

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, 22 August, 2011**

29 August 2011

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7:04pm.

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

Elected Members

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	
Cr Rob Rowell	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Mat Humfrey	Manager Corporate & Community Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Mrs Lydia Giles	Executive Officer
Mrs Christy Watterson	Administration & Governance Officer

Apologies

Nil

Officer Apologies

Nil

Leave of Absence (previously approved)

Cr Ian Woodhill

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIMEDr John Salmon – 7 Federal Street, Cottesloe – Item 11.1.1 - No. 56 Railway Street - Change of Use to Consulting Professional Office With Residential Use

Dr Salmon advised Council that this was his second application for his medical consulting rooms to be permitted to operate out of a Railway Street premise. Dr Salmon expressed his concern that previous decision making was undertaken in a dogmatic fashion, rather than with logical consideration. Dr Salmon spoke of the invaluable service his medical practice provides to the community at large. Dr Salmon stated that there has been objection in the past from neighbouring residents who were concerned over the commercial activity taking place, however these residents have since changed their opinions and are no longer concerned with the commercial activity. Dr Salmon concluded his statement by advising that his previous application and appeal had been referred to the Corruption and Crime Commission and they will be undertaking an investigation.

Mr Anthony Marwick - 30 Stock Road, Attadale – Item 11.2.2 Litter Bin Memorandum of Agreement - Natsales Australia Pty Ltd – Request For Renewal

Mr Marwick thanked Council for the opportunity to speak and advised that he had previously attended the Works and Corporate Services Committee Meeting held on the 16th August 2011, to speak on the matter. Mr Marwick advised that as per the Committee discussion, he had met with the Chief Executive Officer, Carl Askew and the Principal Environmental Health Officer, Darrel Monteiro to discuss how the Town and Natsales Australia Pty Ltd will work together going forward. Mr Marwick stated that he had agreed upon the amended 3 year extended agreement and would work with Council to further review how he can work with Council to achieve its goals and objectives.

Mr Angus Kennedy – Perkins – 85 Grant Street, Cottesloe – Item 11.2.3 - Parking on Grant Street Median Strip

Mr Kennedy thanked Council for the opportunity to speak and discussed his concerns that the introduction of street signs and parking restrictions in various streets in Cottesloe had shifted parking west towards Marmion Street. Mr Kennedy advised that he was in support of the Committee position, however believed that there was still some work to do and requested that Council seriously consider the parking situation going forward. Mr Kennedy highlighted the existence of many all day parking spots in Swanborne.

Mrs Pennie Hall – 95 Broome Street, Cottesloe – Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mrs Pennie Hall addressed Council and quoted the Town of Cottesloe's website that states "Welcome to the Town of Cottesloe. We pride ourselves on having some of the most beautiful surrounds in the Perth metropolitan area." Mrs Hall advised that she lives on Broome Street and was concerned

that the introduction of speed cushions and bollards has ruined the ambience on the street. Mrs Hall referred to the officer report and advised her surprise that there has not been any community consultation undertaken during the process of choosing the bollards and street cushions. Mrs Hall questioned whether Councillors had taken the time to view the disturbance caused by the installations. Mrs Hall mentioned that she had spent a considerable amount of time over the prior Saturday and Sunday watching the street and noted that she had only seen 17 cyclists in total using the Broome Street cycle way during that weekend. Mrs Hall further stated that she pays a huge amount in the way of rates and contributes to the ambience of the area by maintaining her own street verge, and suggested that Council implement a calming plan that was more appropriate to the area.

Mr David Hall – 95 Broome Street, Cottelose – Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Hall advised that he was initially dumbfounded to see the road works taking place during the installation of the street calming devices, and stated that the bollards and speed cushions had ruined the entry to the foreshore. Mr Hall expressed his opinion that traffic in the area previously travelled at a reasonable pace, and acknowledged that there will always be people who are an exception and will choose to speed. Mr Hall stated that the bollards and cushions would do little to slow drivers who are hoons or under the influence of drugs / alcohol. Mr Hall discussed issues such as spinal discomfort that drivers of small cars endure as they drive over the humps, Mr Hall also advised that 4wheel drive vehicles progress over the bumps as if they didn't exist. Mr Hall suggested that the speed calming devices should be installed higher up Broome Street, and that engineers should take the surrounds into consideration before making any decisions as to the look of any installations. Mr Hall concluded by requesting that Council reject the speed calming devices.

Mr Roger Hill – 104 Broome Street, Cottesloe - Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Hill address Council and stated that he had been a resident of Cottesloe since the 1980's. Mr Hill advised that he didn't like the street calming devices for a number of reasons, primarily for the fact that he believed they were a solution to a problem that didn't exist. Mr Hill listed speed limits, speed cameras, roundabouts etc as measures to slow drivers and that in his opinion the installation of the bollards and speed cushions was overkill and disproportionate to the needs on Broome Street. Mr Hill agreed with the previous speaker Mr Hall, that the best place for any traffic calming device would be higher up the hill. Mr Hill also questioned a statement made in the officer report regarding the Town's liability if the calming devices were removed and an accident were to occur, as he did not believe the liability would be applied to the Town. Mr Hill also stated that the devices should not be introduced merely to improve safety for Council staff. Mr Hill concluded by stating that there is "nothing wrong with doing nothing".

Mr Stathios Artelaris – 22 Loma Street, Cottesloe – Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Artelaris express support for all the previous speakers and advised that he believes something nicer could have been done as an alternative to the cheap bollards and speed cushions that are currently on Broome Street. Mr Artelaris provided examples of what he considers to be more appropriate speed calming devices installed in Claremont and Subiaco, such as red bitumen or bricks. He also expressed concern that Council were doing little to improve things in Napoleon Street.

Mr Joe Nasuti – 48 Forrest Street, Cottesloe - Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Nasuti advised that he had been a resident of Cottesloe for 15 years and was very opposed to the over engineering and visual pollution that is on Broome Street. Mr Nasuti advised that over his 15 years in Cottesloe, he has never viewed the area as a “black spot” traffic hazard. Mr Nasuti advised that he has sent several letters to Council regarding his concerns over the installations and questioned where the logic was when positioning the speed calming devices only 70m apart. Mr Nasuti agreed with previous speakers that there are not enough cyclists using that section of Broome Street to warrant a dedicated cycle way. Mr Nasuti further commented on the unnecessary number of street signs outside the Civic Centre, and described them as visual pollution and overkill and asked Council to “give back beautiful Broome Street”. He specifically requested that Council remove the “third” speed cushion as it is overkill, remove the vertical bollards and also remove the parking signs outside of the Council Chambers. He stated that Council needs to look for a better traffic calming solution.

Mr Peter Jeanes – 66 John Street, Cottesloe - Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Jeanes acknowledged the need for traffic calming south of Broome Street to protect people crossing at John Street and at the bottom of the Civic Centre, but stated that he was unsure as to why we need to have three sets of speed cushions. Mr Jeanes sighted Railway Street in Subiaco as a fine example of suitable speed humps.

Mr Bruce Robinson – 2 Barsden Street Cottesloe - Item 11.2.4 - Rubber Speed Cushions and Bollards, Broome Street, Cottesloe

Mr Robinson address Council and advised that he has a different perspective on Broome Street as he often cycles, walks and drives on the road. Mr Robinson addressed a previous statement made regarding the speed cushions causing “spinal discomfort” as universally inaccurate. Mr Robinson stated that he was impressed with the degree of thought provided by the Town in installing the speed cushions and bollards. Mr Robinson provided road safety statistics and an example of a child who lives on his street who has endured serious injuries as a result of a car accident and urged Council to

take pedestrian and cyclist safety seriously. He congratulated Council for the installation and urged Councillors to accept the Committee recommendation.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Dawkins

[Minutes July 25 2011 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Monday, 25 July, 2011 be confirmed.

Carried 10/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**Condolences**

The Mayor noted the passing of two former Councillors of Cottesloe last week, Roy Ellis and Maurice Hobart McNamara. Roy 'Rex' Ellis served as a Councillor between 1983 and 1989, passed away on Saturday 13th August 2011. Maurice Hobart McNamara served as a Councillor between 1959 and 1997, passed away on Wednesday 17 August 2011, at the age of 91. Maurice was a Freeman of the Town of Cottesloe. Both men served their community and influenced it to be the place we enjoy today. In particular Maurice McNamara served our community for 38 years and for that we owe a significant debt of service and gratitude. On behalf of Council and the Town, the Mayor offered condolences to the Ellis and McNamara families.

Council Elections

The Mayor announced that ordinary postal elections will be held on Saturday 15 October 2011, where eight (8) vacancies will be filled – two (2) from each ward. Four (4) will have a four (4) year term and four (4) will have a two (2) year term.

Close of enrolments will occur on **Friday 26 August**, with a prospective Candidate Information Session to be held at the City of Subiaco on **Tuesday 30 August**. Candidate Nominations open on **Thursday 1st September** and close one week later on **Thursday 8th September**.

Elected Member Training

Earlier this year the Mayor advised Council, that Cr Greg Boland has been completing his Diploma in Local Government, through the Western Australian Local Government Association (WALGA). The Mayor then took the opportunity to award Cr Boland with his Statement of Attainment for the recently completed unit: Financial Reports and Budgets.

The Mayor congratulated Cr Boland on his achievement and encouraged other Councillors to take part in further training through WALGA.

