur already has built form on it. The promenade area will sit at a different level, but will largely be public open space. The building footprint will increase slightly, but given the need for additional toilets during the summer months, this is seen as preferable to having portable toilets on the beach.

With regards to the timing of the work, the Concept Plans for the Indiana Redevelopment were deliberately advertised prior to the work commencing on the remainder of the Foreshore area. The reason for this is really quite simple – until the lease of the Indiana site is settled and the land in question reverts to the Town, the Town cannot make plans for the land between the Indiana Building and Marine Parade, nor can we make plans for what would happen in the area in front of the boatshed, as the Town does not currently control either of these two areas.

There were other issues raised in submissions, most of which can be addressed during the next phase of this project, should Council opt to proceed. These concerns centered around the detail of the project, such as detailed layout considerations, whole of life costings, and further testing of the existing structure that would require more than a visual inspection.

During the next phase, it is intended that the following works be undertaken;

1. Detailed design works would be undertaken to allow for the necessary approvals and costings to be attained.

2. Detailed costings of the initial capital works program would be attained – the lessee would be responsible for all outstanding maintenance requirements that need to be undertaken.
3. Whole of life costings would be attained for the entire site as it would be post renovation.
4. Detailed legal work would be undertaken to develop the Agreement for Lease and Lease documentation to ensure the Town's interests are protected.
5. Issues such as universal access, integration with the Town's Foreshore Redevelopment Project, trees in the public space, choice of materials and management and maintenance of the facility would all be considered at this stage.

The reason this work has not been undertaken before now is that these are significant costs, which would not be transferrable to other options. If there was broad lack of support for the overall concept, there would be little point in taking on this expenditure, as it would not be needed. If the support of the concept is there, it is then prudent to undertake these costs and at the same time, undertake this work with a knowledge of the community's concerns and objectives.

This work will be undertaken in a staged format in close consultation with Council. While it is necessary to keep the project moving forward in order to maintain the highest possible chances of obtaining funding, we also need to be prudent in our expenditure to ensure the Town remains in the best possible position to react to any development with this project.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council consider the submissions presented in Attachment 1 and consider the Final Adoption of the Business Plan for the Redevelopment of the Indiana Tea House as advertised.

COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council defer the item.

Carried 8/0

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**11.1 COUNCILLOR MOTION**

The following motion has been proposed by Cr Rodda:

That Council, recognising the community concern with pedestrian crossing of Curtin Avenue, as evidenced by letters, emails, and personal petitions to Councillors and following public presence at Council and Committee meetings, petition the Minister for Transport and the local member of Parliament, to develop and fund pedestrian crossing solutions for the crossing of Curtin Avenue at the Forrest Street and Salvado Street intersections.

STAFF COMMENT

Councillors are aware of the community concerns regarding the Forrest Street and Savaldo Street crossings of Curtin Avenue. Aside from direct approaches to Councillors, a number of emails have been sent directly to staff regarding this concern. In addition, a community member highlighted concern at the November Works and Corporate Committee meeting and another community member noted concern at the November Community Crime and Safety Committee.

In response to an initial concern raised by a Cottesloe resident with the local member of Parliament's office, officer's drafted a letter to Main Roads, dated 27 March 2015, insisting that responsibility be accepted for the issues created by using Curtin Avenue as a major distributor and a heavy haulage route. This letter noted that the intersection of Forrest Street and Curtin Avenue already has a two meter wide median, and for a local road carrying local traffic, this should be adequate. This letter noted that the need to do more is created by Curtin Avenue being used as a major distributor road and a heavy haulage route. A copy of this letter was sent to the office of the Minister for Transport and the Premier. A copy of this letter is attached (Letter 1).

In response to the Town's letter, the Minister for Transport's office provided a response on 13 May 2015. In the response a commitment was made to have Main Roads investigate how they can assist with the issue. At the completion of this investigation, the letter from the Minister for Transport's office committed to provide details to the Town. To date, no further correspondence has been received. A copy of this letter is included in the attachments (Letter 2).

In addition to the letter from the Minister for Transport's office, the Town received a response from the Managing Director of Main Roads. The Main Roads' letter, dated 17 November 2015, is in response to the Town's original letter of 27 March 2015, although acknowledges that both the Member for Cottesloe (in his capacity as the Premier) and the Minister for Transport, had also subsequently written to Main Roads on the same matter. The letter from Main Roads, while purporting to acknowledge the concerns raised by the Town, makes no commitment to fund infrastructure upgrades or accept responsibility for the road. Also not mentioned in this letter is any effort to investigate the matter, with responsibility appearing to be shirked by requiring the Town to initiate and lead the process. Considering no officer at Main

Roads has been nominated as having responsibility for bringing the Forrest Street crossing to resolution, the effect of the letter is that the Town will need to develop a solution, at its cost, and submit a plan for approval, in accordance with normal Main Roads' processes. Essentially, after a protracted delay, there has been no progression on responsibility for Curtin Avenue and it appears that the State is expecting that the Town of Cottesloe will continue to meet the costs created by the inappropriate use of a local road. A copy of the Main Roads' letter is included as an attachment (Letter 3).

To seek to progress this matter further, officers have written to the Minister for Transport's office to express disappointment in the lack of action on this matter and to again request the State accept responsibility for the road. A copy of this letter is included in the attachments (Letter 4).

It is the case that Curtin Avenue is under the management of the Town, which passes responsibility for the problems to the Town. Ordinarily this should oblige the Town to determine and fund solutions to any issue on the road. However, in the case of Curtin Avenue, the road is a pseudo State road. Curtin Avenue connects to West Coast Highway to the north, which is a State managed road. South of the Town of Mosman Park boundary with the City of Fremantle (600m south of the Town of Cottesloe Boundary), Curtin Avenue is a State managed road. Curtin Avenue is designated a heavy haulage route, being on the Network 2, 3 and 4 Restricted Access Routes. Total traffic volumes on Curtin Avenue are as high as 25,000 vehicle per day, with up to 1,500 heavy vehicles per day. Curtin Avenue is also fed by Stirling Highway.

The use of a local road by the State as a major transport link is inappropriate. The State is expecting the ratepayers of Cottesloe to subsidise the State transport network. Existing on Curtin Avenue is Council funded infrastructure that far exceeds that required to service a population the size of Cottesloe. It is also notable that the major volume of pedestrians are visitors to Cottesloe beach. As an example of the scale of pedestrians crossing Curtin Avenue, generally heading to the beach, staff undertook a count during early October at the Forrest Street crossing (i.e. before the busy beach season). For the middle part of the day (11am to 3:30pm), pedestrian numbers ranged between 400 to over 600 per hour. In view of the non-local traffic volumes, and the heavy haulage vehicles and pedestrian volumes, the Forrest Street crossing, which is complicated by the adjacent intersection, should be upgraded, and the cost should be met by the State.

The proposed motion of Cr Rodda is considered appropriate. It is considered reasonable that the State accept responsibility for Curtin Avenue, and the cost to address the deficiencies of the road created by the inappropriate use of the road. Further, as the cost to implement greater solutions to the pedestrian crossing issues, is a substantial impost on the Town, it is unlikely that the Town will have the capacity to pay, and any solution greater than that currently in place (e.g. traffic signals, bridges or underpasses) will require external consultancies which, based on the Main Roads' letter, will be a direct cost to Council. In view of the lack of action by the State, the inappropriate use of Curtin Avenue by the State, the high cost of developing and implementing solutions, it is recommended that Council support Cr Rodda's motion.

COUNCILLOR MOTION

Moved Cr Rodda, seconded Cr Birnbrauer

That Council, recognising the community concern with pedestrian crossing of Curtin Avenue, as evidenced by letters, emails, and personal petitions to Councillors and following public presence at Council and Committee meetings, petition the Minister for Transport and the local member of Parliament to develop and fund pedestrian crossing solutions for the crossing of Curtin Avenue at the Forrest Street and Salvado Street intersections.

Carried 8/0

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**12.1 ELECTED MEMBERS**

Nil

12.2 OFFICERS

Moved Cr Angers, seconded Cr Rodda

That item 12.2.1 Lot 34 Nailsworth Street, Cottesloe (Former Depot) - Fulfillment of Subdivision - Withdrawal of Caveat be considered as urgent business.

Carried 8/0

12.2.1 LOT 34 NAILSWORTH STREET, COTTESLOE (FORMER DEPOT) - FULFILLMENT OF SUBDIVISION - WITHDRAWAL OF CAVEAT

File Ref: SUB/1824
Attachments: [Certificate of Title](#)
[Withdrawal of Caveat](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 14 December 2015
Author Disclosure of Interest: Nil

BACKGROUND

In relation to the Town's disposal of its former depot site (Lot 34), the contract of sale between the Town and the purchaser Nailsworth Pty Ltd included a caveat registered on the title protecting the Town's interest whilst the subdivision was being built. The subdivision construction has now achieved practical completion and the Town has signed-off on the civil works.

The contract provides that when this stage is reached the caveat is to be withdrawn by the Town, so that in due course the subdivided lots can be sold and individual titles issued. Recently Nailsworth's solicitors have written to the Town's solicitors to action this necessary procedure.

This has been discussed by the Town's management team and the Town's solicitors have been instructed to liaise with Nailsworth's solicitors accordingly. Copies of the current title and the withdrawal of caveat document are attached for information.

The withdrawal is now a procedural formality. Because the document relates to the contract ratified by Council and involves signing by the Mayor and the Chief Executive Officer on Council's behalf, a Council resolution is required for this purpose.