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

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

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

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

Suspension of Standing Orders

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

COUNCIL RESOLUTION:

Moved Cr Strzina, seconded Cr Birnbrauer

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

Carried 10/0

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

CONSIDERATION OF REPORTS BY COUNCIL

The Mayor advised that the Council process for considering reports was that members would advise him of items that they required to be “withdrawn” for further discussion and that all remaining reports would then be moved “en bloc” as per the Committee recommendation.

For the benefit of the members of public present, the Mayor determined to consider item 11.2.4 “Rubber Speed Cushions and Bollards, Broome Street, Cottesloe first.

He then advised of the following withdrawn items for consideration;

Development Services Committee

11.1.1 No. 56 Railway Street - Change of Use to Consulting Rooms / Professional Office with Residential Use

11.1.2 No. 459 Stirling Highway – Re-Application for Proposed Second - Storey Addition to Extend Professional Office Use

11.1.3 No. 104 Marine Parade (Cottesloe Beach Hotel) - Alterations and Additions to Existing Beer Garden

Works and Corporate Services Committee

11.2.2 Litter Bin Memorandum of Agreement - Natsales Australia Pty Ltd – Request for Renewal

11.2.3 Parking on Grant Street Median Strip

Strategic Planning Committee

11.3.1 Town of Cottesloe – Action Plan Review - August 2011

11.3.6 Review of Standing Orders Local Law 2011

All other matters were dealt with en-bloc.

Works and Corporate Services

11.2.1 Firework Application North Cottesloe Beach

11.2.5 Black Spot Applications for 2012/2013

11.2.6 Geophysical Investigation for Subsurface Lithology Along the Foreshore of Cottesloe Beach

11.2.7 Tender: Cast - In - Situ Concrete Path Construction -3 Year Period

11.2.8 Write off Minor Bad Debts

11.2.9 Statutory Financial Reports for the Period Ending 31st July 2011

11.2.10 List of Accounts Paid for the Month of July 2011

11.2.11 Schedule of Investments and Loans as at 31st July 2011

11.2.12 Property and Sundry Debtors Report as at 31ST July 2011

Strategic Planning Committee Minutes - 17 August 2011

11.3.2 Local Government Elections – Proposed Change of Meeting Dates for October 2011

11.3.3 Legal Proceedings - Policy Review

11.3.4 Regional Cooperation - Policy Review

11.3.5 Chief Executive Officer's Annual Performance Review

The officer report, item 10.1, was dealt with at the end of the Committee reports.

10 REPORTS OF OFFICERS**10.1.1 LOCAL PLANNING SCHEME NO. 3 – CONSIDERATION OF SUBMISSIONS ON MINISTER'S MODIFICATIONS – PROPOSED EXTENSION OF TIME AND ADDITIONAL ADVERTISING**

File No: SUB/721
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 22 August 2011

INTRODUCTION

Council in advertising the Minister's proposed modifications and considering submissions on them so far has taken legal advice regarding various matters. Recent correspondence between Council's solicitors and the WAPC about flaws in the modifications advertised and consideration of the submissions has resulted in:

- (i) clarification of the requirements for some additional advertising; and
- (ii) an opportunity to extend the period for responding on the current submissions.

This report presents these aspects for Council's information and endorsement.

CORRESPONDENCE

Copies of the following confidential correspondence are attached:

1. Initial letter dated 5 July 2011 from Council's solicitors to the WAPC and Minister drawing attention to procedural issues arising from corrections made by them to the modifications being advertised.
2. Reply letter dated 14 July 2011 from the WAPC advising in relation to additional advertising and consideration of the current submissions.
3. Further letter dated 16 August 2011 from Council's solicitors to the WAPC proposing an extension of time and the intended additional advertising.

This chain of correspondence has narrowed-down the details for Council to endorse and staff actions accordingly.

Regarding processing the submissions the Town first sought clarification from the Department of Planning which advised: *The WAPC requires that Council provide a date to which it would like an extension of the timeframes of the Regulations.* This has been nominated in the latest letter by Council's solicitors.

LEGAL ADVICE

Given the points of view argued in the correspondence and nuances in the terminology used Council's solicitors were requested to carefully examine these matters and have explained the approach taken – refer confidential attachment to 16 August 2011 letter.

As a result the latest letter by Council's solicitors states the intent for additional advertising as well as a one-month extension to respond on the current submissions.

The Town has followed-up and requested the Department to seek an affirmative reply from the WAPC in time for Council's 22 August 2011 meeting or as soon as possible thereafter.

ADDITIONAL ADVERTISING

The WAPC and Minister have accepted the principle of additional advertising contended by Council. Modification 24(b), comprising changes to the Development Zone provisions, has been recognised as mandatory for re-advertising. Any other aspects to be re-advertised are at Council's discretion.

The additional advertising is to take place once the current submissions have been dealt with by Council. Staff are to scope this for prior endorsement by Council.

EXTENSION OF TIME

An extension of time to the end of September 2011 for Council to respond on the current submissions will enable staff to more fully consider the submissions and elected members to be in attendance to determine the recommendations upon them.

This program provides for briefing sessions and special meetings of Council to be scheduled during the first half of September in order to complete the task, after which staff need to produce the documentation for lodgement with the WAPC by the due date of Friday 30th.

CONCLUSION

Pragmatically Council needs to conclude its assessment of and response to the current submissions in the near future.

Some additional advertising is also necessary and desirable to round-out the process.

In lodging its response on the current submissions Council should reserve the right to evolve its final overall response on the Scheme having regard to any submissions on the additional advertising.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

That Council:

- 1. Notes the information and advice contained in this report and the associated correspondence.**
- 2. Agrees to an extension of time until 30 September 2011 to respond on the current submissions, subject to approval by the WAPC.**
- 3. Requests staff to program Council briefings and special meetings in accordance with that timeframe.**
- 4. Accepts the additional advertising required in respect of the Minister's modification 24(b) in relation to provisions for the Development Zones.**
- 5. Requests staff to advise Council of the proposed details and arrangements for that additional advertising, together with any other aspects identified for additional advertising.**

Carried 10/0

11 REPORTS OF COMMITTEES**11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 15 AUGUST 2011****11.1.1 NO. 56 RAILWAY STREET - CHANGE OF USE TO CONSULTING ROOMS/PROFESSIONAL OFFICE WITH RESIDENTIAL USE**

File No:	2247
Attachments:	56 Railway Street.pdf
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	15 August 2011
Author Disclosure of Interest	Nil
Property Owner	Mr D Gulland & Ms C Clark
Applicant	Dr John Salmon
Date of Application	4 July 2011
Zoning:	Residential R20
Use:	AA - A use that is not permitted unless special approval is granted by the Council
Lot Area:	466m²
M.R.S. Reservation:	Not applicable

SUMMARY

This report discusses the statutory provisions and assessment criteria relevant to this change of use proposal and refers to plans received on 5 July 2011, as well as to the applicant's and neighbours' submissions.

A similar proposal was previously submitted by the applicant for 68 Railway Street (approximately 120m north of the current proposal) and that was refused by Council in July 2010. Following mediation and an amendment by the applicant to include a residential tenancy the proposal was subsequently dismissed on review by the State Administrative Tribunal in January this year.

Given the assessment that has been undertaken of the current proposal, the recommendation is to refuse the application as it is contrary to the strategic intent and specific requirements of Council's Scheme and related Policy.

PROPOSAL

This application is seeking consideration of a change of use of the northern portion of the existing dwelling at 56 Railway Street to Consulting Rooms/Professional Offices for the treatment of chronic pain by the applicant. The southern portion of the building is proposed to be utilised as single bedroom accommodation for possible occupancy by members of the applicant's family.

No significant internal alterations are proposed. Externally a rear pergola would be removed and the rear garden would be partially paved to accommodate 3 car bays (two in tandem) for patients and staff. A 4th car bay would be provided below an existing carport/pergola located on the northern side of the premises (ie: total of 4 bays proposed for the non-residential use).

An existing crossover in Wentworth Street is proposed to be widened to 4.5m to provide access to the non-residential parking areas and a new crossover is proposed on Railway Street (adjoining the southern boundary) to provide access to two car bays associated with the proposed residential use. The existing crossover located on Railway Street at the northern side of the lot is proposed to be removed.

The existing solid fencing along both street frontages is proposed to remain except where required to be modified to allow for the new vehicle access points.

POLICY IMPLICATIONS

Professional Offices in a Residential Zone.

FINANCIAL IMPLICATIONS

No financial resource impact.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2 (TPS2)
- Residential Design Codes (RDC)
- Proposed Local Planning Scheme No. 3 (LPS3)

MUNICIPAL INVENTORY

Not applicable.

CONSULTATION

The application was advertised in accordance with TPS 2. The advertising consisted of letters to four adjoining property owners. All four adjoining owners have objected to the proposal. The submissions are summarised below:

Max Redapple, 1 Wentworth Street

- Does not want the residential status of the property to be changed or amended in any way to allow mixed use now or in the future;
- The proposed use will impinge on the congestion in Railway Street which is a speedway at times;
- Visitors to the premises will be searching for an access on Railway Street and will use the laneway behind Wentworth Street as an extra access point although this is primarily for the occupiers of Wentworth and Perth Streets accessing their rear garages;
- The proposed alterations will have a down-market effect and do nothing to improve the suburb;

- The area is well served by the medical fraternity and there is no obvious gain to the community or the area;
- The estimated 40 patients per week will at least increase street traffic by 40 per week in and out of the property and that amounts to additional disturbance to the area; and
- The applicant stated in his letter that I had no objections to the alterations. This is incorrect as I advised him that I needed to think of the impact of the change and would not give a decision on the spot.

Kaye A. Barrow, 2 Wentworth Street

- The proposed access in Wentworth Street is almost directly opposite my front door and entry;
- The applicant's comment about Wentworth Street is incorrect as properties on both sides use the road with regular traffic flow;
- Visitors would be unaware of the laneway at the rear of the lots for access from the eastern end of the street and so are unlikely to use it. Also the surface of the laneway is already breaking up and runoff during rains carries surface material onto the footpath along Railway Street. Additional traffic will exacerbate the situation;
- Traffic in Railway Street is heavy and at peak times is backed up to south of Wentworth Street. Children and the elderly regularly cross Wentworth Street;
- Existing on-street parking along Wentworth Street already impedes traffic flow and this can only be exacerbated by the proposed increased traffic flow;
- The property will be and look like a commercial property;
- There can be no guarantee that the premises will be returned to residential use after 10 years and if this does happen then it undermines the contention that the use will provide a valuable service to the Cottesloe community;
- The community is already well-served by medical facilities which are within walking distance of Wentworth Street;
- Inability to afford the purchase, as opposed to lease, of premises from which to conduct a business has never been a sound reason for allowing a business in a residential area;
- The neighbour on the eastern side of the property has not stated he has no objection so this statement by the applicant is incorrect; and
- Whilst there may be some undeniable benefit to the community by the establishment of a medical practice in Wentworth Street, this proposal is in essence a property investment and does not warrant the granting of a change of use from residential to commercial.

Jonathon Rocchi, 54 Railway Street

- The proposed use will result in a significant increase in the number of vehicles and people entering the premises which is unacceptable for a residential zoned area.

Dr David Flynn, 3 Wentworth Street

- Creating a mixed residential/business environment along Railway Street is something most people in the precinct would object to as it is a quiet residential area;
- The existing small businesses along Railway Street have been there for many years and are unobtrusive;
- The proposal would set a precedent which could irretrievably alter the nature of the precinct;
- The proposed use would increase traffic in Wentworth Street;
- Greenery on the block would be lost as it would be replaced by car bays; and
- Land values would be diminished.

APPLICANT'S JUSTIFICATION

The applicant has submitted a covering letter with the application outlining the proposal. This is summarised below:

- The property lends itself to simple reconfiguration which will allow it to be used for my medical consulting rooms as well as providing a single bedroom residential use for a family member;
- Six on-site car bays are proposed which will be adequate for the proposal;
- The alterations required will be relatively modest;
- Cars will be able to enter and exit the rear of the site in forward gear;
- The streetscape will be substantially the same or improved following part removal and tidying up of the fence bordering Wentworth Street. Parked cars will be substantially concealed from the street by most of the existing fencing;
- The submitted plans show the possible addition of a living room-kitchen to the residential south side of the property but this would be a separate application;
- The medical practice will be as described in my previous application for 68 Railway Street;
- There will only be one medical practitioner, myself, practising pain medicine until my retirement in about 10 years time. The property will then be returned to residential;
- There will be one receptionist working 9-5 weekdays;
- Patient flow will be the same as in my current practice established for over 15 years;
- On Tuesdays and Thursdays 8-10 patients will be seen between 11.30am and 5pm (one hour for a new patient, half an hour for a follow-up). There should be only 1-3 patients there at a time;
- On other days of the week patients seen for half this period either mornings or afternoons depending on operating list commitments;
- A total of 30-40 patients are seen a week between 11.30am and 5pm weekdays;
- No drugs will be kept on the property;
- My medical practice provides a valuable service to the Cottesloe community which may be lost if I am unable to obtain a suitable location;
- I cannot afford to purchase a property in the commercial areas of Cottesloe;
- The car parking arrangements provide for up to 5 patient/staff vehicles to use the Wentworth Street access in forward gear;

- Wentworth Street is a quiet side street servicing a relatively small number of properties and also provided with a laneway circuit for one-way traffic exiting to Railway Street, if necessary. This arrangement should not constitute any significant disruption of neighbours or the neighbourhood and there should be no safety concerns because of the very low traffic flow in Wentworth Street; and
- My neighbour on the east side of the property has stated that he has no objections to my plans. My only other neighbour on the south side of the property has the property rented and I have been unable to contact the tenant or the owner.

PLANNING COMMENT

This residential property is located on the south-west corner of Wentworth Street and Railway Street and is currently for sale. The applicant is considering purchasing it for the purposes of converting it to medical consulting rooms and for single bedroom residential use.

On-site parking (4 bays) for staff and patients would be provided at the rear and on the northern side of the existing property and accessed via a modified and widened crossover on Wentworth Street. On-site parking (2 bays) for the residential use would be provided at the front of the property and accessed via a new crossover on Railway Street adjoining the southern boundary. The existing crossover on Railway Street would be closed.

Pedestrian entry to the consulting rooms would be via the existing front entrance and a new rear doorway, while access to the residential side would be via a door on the southern side.

The strategic and statutory considerations for this proposal are very similar to the previous 68 Railway Street proposal and are discussed below:

Land Use

Land use in the locality is predominantly residential, although there is a liquor store at 24 Railway Street and a Naturopath at 10 Railway Street. These are both long established uses occupying corner sites located closer to the Town Centre and have been limited in terms of scale of operation and parking.

Under TPS2 Consulting Rooms and Professional Offices are 'AA' uses in the zoning table for the Residential Zone; that is, uses which are *not permitted* unless special permission is granted by Council and following advertising. The presumption is not in favour of the use; however, Council may exercise discretion to allow it, subject to consideration of submissions and having regard to its Scheme and Policy provisions.

Statutory Provisions

Certain general provisions of TPS2 apply to non-residential development in the district, including parking, signage and other "matters to have regard to". These also form part of the framework for assessment of the development proposal in the context of surrounding residential land use and amenity.

Council should therefore determine the proposed change of use from a local planning perspective having regard to TPS2 and proposed LPS3, which both support low density residential development in the area, albeit with a modest change to Residential R35 under proposed LPS3.

TPS2

The following land use guidance is provided by TPS2 in terms of the intent of the zoning and land use / development controls:

3.4 Zone Provisions

3.4.1 Residential Zone

- (a) The purpose and intent of the Residential Zone is to promote a residential environment in any particular locality compatible with the maximum residential density permissible in that locality and with the desire of the inhabitants for Cottesloe to retain its quiet residential character. Development will be guided and controlled by the Development Guide Map, the Residential Planning Codes and the variations thereto as well as the amenity provisions contained in Part V-General Provisions of the Scheme.*

5.1.2 Council shall have regard to:

- (k) the impact on the general quiet of the locality, including the times of activity, traffic generation, access and parking, and air conditioning, plant rooms and machinery, in relation to neighbouring properties. In order to preserve the quiet of residential areas, Council may impose conditions on development approvals restricting the hours of work on a development site.*

The tenor of these Scheme provisions is a common theme of promoting residential amenity for the wellbeing of residents and to ensure that any proposals are consistent with this purpose. The Scheme does not involve any express provisions to facilitate the location of non-residential uses in residential areas, nor to manage the development of premises or conversion of dwellings for the purpose.

Proposed LPS3

Proposed LPS3 is modelled on TPS2 and echoes the land use intent and development control regime relating to this area. It strengthens the importance of zoning regulation, land use control and development requirements/standards, including residential amenity.

In other words, LPS3 supports the continuation of residential use and development in the vicinity and the proper location of non-residential uses in other appropriate zones or centres (ie business / commercial areas). Additionally, LPS3 is aimed at securing and strengthening the character and amenity of established residential neighbourhoods.

LPS3 has advanced to the final approval phase whereby it can be had regard to by Council as a seriously entertained planning proposal in ascertaining the planning intent and outlook for a locality.

Local Planning Policies

There is no local planning policy which deals specifically with consulting rooms; however, Council's *Home Occupations & Professional Offices Policy* provides a guide to considering and regulating non-residential uses in the Residential zone.

This Policy states that it is Council's basic objective to restrict Professional Offices to zones in which they are appropriately suited, but that Council may grant special approval where it is satisfied that the use will not prejudicially affect the amenity of the neighbourhood.

The Policy's assessment criteria for these types of applications include:

- No more than 3 staff members shall operate from the business at any one time;
- Trading hours are to be restricted to 9-5pm weekdays only, excluding public holidays;
- No more than 10 vehicle trips per day shall be generated by the business;
- The number of clientele shall not exceed 4 persons at any one time;
- Parking shall be provided at the rate of 1 car space to every 40m² of gross floor area with a minimum of 4 spaces; and
- Planning consent will only be granted for a maximum period of 12 months at which time the applicant is required to make a renewal application.

The thrust of this Policy is to preserve the integrity of residential areas and to contemplate only those low-impact, non-residential Professional Office uses that are compatible with the preservation of residential amenity.

Although the proposed use may generally meet these assessment criteria it is nevertheless proposed to be for a permanent change of use (for at least 10 years), rather than one that could otherwise be reviewed by the Town on an annual basis, and it is doubtful that such a proposal would not prejudicially affect the amenity of the neighbourhood due to the increased number of cars and visitors that would frequent the site, an issue that has also been highlighted by the adjoining residents.

The proposed single-bedroom residential component may also result in a potential conflict of land uses on the site as it is not proposed to be occupied by the applicant or directly associated with the non-residential use and it generates the need for additional parking on-site and a separate crossover on Railway Street.