This documentation has just been received, hence this late item report to Council to achieve a resolution at this last meeting for the year.

STRATEGIC IMPLICATIONS

Relates to Council's objectives for disposal and subdivision of the site.

POLICY IMPLICATIONS

Relates to the Town's property dealings.

STATUTORY ENVIRONMENT

Local Government Act.
Transfer of Land Act.

FINANCIAL IMPLICATIONS

Relevant costs associated with procedure.

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council:

- 1. note that practical completion of the subdivision of Lot 34 Nailsworth Street, Cottesloe, has been achieved; and**
- 2. in accordance with the Town's contract with the purchaser and subdivider, Nailsworth Pty Ltd, agree to the withdrawal of caveat M932048 from the current certificate of title, and authorise the Mayor and Chief Executive Officer to sign the Withdrawal of Caveat form in order to attend to this necessary procedure.**

Carried 8/0

13 MEETING CLOSED TO PUBLIC**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****MOTION FOR BEHIND CLOSED DOORS**

Moved Mayor Dawkins, seconded Cr Downes

In accordance with Standing Orders 15.10 that Council discuss the confidential reports behind closed doors.

Carried 8/0

Public and members of the media were requested to leave the meeting at 8:58 PM

Cr Rodda declared an impartiality interest in item 13.1.1 due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta), and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he could consider the matter on its merits and vote accordingly.

13.1.1 ASSIGNMENT OF LEASE – CAFE AND KIOSK AT NORTH COTTESLOE BEACH (BARCHETTA)

File Ref: SUB/1939
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

This report recommends that Council note the information contained in the confidential officer report in relation to an assignment of lease and endorse the officer recommendation.

BACKGROUND

Refer to the confidential report attached.

STRATEGIC IMPLICATIONS

Refer to the confidential report attached.

POLICY IMPLICATIONS

Refer to the confidential report attached

STATUTORY ENVIRONMENT

Local Government Act 1995 – s5.23 – Closing a meeting to the public.

(2) (e) a matter that if disclosed, would reveal —

- (ii) *information that has a commercial value to a person; or*
- (iii) *information about the business, professional, commercial or financial affairs of a person*

FINANCIAL IMPLICATIONS

Refer to the confidential report attached.

SUSTAINABILITY IMPLICATIONS

Refer to the confidential report attached.

CONSULTATION

Refer to the confidential report attached.

STAFF COMMENT

As the content of the report contains information that meets the conditions set in the Local Government Act s5.23(2) (c) and (e), it is recommended that the meeting be closed to the public while considering this item.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Angers, seconded Mayor Dawkins

THAT Council authorise the Mayor and the Chief Executive Officer to execute the assignment of the lease documents required for the Cafe and Kiosk at North Cottesloe Beach, subject to satisfactory due diligence checks to be undertaken prior to signing of the assignment documents.

Carried 8/0

Cr Downes declared an impartiality interest in item 13.1.2, due to knowing the applicant in a social basis and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider this matter on its merits and vote accordingly.

**13.1.2 NO. 21 (LOT 18) DEANE STREET - TWO-STOREY DWELLING -
RECONSIDERATION OF COUNCIL RESOLUTION PURSUANT TO SAT
DIRECTIONS HEARING**

File Ref: 3112
Responsible Officer: Andrew Jackson
Manager Development Services
Author: Ed Drewett
Senior Planning Officer

Proposed Meeting Date: 14 December 2015

STATUTORY ENVIRONMENT

Local Government Act 1995 (s.5.38)

5.23. Meetings generally open to 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; and
 - (b) the personal affairs of any person; and
 - (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; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (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; and
- (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; or
 - (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;and
 - (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.

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Birnbrauer, seconded Cr Downes

That the recommendation contained within the confidential report be endorsed.

Carried 8/0

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Dawkins, seconded Cr Downes

“In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media”

Carried 7/0

Public and members of the media returned to the meeting at 9:50PM

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

13.1.1 ASSIGNMENT OF LEASE – CAFE AND KIOSK AT NORTH COTTESLOE BEACH (BARCHETTA)

The resolution for item 13.1.1 was read aloud

13.1.2 NO. 21 (LOT 18) DEANE STREET - TWO-STOREY DWELLING - RECONSIDERATION OF COUNCIL RESOLUTION PURSUANT TO SAT DIRECTIONS HEARING

As the matter was currently before the SAT the Council Resolution would be held until the SAT had determined the matter.

10.4.7 FINAL ADOPTION – BUSINESS PLAN FOR THE REDEVELOPMENT OF THE INDIANA TEA HOUSE

The resolution for item 10.4.7 was read aloud

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9:52 PM.

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PRESIDING MEMBER:
POSITION:

.....

DATE: / /