Previous Decisions

For many years TPS2 had been successful in coordinating development to separate residential and incompatible non-residential uses, by directing commercial and professional activities to defined business centres and suitable premises, where urban amenity aspects such as transport, vehicular access and parking, hours of operation, plant/equipment noise, light-spill and signage can be addressed. The town

centre, adjacent offices area and two local centres have performed well in this respect and have attracted dedicated medical and professional office-based buildings to satisfy the demand for local services and businesses. This approach also fosters commercial activity centres by directing and concentrating businesses and services used there.

As a measure of this planning strategy, Stirling Highway and the distributor roads in the district have not suffered encroachment and impacts by non-residential uses to erode residential use, character and amenity. For example, Council in consistently applying the Scheme refused change of use proposals for 463 Stirling Highway in both 1995 (chiropractic consulting rooms) and 2007 (psychiatry consulting rooms); and the latter was likewise refused by the SAT. Council also refused a similar proposal for Professional Offices (Natural Therapy Clinic) at 10 Railway Street. These refusals were essentially based on concerns regarding the amenity and traffic implications of land use changes and their associated physical development affecting established residential areas intended to be preserved and protected.

Part of Council's reasoning for this approach is that non-residential uses in residential areas can tend to get out of hand in terms of parking, hours of operation, intensity of activity and all the associated impacts, which can lead to complaints from residents whose amenity is compromised. Sometimes uses can also further change without approval so become compliance matters.

Council decision and the State Administrative Tribunal's (SAT) review of a change of use proposal at 68 Railway Street.

An application, submitted by the current applicant, for a similar change of use of a residential property to Consulting Rooms/Professional Offices at 68 Railway Street was refused by Council on 26 July 2010 for the following reasons:

- a) *the proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality;*
- b) *the proposal is contrary to the intent of Council's current and proposed Local Planning Schemes for the Residential Zone;*
- c) *the district provides a town centre, adjacent office area and two local centres as established locations appropriately zoned and developed to accommodate consulting rooms, professional offices and other businesses in defined, accessible and serviced hubs with public parking and associated facilities, without causing undue adverse amenity impacts on residential areas;*
- d) *the degree of alteration required to adapt the premises and property from a dwelling to consulting rooms/professional offices demonstrates that it is not well-suited for the purpose and will lose its existing residential character and amenity;*
- e) *the proposed traffic generation, vehicular access, parking and movement arrangements are unsatisfactory in terms of convenience, safety and amenity; and*

- f) *the proposal would adversely impact directly on the amenity of the adjoining dwellings, the occupants all of whom have objected to such.*

The applicant lodged a review with the SAT against Council's decision and subsequently modified the proposal to include some residential accommodation, in an attempt to make it more acceptable in the residential area prior to it being referred to a Tribunal Hearing on 6 December 2010.

The review was dismissed by the SAT and it affirmed the Council's refusal of the proposed change of use. Various reasons for the decision were given, some of which are summarised below:

- *the proposed use would be inconsistent with the intent of the residential zoning in the Town Planning Scheme;*
- *the size of the lot required that the rear yard of the site be open space for residents and parking for consulting rooms;*
- *the proposed consulting room was not an amenity that served the residential locality in which it would be located as required under the town planning scheme;*
- *it was undesirable to attract non-local traffic to a specific site located close to a busy intersection; and*
- *the internal driveway and the rear parking on the site would have an undesirable impact on the amenity of the abutting residential properties.*

In addition, the SAT noted that the applicant provides a specialised service for a particular segment of the community; that is those with chronic pain. The service provided is not one for the community at large to make use of on a regular basis and it is not particularly related to the residential locality in which it would be situated. The proposed use would therefore not be consistent with the objective of both TPS2 and proposed LPS3 of a professional office contributing to the amenity of the residential locality within which it would be located.

The proposed service also does not warrant the 'special approval' required for an 'AA' use under TPS2 and would not be consistent with the purpose of the residential zoning under TPS2 and proposed LPS3. It would therefore not be consistent with orderly and proper planning.

Parking and Access

The current application has been reviewed by the Manager Engineering Services (MES) who has not raised any specific issues with the new crossovers or internal parking layout. However, the following comment was made by the MES in response to the concerns raised by adjoining residents:

The rear laneway behind 56 Railway Street is both narrow and in poor condition. It is only used by locals or builders because of it being hard to find, in poor condition and being narrow.

Wentworth Street is in good condition but narrow. Vehicles parked on both kerb lines would block the street. The street is a dead end/turnaround at the east end but connects to the east end of the rear laneway. If builders are working in the street or laneway and this is added to the normal traffic generation, the street could become busy at various times.

Railway Street is busy and will probably continue to get busier with traffic building up at the Eric Street roundabout early in the morning and late in the afternoon.

From a planning viewpoint, it is considered that traffic safety concerns would increase with non-residential visitors unfamiliar with the locality being attracted to the proposed consulting rooms on the site compared to movements by local residents. This was also a viewpoint shared by the SAT in respect of the proposal at 68 Railway Street.

The location of the proposed new access in Wentworth Street would be only approximately 15m from Railway Street which is a relatively short distance. A vehicle entering Wentworth Street from Railway Street would need to make a sharp turn right to enter the proposed on-site parking area and therefore if another vehicle is following behind it may have to brake suddenly to avoid the turning vehicle, especially if the visitor is unfamiliar with the entrance to the consulting rooms. This would therefore increase the traffic safety hazard for visitors and residents alike.

The proposed new crossover on Railway Street and two resident car bays proposed at the front of the property is also of concern from a traffic safety viewpoint. Whilst the location of the crossover may be preferable to the existing crossover as it further away from the intersection of Wentworth and Railway Streets, vehicles would still have to slow on Railway Street before having to make a difficult tight angled turn especially if entering from the north. The retention of the existing solid front wall combined with the proposed narrow 3m width for the proposed crossover would result in inadequate vehicle sightlines being provided and for traffic and pedestrian safety concerns being exacerbated, especially as a public footpath is also adjoining the lot.

Amenity Issues

Traffic movement and manoeuvring in the rear garden associated with the proposed use would have potential to impact unacceptably on the amenity of the neighbours, especially for the occupiers of the property to the east of the site which has its main outdoor living area on the northern side immediately adjoining the proposed new entrance.

The location of the new entrance almost directly opposite the front door of 2 Wentworth Street is also likely to result in an increased loss of amenity to the occupier of that property due to the increased frequency of vehicles accessing the proposed consulting rooms.

The likelihood of increased traffic along Wentworth Street, and possibly the rear laneway, as a result of the proposed use will also affect other residents' amenity in the locality due to additional noise and general activity associated with the non-residential use.

Concerns of residents

The applicant advised the planning department that the neighbour on the eastern side of the site had no objection to the proposed use and that he was not aware of any other concerns of residents in the area. However, advertising of the application has revealed that in fact all the owners of the properties notified which are immediately neighbouring the site have objected to the proposed use. Their reasons given are well-articulated and considered to have merit, as discussed in this report.

CONCLUSION

The proposed change of use is not supported from a planning viewpoint given that:

- the proposed use is contrary to the intent of Council's current and proposed Schemes, which promote residential amenity, character and quietude for the well-being of residents in the Residential zone;
- various amenity impacts are likely to arise;
- vehicular parking, manoeuvring and safety are unsatisfactory;
- there are objections from all surrounding neighbours;
- the town centre and local centre zones areas are where commercial activities are directed to locate and this policy has proven successful for the protection of residential amenity and the management of activity centres in Cottesloe; and
- the proposed residential component would not be occupied by the applicant and may result in a potential conflict of land uses on the site.

VOTING

Simple Majority.

COMMITTEE COMMENT

Committee commented on a sound report and noted the similarities with the previous proposal, in moving to refuse the current application.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

1. That Council **REFUSE** the proposed Consulting Rooms/Professional Office and Residential use at 56 Railway Street, Cottesloe based on the applicant's submission and as shown on the plans submitted on 5 July 2011, for the following reasons:
 - a) the proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality;
 - b) the proposal is contrary to the intent of Council's current and proposed Local Planning Schemes for the Residential Zone;
 - c) the district provides a town centre, adjacent office area and two local centres as established locations appropriately zoned and developed to accommodate consulting rooms, professional

offices and other businesses in defined, accessible and serviced hubs with public parking and associated facilities, without causing undue adverse amenity impacts on residential areas;

- d) the proposed traffic generation, vehicular access, parking and movement arrangements are unsatisfactory in terms of convenience, safety and amenity; and
- e) the proposal would adversely impact directly on the amenity of the adjoining dwellings, the occupants all of whom have objected to such.

2. Advise the submitters of this decision.

Carried 10/0

11.1.2 NO. 459 STIRLING HIGHWAY – RE-APPLICATION FOR PROPOSED SECOND-STORY ADDITION TO EXTEND PROFESSIONAL OFFICE USE

File No: 1976
Attachments: [Plans459Stirling.pdf](#)
[AerialandSitePhotos459Stirling.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 15 August 2011
Author Disclosure of Interest: Nil
Property Owner: Lanobelle Corporation
Applicant: Icon Group Management
Date of Application: 11 June 2010
Zoning: N/A
M.R.S. Reservation: Primary Regional Road Reserve
Lot Area: 880m²

SUMMARY

Re-application for approval for a second-storey addition to extend a professional office use, which was previously granted by Council on 22 June 2009. The re-application was submitted on 11 June 2010 and the proposed development is identical to that as before.

Initially as the property was vacated and marketed for sale, the Town queried whether a further approval was still sought or relevant. The application has not been determined in the meantime pending a prospective sale and an extended dialogue in this connection. Ultimately the property has not sold and the owner seeks a further approval in order to keep its options open in respect of its future intentions for the property.

Recommended for re-approval subject to conditions.

PROPOSAL

It is proposed to add a second storey to the existing professional office building. No changes to staff numbers are proposed. More detail is provided in the original report, which is re-presented herein.

POLICY IMPLICATIONS

- Home Occupations and Professional Offices in the Residential Zone.

STATUTORY ENVIRONMENT

- Metropolitan Region Scheme.
 - Town Planning Scheme No. 2.
-

CONSULTATION

Neighbours were again consulted by letter from the Town and invited to view the plans in Council's offices. Any liaison or submissions in response to the advertising will be reported at Committee for consideration and inclusion in the item to Council.

As the subject lot occurs within the Stirling Highway Primary Regional Road Reserve of the Metropolitan Region Scheme, the application was forwarded for comment to the Department of Transport (DoT). The previous DPI advice raised no objection to the proposal. A response from DoT is being followed-up for reporting at Committee for consideration and inclusion in the item to Council. This is expected to address both the MRS reservation and the Stirling Highway Activity Corridor Study (SHACS).

PROPOSED LOCAL PLANNING SCHEME NO. 3

The previous report section refers. In addition, LPS3 has passed through two advertising phases and is well-advanced towards finalisation, whereby it qualifies as a seriously entertained planning proposal and should be considered.

HERITAGE LISTING

N/A.

VARIATIONS

The previous report section details the land use planning and physical development matters to be taken into account in considering the proposal.

APPLICANT'S JUSTIFICATION

The previous report contains the original justification provided by the applicant.

PREVIOUS REPORT FROM COUNCIL MINUTES 22 JUNE 2009

The previous report is presented in full below, together with Council's deliberations, as it contains all of the background information and consideration involved leading to the initial approval. This is shown in Italics.

ITEM 10.1.3 – NO. 459 STIRLING HWY – PROPOSED SECOND-STOREY ADDITION TO EXTEND PROFESSIONAL OFFICE USE**SUMMARY**

The application is for a second-storey addition to extend an existing professional office.

This report presents detail on the following items, all of which have been significant factors in the determination of the application:

- *As the land is wholly reserved under the Metropolitan Region Scheme (MRS) for Stirling Highway, a single planning determination under that scheme is required, in this case by Council acting under delegation from the Western Australian Planning Commission (WAPC).*
- *Due to the MRS, Council's TPS2 is not directly applicable to the land. However, TPS 2 may be considered a framework for the consideration of local planning issues.*

- *The land use strategy for the area is of particular significance. Fundamentally, the key issues are the impact that the proposal is likely have on the surrounding area and the intensification of a non-residential use (professional office) in what is essentially a residential area.*
- *Under TPS2 the use class of professional office is classified as “AA”, being one which is not permitted unless special approval is granted by Council at its discretion – that is, the presumption is against such a use unless Council is satisfied that the circumstances, merits and ramifications warrant support as a special instance. Approval was granted to the professional office in 2003 and the present proposal is to expand it.*
- *Significantly, Council refused the introduction of non-residential land uses at No. 463 Stirling Highway in 1995 and 2007. The latter decision was upheld in an appeal to the State Administrative Tribunal in December 2007.*

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

PROPOSAL

It is proposed to construct a second-storey addition comprising offices, a boardroom, kitchen, deck and toilets to the existing professional office building. No change to the footprint of the building is intended and it is not proposed to extend the business trading hours or hire extra staff (although presumably additional staff could be accommodated in the future or a new owner/tenant could occur).

The property is located on the western side of Stirling Highway, two lots south of the intersection with Eric Street. The existing building was originally purpose-constructed as a medical consulting facility which operated from the 1950s. This building is single-storey, of domestic scale, and retains the appearance of a modest structure. As mentioned, the change of use to professional office was approved in 2003.

Land use in the vicinity is predominantly residential, though the neighbouring lot to the north is a combined residence and dentist’s surgery (No. 121 Eric Street). The lot abuts Stirling Highway but is accessed exclusively from the right-of-way at the rear. There is sufficient parking on the lot to meet Council’s normal requirements.

STATUTORY ENVIRONMENT

- *Metropolitan Region Scheme (MRS).*
- *Town Planning Scheme No. 2 (TPS2).*

PROPOSED LOCAL PLANNING SCHEME NO. 3

No changes to the surrounding local zoning or the density coding are proposed in LPS3, which reinforces the land use strategy for the area as residential.

POLICY IMPLICATIONS

Home Occupation and Professional Offices in the Residential Zone.

HERITAGE LISTING

N/A.

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE**

It should be noted that the advice from the DPI on behalf of the WAPC is focussed on the PRR reservation and any road widening requirement or other aspect related to it (such as vehicular access, were that proposed). Beyond that, the interests of the WAPC include ensuring appropriate urban land usage. As no advice in that respect or advice regarding regional planning has been forthcoming from the WAPC, the consideration of detailed land use and development control has been delegated to Council for assessment at a local planning level. Any such assessment will have regard to local area strategic planning as guided by relevant local planning strategies, schemes, policies and studies.

The proposal was assessed under the RDC as a guide to the potential impact of the development. The aspects of “non-compliance” that emerged were the setback of the north wall (1.5m in lieu of 3.0m) and building height (up to 7.63m in lieu of 7.0m). No objections to these aspects were received and justification has been submitted by the applicant (refer attached letter), but it is not intended to focus on these issues as the RDC are technically inapplicable to the lot, which is a commercial building and use.

With regard to TPS2, it should be noted that 11 parking bays are required and 14 parking bays are provided. Whilst the individual parking bays do not meet the dimensions prescribed by the Scheme’s Appendix II, the total number of parking bays is sufficient.

CONSULTATION

As the development is proposed for land reserved as a Category 3 Primary Regional Road under the MRS, the DPI was forwarded a copy of the application. The DPI has informed Council that it has no objection to the proposal.

Adjoining landowners were informed of the application by letter and invited to comment. One written objection to the proposal has been received and is summarised along with the applicant’s response in the table below:

Objection from Mr & Mrs Rivalland, 121 Eric Street	Response from Mr P Webb, Planning Consultant, on behalf of Applicant
<i>Privacy 1 – North wall screen at eastern end acceptable only if slats point upwards.</i>	<i>i) Cones of vision shown on plans demonstrate that proposal already complies with privacy section of R-Codes; ii) Metal louvres will be detailed to prevent loss of privacy to neighbours’ upper floor windows and backyard; iii) Neighbours’ upper floor window sills are 2200mm higher than sills of proposed upper floor.</i>

<i>Privacy 2 – Request for north wall glass to be obscured to 1600mm in addition to screening</i>	<i>i) Proposal complies with necessary codes, request therefore unnecessary.</i>
<i>Privacy 3 – Metal cladding may generate glare</i>	<i>i) Finish of cladding intended to be non-reflective satin or matt.</i>
<i>Privacy 4 – Balcony directly overlooks pool and entertaining area</i>	<i>i) Deck already screened.</i>
<i>Parking 1 – Insufficient spaces proposed</i>	<i>i) Applicant has provided sufficient bays on site.</i>
<i>Parking 2 – Parking occurs in ROW, addition will result in more obstructions</i>	<i>i) Neighbours' dental patients regularly park in ROW and on applicant's lot; ii) Traffic occurs during business hours and is low-volume; iii) Applicant intends to mark bays to ensure clarity.</i>
<i>Parking 3 – Council Approval of proposal would result in need to exercise easement rights & install chains/bollards where appropriate</i>	<i>i) Bollards and chains would create more problems for the neighbours and legitimate ROW users than for the applicant.</i>
<i>Parking 4 – Suggestion to control traffic through ROW with "one-way" designation</i>	<i>i) Level of congestion not established as significant; ii) One-way designation unnecessary.</i>
<i>Lighting 1 – Lighting will potentially be left on outside business hours</i>	<i>i) Applicant intends to turn lights off after business hours, unlike for a residential property.</i>
<i>Lighting 2 – Lighting will attract anti-social behaviour</i>	<i>i) Studies suggest that lighting reduces anti-social behaviour rather than attracts it.</i>
<i>Amenity – Land use should be compatible with its setting</i>	<i>i) The above demonstrates that amenity of neighbouring properties will not be diminished by car-parking, traffic, lighting or privacy issues.</i>

As previously mentioned, the RDC do not technically apply to the consideration of the alterations and additions, which in any case have been justified by the applicant and are determined as largely compliant.

STRATEGIC LAND USE IMPLICATIONS

Background

The property is located on the western side of Stirling Highway, two lots south of the intersection with Eric Street. The existing building was originally purpose-constructed as a medical consulting facility which operated from the 1950s. As mentioned, the change of use to professional office was approved in 2003.

Land use in the vicinity is predominantly residential, though the neighbouring lot to the north is a combined residence and dentist's surgery (No. 121 Eric Street).

Alterations and additions to the fabric of a building used for non-residential purposes within a residential area would be contrary to the zoning intent and amenity expectations of residents.

MRS

The land falls completely within the MRS Primary Regional Road reservation for Stirling Highway, rather than being zoned under TPS2.

The DPI has advised that it has no objection to the proposal in relation to the regional road reservation, which remains under review and is expected to require no more than a 5m road widening if and when that may be sought to be implemented.

Local Planning Strategy

It should be noted that non-residential development requirements are not contemplated in Residential Zones by TPS2. However, certain general provisions of TPS2 apply to non-residential development in the district, including building height, privacy, appearance of buildings, the Development Guide Map, parking, signage and other "matters to have regard to". These form a framework of assessment of the development proposal in the context of surrounding residential land use and amenity.

- Council therefore can determine land use and development proposals from a local planning perspective having regard to TPS2 and proposed LPS3.*
- In this connection both TPS2 and proposed LPS3 provide a residential density coding of R30/60 over the subject section of Stirling Highway, which supports medium density residential development of the area.*

TPS2

Because the application is for determination under the MRS, TPS2 does not apply directly to the land in terms of zoning, however, as explained it provides a framework for consideration of the local land use implications of the proposal.

As such TPS2 and related policies are relevant considerations with respect to orderly and proper planning and the preservation of amenity, and in Council exercising delegation on behalf of the WAPC.

The following land use guidance is provided by TPS2 in terms of the intent of zoning and land use / development controls.

3.4 Zone Provisions

3.4.1 Residential Zone

- (a) The purpose and intent of the Residential Zone is to promote a residential environment in any particular locality compatible with the maximum residential density permissible in that locality and with the desire of the inhabitants for Cottesloe to retain its quiet residential character. Development will be guided and controlled by the Development Guide Map, the Residential Planning Codes and the variations thereto as well as the amenity provisions contained in Part V - General Provisions of the Scheme.*

5.1.2 Council shall have regard to:

- (k) the impact on the general quiet of the locality, including the times of activity, traffic generation, access and parking, and air conditioning, plant rooms and machinery, in relation to neighbouring properties. In order to preserve the quiet of residential*

areas, Council may impose conditions on development approvals restricting the hours of work on a development site.

- The tenor of these Scheme provisions is a common theme of promoting residential amenity, character and quietude for the wellbeing of residents and to ensure that any proposals are consistent with this purpose.

Proposed LPS3

Proposed LPS3 is modelled on TPS2 and reflects the land use intent and development control regime relating to this area. It strengthens the importance of zoning regulation, land use control and development requirements/standards, including the residential density coding as mentioned above.

In other words, proposed LPS 3 supports the continuation of residential use and development in the vicinity and the location of non-residential uses in other appropriate zones or centres. Additionally, LPS3 aims at securing and strengthening the character and amenity of established residential neighbourhoods.

Local Planning Policies

While there is no local planning policy which deals specifically with the Stirling Highway MRS reservation, Council's Policy TPSP 007: Home Occupations & Professional Offices provides a reference for considering non-residential uses in Residential zones.

This Policy states that it is Council's basic policy to restrict professional offices use to zones in which they are appropriately suited, but that Council may grant special approval where it is satisfied that the use will not prejudicially affect the amenity of the neighbourhood.

The Policy's assessment criteria for these types of applications include:

- No more than 3 staff members shall operate from the business at any one time.
- Trading hours are to be restricted to 9-5pm weekdays only.
- No more than 10 vehicle trips per day shall be generated by the business.
- The number of clientele shall not exceed 4 persons at any one time.
- Parking shall be provided at the rate of 1 car space to every 40m² of gross floor area.

The thrust of this Policy is to preserve the integrity of residential areas and to contemplate only those low-impact, non-residential professional office uses that are compatible with the preservation of residential amenity. It is apparent that the present professional office, while previously approved, exceeds these policy parameters.

Residential Development Trend

It is evident that the overriding land use trend in the area has been for residential development and that this trend as provided for by TPS2 has been facilitated by Council approvals.

- The dentist's property nearby is approved to be subdivided to enable a second dwelling to be built, premised on the dental practice ceasing, and more restricted access via the lane.

- *The former Council sump site on Eric Street has been sold and developed with a dwelling.*
- *A second dwelling has been built on the north-west corner of Eric St and Stirling Highway.*
- *Fourteen townhouses have been developed on the former National Measurement Institute site at Clive Road / McNamara Way to the north.*

This trend occurs in accordance with TPS2 and regional planning objectives for more inner-urban housing.

The trend also demonstrates the demand for more housing in Cottesloe, as the suburb is established and comparatively few opportunities for new residential properties occur.

Previous Refusals

Council refused change of use proposals for No. 463 Stirling Highway in 1995 (chiropractic consulting rooms) and 2007 (psychiatry consulting rooms). The refusals were based on concerns regarding amenity and traffic, as well as the undesirable potential for the residence to the north (No. 461 Stirling Highway) to also be proposed to become non-residential (with little parking space available for such).

At the time, Council flagged that the land use future of the area could be looked at under the scheme review, however, the scheme review has not subsequently identified or supported this area as moving towards expanded non-residential use or development – indeed, as explained above, proposed LPS3 and the residential development trend are encouraging continued residential zoning and intensification.

Land Use Strategy

The proposal for alterations and additions to a building used for a non-residential purpose is assessed as difficult to justify in the context of the strategic land use direction of Council's local planning and development control. The overall intent is for the retention of residential use rather than the introduction or expansion of non-residential uses in the locality.

With the exception of the property at No. 459 Stirling Highway (which is a legacy of the past), the properties in the vicinity are all used for residential purposes – even the dentist's surgery on the corner of Eric Street has a traditional residential land use component.

The Town Centre, Local Centre and Business zone areas are where commercial activities are directed to locate and this policy has proven successful for the protection of residential amenity and the management of activity centres in Cottesloe.

STAFF COMMENT

While the existing professional office was previously approved as a change of use, the approval was specific to the nature and extent of that particular application and does not necessarily extend to approval for further development of the site. In other words, although the principle of the use is established, the physical nature and practical consequences of any proposed expansions are such that separate planning applications and approvals are required. Therefore, the proposed extension or intensification of the use warrants assessment and determination.

There are two issues before Council. The first is the likely effect of the proposal on the amenity of neighbouring properties. In this respect the basic assessment of the proposal is that the physical impact of the development would not be unduly adverse, apart from potential future parking congestion; although the objection from the northern neighbour is noted.

The second issue relates to the strategic planning implications of the application and the history of recent Council decisions that have discouraged non-residential land use along Stirling Highway. Of key significance is Council's February 2007 decision to refuse an application for consulting rooms at No. 463 Stirling Highway, and the subsequent appeal to the State Administrative Tribunal, in which Council's decision was upheld. Several key points emerge from the Tribunal decision.

Firstly, it is clear that the proposed building and its perceived impact on neighbours' amenity were not the major issue.

Secondly, the Tribunal upheld that the major issue was that non-residential land uses within the precinct are contrary to orderly and proper planning. The Tribunal also noted that approving them would be inconsistent with Council's previous decisions. The exact text of the Tribunal's conclusion is below:

The Tribunal has concluded, after much reflection, that the Town's decision is right in principle and ought not to be set aside. The Town's position upholds the underlying residential nature of the area, avoids non-residential over-concentration in this immediate precinct, is consistent with previous decisions, and promotes orderly and proper planning in terms of land use in the Town. That is a fundamental value of town planning and ought not to be lightly departed from – except for a strong case argued in terms of planning law or principle. Such a case had not been presented here, nor, it appears, could it ever be on the type of material currently available to the Tribunal in the circumstances of the case.

It should be noted that the chief difference between the proposal for No. 459 and No. 463 Stirling Hwy is that the applicant for No. 463 Stirling Highway sought a change of use from residential to non-residential, whereas the current application seeks to intensify an existing non-residential land use.

On this basis it could be suggested that as the non-residential land use is existing, and the proposal may have limited impact on the amenity of the area, approval should be considered.

Nevertheless the Tribunal's decision makes it clear that the Town should be inclined to preserve the residential character of the precinct. Approving alterations and additions to a non-residential building would be inconsistent with the principles of orderly and proper planning for the locality, regardless of how well the proposal is expected to function in terms of amenity. Approval would also be inconsistent with the principles of orderly and proper planning for the entire Town, as it would set a precedent for the possible intensification of existing non-residential uses.

CONCLUSION

In this case the overriding determinant is the need to preserve the residential use, character and amenity of the locality by following the principles of orderly and proper planning. As an approval would make it difficult for Council to be consistent and achieve this important strategic planning intent, it is recommended that the

application can really only be refused. This is particularly so where Council has taken a consistent approach to the matter over recent years and where the SAT has confirmed the appropriateness of that. Therefore, the reasons for refusal are along the similar lines to the previous nearby refusal.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee expressed some support for the proposal given that the professional office was in existence / previously approved and, on balance, while appreciating the land use rationale in the officer report, considered that the extension could be allowed, subject to appropriate conditions to manage the use.

OFFICER RECOMMENDATION

Moved Cr Boland, seconded Cr Walsh

That Council:

1. *REFUSE to grant its approval to commence development for the proposed second-storey addition to extend the professional office use at No. 459 (Lot 100) Stirling Highway, Cottesloe, in accordance with the plans submitted on 27 November 2008, for the following reasons:*
 - (a) *The proposal is contrary to the orderly and proper planning and the preservation of the amenity of the locality.*
 - (b) *The proposal would result in the proliferation of non-residential uses in the residential area, contrary to the intent of the local town planning for the area and the related strategic land use direction.*
 - (c) *Council is not prepared to apply its discretion to support the proposed extension or intensification of the non-residential professional office use, which is classified as an "AA" use (ie, one that is not permitted unless granted special approval by Council) under the local town planning scheme.*
 - (d) *An objection from neighbouring residents has been received expressing concerns about the nature of the proposal and its impact on their residential amenity.*
 - (e) *Both Council and the State Administrative Tribunal have previously and recently refused earlier proposals for non-residential land use and development in the locality, in upholding the local area planning land use strategy, the intent of which is in favour of residential land use and which has a presumption against non-residential land use.*
 - (f) *All of the above are considered relevant to determination of the proposal under the Metropolitan Region Scheme having regard to the local area planning implications and impacts.*
2. *Advise the submitters of Council's decision.*

Lost 2/3

ALTERNATIVE MOTION***Moved Cr Dawkins, seconded Cr Woodhill***

That the application be approved and that officers research and provide suitable wording and conditions for determination by Council.

The Alternative Motion was put:

Carried 4/1

AMENDMENT***Moved Cr Boland, seconded Cr Utting***

That the Committee Recommendation be not adopted and revert back to the original Officer's Recommendation presented in the Development Services Committee Meeting Agenda of the 15 June 2009.

Lost 3/7

AMENDMENT***Moved Cr Walsh, seconded Cr Dawkins***

That the Council adopt the recommendation as provided by the officers and requested by the Development Services Committee:

That Council:

1. *GRANT approval to commence development pursuant to the Metropolitan Region Scheme for the proposed second-storey addition to extend the professional office use at No. 459 (Lot 100) Stirling Highway, Cottesloe, in accordance with the plans submitted on 27 November 2008, subject to the following conditions:*
 - (a) The continued Professional Office use shall be for a maximum of 8 staff and 4 clients or other visitors at any time, and shall not operate outside the hours of 8am to 6pm Monday to Friday. Any proposed intensification or expansion of the use, additional use, change of use, or physical change proposed in the future shall require a further application for planning determination.*
 - (b) The parking bays as indicated on the plans shall be marked-up (including the disabled bay) to the satisfaction of the Town of Cottesloe.*
 - (c) All stormwater runoff from the development shall be contained on-site and not discharged externally, to the satisfaction of the Town of Cottesloe and the details shall be shown in the building licence plans.*
 - (d) No goods or materials shall be stored either temporarily or permanently in the parking area or laneway. Any goods or materials associated with the professional office use are shall be stored within the building.*
 - (e) The building licence plans and supporting documentation shall be to the satisfaction of the Town of Cottesloe and shall include:*
 - i. Full details of all proposed external materials, finishes and colours, including glazing, any awnings or screens and the roof cladding, all selected to be of low-reflectivity.*

- ii. *Full details of all screening and glazing to the northern elevation demonstrating adequate protection of privacy for the adjacent dwelling building.*
- iii. *Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.*
- iv. *A comprehensive lighting strategy to manage amenity in relation to the building and surrounds without undue impacts.*
- v. *All disabled access, energy efficiency and fire management requirements in accordance with the BCA, Australian Standards and other relevant regulations.*
- vi. *A comprehensive Construction Management Plan. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.*

2. *Advise the submitters of Council's decision.*

Carried 10/0 Unchanged

AMENDMENT

Moved Cr Boland, seconded Cr Strzina

After the words “(including the disabled bays)” in part 1.(b) add the words “and signage should be erected to ensure parking occurs only in marked bays and not in the Right of Way”.

Carried 10/0

AMENDMENT

Moved Cr Carmichael, seconded Cr Woodhill

That under point 1.(e) v after the word “access” add “(incorporating universal access design principles)”.

Carried 10/0

COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

1. *GRANT approval to commence development pursuant to the Metropolitan Region Scheme for the proposed second-storey addition to extend the professional office use at No. 459 (Lot 100) Stirling Highway, Cottesloe, in accordance with the plans submitted on 27 November 2008, subject to the following conditions:*
 - (a) *The continued Professional Office use shall be for a maximum of 8 staff and 4 clients or other visitors at any time, and shall not operate outside the hours of 8am to 6pm Monday to Friday. Any proposed intensification or expansion of the use, additional use, change of use, or physical change proposed in the future shall require a further application for planning determination.*

- (b) *The parking bays as indicated on the plans shall be marked-up (including the disabled bay) and signage should be erected to ensure parking occurs only in marked bays and not in Right of Ways to the satisfaction of the Town of Cottesloe.*
- (c) *All stormwater runoff from the development shall be contained on-site and not discharged externally, to the satisfaction of the Town of Cottesloe and the details shall be shown in the building licence plans.*
- (d) *No goods or materials shall be stored either temporarily or permanently in the parking area or laneway. Any goods or materials associated with the professional office use are shall be stored within the building.*
- (e) *The building licence plans and supporting documentation shall be to the satisfaction of the Town of Cottesloe and shall include:*
- i. Full details of all proposed external materials, finishes and colours, including glazing, any awnings or screens and the roof cladding, all selected to be of low-reflectivity.*
 - ii. Full details of all screening and glazing to the northern elevation demonstrating adequate protection of privacy for the adjacent dwelling building.*
 - iii. Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.*
 - iv. A comprehensive lighting strategy to manage amenity in relation to the building and surrounds without undue impacts.*
 - v. All disabled access (incorporating universal access design principles), energy efficiency and fire management requirements in accordance with the BCA, Australian Standards and other relevant regulations.*
 - vi. A comprehensive Construction Management Plan. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.*

2. Advise the submitters of Council's decision.

THE SUBSTANTIVE MOTION WAS PUT

Carried 8/2

PLANNING COMMENT

The previous report above outlines the assessment framework leading to the original officer recommendation to not support the proposal, followed by the Committee and Council deliberations resulting in a conditional approval. The regional and local strategic and statutory planning controls remain in place. Both the SHACS and Scheme 3 are further advanced as able to be had regard for.

The background of the approach to be taken to land use control remains an important consideration for the Town in this locality and throughout the district. For example, in recent months the proposed use of 68 Railway Street within the vicinity

for a non-residential professional office use was refused by Council. Upon an appeal the State Administrative Tribunal upheld the refusal bearing in mind the principle of non-residential uses being better situated in zones specially created or adapted for such purposes.

It is noted that the Railway Street proposal was for the introduction of a new non-residential use into the residential area, while the subject proposal is for the substantial enlargement of a building already approved for professional office use. As there are few properties in the district similar to 459 Stirling Highway any flow-on effect of approval to the extension with specific conditions is likely to be limited.

The overriding residential use and character of the locality has continued and been reinforced, including subdivision approval for residential purposes of the property immediately to the north of the subject property, and renovations/extensions to the two residential properties immediately to the south of the subject property, as well as other residential upgrades/developments in the vicinity, consistent with the overall residential amenity.

CONCLUSION

Ordinarily an application for re-approval is able to be consented to within a reasonable timeframe of an initial approval expiring. In this instance there has been a period of delay, although the application remains identical and the planning circumstances are essentially the same.

To date officers have discerned that the historical non-residential use approval continues to apply rather than a non-conforming use scenario. In terms of the current application under the MRS the elapsed time apparently means that it is deemed refused, however, that does not prevent consideration of the application as if it were afresh, which would be fair to the applicant. It is understood that the applicant's options would include extending and re-occupying the premises, extending and leasing them within the approval limitations or possibly disposing of the property with the approval as conditioned.

While officers previously concluded that the planning assessment of the proposal predicated refusal, Council took the view that conditional approval was acceptable. With other proposals in the general locality officers, Council and the SAT have tended to not support the encroachment of non-residential uses into the residential area.

In the case of this renewal application, a recommendation of approval consistent with Council's previous determination is provided; however, should Council now be of a different view then refusal as previously recommended would be in order.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee queried whether the premises were currently being used and recalled that it had some concern initially regarding the proposal, while noting the approval. The Manager Development Services advised that the applicant now had premises

elsewhere as its principal office. Committee expressed a mixture of support or otherwise for the proposal yet saw sufficient reason to renew the original approval.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Strzina

THAT COUNCIL:

- 1. GRANT approval to commence development pursuant to the Metropolitan Region Scheme for the proposed second-storey addition to extend the professional office use at No. 459 (Lot 100) Stirling Highway, Cottesloe, in accordance with the plans submitted on 11 June 2010, subject to the following conditions:**
 - (a) The continued Professional Office use shall be for a maximum of 8 staff and 4 clients or other visitors at any time, and shall not operate outside the hours of 8am to 6pm Monday to Friday. Any proposed intensification or expansion of the use, additional use, change of use, or physical change proposed in the future shall require a further application for planning determination.**
 - (b) The parking bays as indicated on the plans shall be marked-up (including the disabled bay) and signage should be erected to ensure parking occurs only in marked bays and not in Right of Ways to the satisfaction of the Town of Cottesloe.**
 - (c) All stormwater runoff from the development shall be contained on-site and not discharged externally, to the satisfaction of the Town of Cottesloe and the details shall be shown in the building licence plans.**
 - (d) No goods or materials shall be stored either temporarily or permanently in the parking area or laneway. Any goods or materials associated with the professional office use are shall be stored within the building.**
 - (e) The building licence plans and supporting documentation shall be to the satisfaction of the Town of Cottesloe and shall include:**
 - i. Full details of all proposed external materials, finishes and colours, including glazing, any awnings or screens and the roof cladding, all selected to be of low-reflectivity.**
 - ii. Full details of all screening and glazing to the northern elevation demonstrating adequate protection of privacy for the adjacent dwelling building.**
 - iii. Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.**
 - iv. A comprehensive lighting strategy to manage amenity in relation to the building and surrounds without undue impacts.**

- v. All disabled access (incorporating universal access design principles), energy efficiency and fire management requirements in accordance with the BCA, Australian Standards and other relevant regulations.
- vi. A comprehensive Construction Management Plan. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.

2. Advise the submitters of Council's decision.

Carried 5/2

COUNCIL COMMENT

Councillor's discussed the historical use of the site and the content of the officer report. Cr Walsh referred to the advice Memo from the Manager Development Services with a proposed amendment, circulated to all Councillors, and recommended that Council endorse those changes.

AMENDMENT

Moved Cr Walsh, seconded Cr Carmichael

In Point 1 of the Committee recommendation add the words before GRANT, "Subject to no objection being received from the Department of Transport and the inclusion of any condition or advice note it requests to the satisfaction of the Manager Development Services".

Carried 9/1

COUNCIL RESOLUTION

1. Subject to no objection being received from the Department of Transport and the inclusion of any condition or advice note it requests to the satisfaction of the Manager Development Services, GRANT approval to commence development pursuant to the Metropolitan Region Scheme for the proposed second-storey addition to extend the professional office use at No. 459 (Lot 100) Stirling Highway, Cottesloe, in accordance with the plans submitted on 11 June 2010, subject to the following conditions:
 - (a) The continued Professional Office use shall be for a maximum of 8 staff and 4 clients or other visitors at any time, and shall not operate outside the hours of 8am to 6pm Monday to Friday. Any proposed intensification or expansion of the use, additional use, change of use, or physical change proposed in the future shall require a further application for planning determination.
 - (b) The parking bays as indicated on the plans shall be marked-up (including the disabled bay) and signage should be erected to ensure parking occurs only in marked bays and not in Right of Ways to the satisfaction of the Town of Cottesloe.

- (c) All stormwater runoff from the development shall be contained on-site and not discharged externally, to the satisfaction of the Town of Cottesloe and the details shall be shown in the building licence plans.
- (d) No goods or materials shall be stored either temporarily or permanently in the parking area or laneway. Any goods or materials associated with the professional office use are shall be stored within the building.
- (e) The building licence plans and supporting documentation shall be to the satisfaction of the Town of Cottesloe and shall include:
 - i. Full details of all proposed external materials, finishes and colours, including glazing, any awnings or screens and the roof cladding, all selected to be of low-reflectivity.
 - ii. Full details of all screening and glazing to the northern elevation demonstrating adequate protection of privacy for the adjacent dwelling building.
 - iii. Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.
 - iv. A comprehensive lighting strategy to manage amenity in relation to the building and surrounds without undue impacts.
 - v. All disabled access (incorporating universal access design principles), energy efficiency and fire management requirements in accordance with the BCA, Australian Standards and other relevant regulations.
 - vi. A comprehensive Construction Management Plan. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.

2. Advise the submitters of Council's decision.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 7/3

**11.1.3 NO. 104 MARINE PARADE (COTTESLOE BEACH HOTEL) -
ALTERATIONS AND ADDITIONS TO EXISTING BEER GARDEN**

File No:	2259
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	15 August 2011
Author Disclosure of Interest Property Owners	Nil Garrett Hotels 2010 Pty Ltd ATF Cottesloe Hotel Trust & Richmond Management Ltd ATF Richmond Equity Fund
Applicant	Prendiville Group
Date of Application	21 July 2011
Zoning:	Hotel
Use:	P - A use that is permitted under this Scheme
Lot Area:	3337.9m²
M.R.S. Reservation:	Not applicable.

SUMMARY

This application has been “called-in” by Councillors Walsh and Carmichael following its inclusion on the weekly Delegation List.

The proposal is for the redevelopment of the existing beer garden at the rear of the hotel to provide a variety of different spaces and levels with an emphasis on the delivery of fast, quality food and drinks for seated families and patrons. The southern courtyard area will be used for corporate or family functions and as an overflow in summer months.

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

PROPOSAL

The applicant has detailed the proposed works in a covering letter dated 13 July 2011 (attached). This is summarised as follows:

- Demolish the existing toilet and relocate services, refrigeration plant and bin removal to an internal service court off John Street;
- Provide a tiered step-up terrace from the Warnham Road frontage connecting the street and hotel to the refurbished courtyard;
- Build a covered area to the east of the existing hotel building (along Warnham Road) to allow a smaller area of courtyard to be used in the shoulder seasons of spring and autumn;

- Relocate the bar and toilets to the north to allow the existing bar structure (extended) to be annexed to the kitchen for food delivery and service; and
- Replace the existing covered pergola to the south facing John Street with a new steel-framed and sail-shade covered area.

A second stage of development is also shown on the submitted plans (Drawing No: A104a) and is proposed to be finalised on completion of construction of the abovementioned works. This latter stage would predominantly involve internal works which the applicant has advised will allow better integration between the hotel and the courtyard/new bar area. It does not, however, form part of this current application and will be subject to a separate application and assessment by the Town and the Heritage Council of Western Australia (HCWA).

FINANCIAL IMPLICATIONS

No financial resource impact.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2
- Proposed Local Planning Scheme No. 3
- Heritage Act of WA

PROPOSED LOCAL PLANNING SCHEME NO. 3

This lot is proposed as a 'Special Control Area'. The objectives of this area are to:

- (a) ensure that development is compatible with the beachfront location, surrounding development and amenity of the locality; and
- (b) ensure that Building Design Controls are formulated to guide and manage built form, bulk and scale, streetscape character, amenity impacts and other considerations accordingly.

The proposed upgrade of the existing beer garden will assist to facilitate Council's proposed objectives being satisfactorily addressed for the rear of this site.

HERITAGE LISTING

- State Register of Heritage Places
- TPS 2 - Schedule 1
- Municipal Inventory (façade only) - Category 1
- National Trust - Classified

APPLICANT'S JUSTIFICATION

Following pre-application liaison with Senior Officers the applicant has submitted a letter dated 13 July 2011 that outlines the proposed development. A copy of that letter is attached for information.

ADVERTISING

The application has been advertised in accordance with TPS 2. Letters were sent to the owners of 11 neighbouring lots. No submissions have been received at the time of writing this report. If any submissions are received they will be tabled at the DSC meeting for consideration and reported on to Council.

PLANNING COMMENT**Strategic considerations**

Council has three strategic documents broadly relating to this proposal. These are

- Beachfront Development Policy;
- Future Plan (2006-2010); and
- Draft Beachfront Policy & Guidelines.

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

The objectives of Council's Beachfront Development Policy include:

- *To encourage the use of the foreshore by improving the amenity of the area and the range of facilities available there;*
- *To encourage al fresco areas for commercial uses on Marine Parade;*
- *To retain pub/tavern uses, probably of a smaller scale and more frequent;*
- *To require that new development shall respond sympathetically to adjoining existing development and shall limit overshadowing.*

Council's Future Plan contains various strategies including:

- *Reduce beachfront hotel numbers to a sustainable level;*
- *Develop café/restaurant alternatives to the large hotels;*
- *To identify increased opportunities to use existing facilities and provide new venues for formal communal activities.*

The proposed LPS 3 Beachfront Policy includes:

- *Ensure that development adjacent to Marine Parade adds to the high aesthetic appeal, relaxed atmosphere and lifestyle quality of the beachfront environment;*
- *Development should be designed to contribute positively to streetscapes in terms of scale and form of buildings including roof shapes, visual integration (cohesiveness, harmony), and overall beachfront urban appearance; and*
- *Contemporary architecture is favoured over mock-historic styles, and design that reflects modern Australian architecture and the Cottesloe vernacular is encouraged.*

The current application for alterations and additions to the existing beer garden has been assessed with regard to the abovementioned strategic documents and is considered to satisfy the intent of these policies. It represents a significant improvement to the premises and better interfaces with the side streets, as well as provides an enhanced leisure facility as part of the beachfront precinct.

Town Planning Scheme No.2 (TPS 2)

Under Clause 3.4.5 of TPS 2 - 'Hotel Zone', Council shall have regard to the following:

- a) *the preservation of the foreshore as a primary marine recreation and tourist attraction where the land within the zone is adjacent to the foreshore.*

Comment:

The proposed redevelopment of the beer garden will not affect the main use of the premises as a hotel or the foreshore as a primary recreation and tourist attraction and should assist in enhancing the general amenity of the foreshore area due to the proposed reduction in patron numbers and the removal of the existing poorly-maintained structures in the courtyard.

- b) *the social consequences of the effect of the size of bars, the number of patrons, the type of entertainment, the hours of operation, the effect of car parking and other related matters on the adjacent area that is essentially of a quiet residential nature.*

Comment:

The proposed addition to the existing bar in the courtyard is approximately 42m² in area and represents an approximate 42% increase to that existing. However, it will become predominantly a food servery area with only a limited bar area. The other proposed covered areas will be generally for seated eating areas. The proposal will effectively remove the beer garden and numbers attending the various eating areas are likely to be significantly less than would otherwise be expected at a 'Sunday session'. The applicant has advised that it is their intent to remove much of the noise/amenity issues that have previously occurred on the premises.

The Town's Principal Environmental Health Officer has reviewed the application and has advised that the maximum number of patrons that will be permitted in the upgraded courtyard area will be approximately 877, which is significantly less than the 1199 patrons that are currently permitted in the beer garden under the existing liquor licence.

- c) *the integration of parking areas and vehicular access thereto, with total land usage so as to secure the most convenient, safe and efficient use of land.*

Comment:

The existing parking arrangement will remain unchanged. However, it is proposed to remove 1 on-street car bay from John Street and construct a new crossover to enable bin pick-up to occur on this side and ultimately for all deliveries to be made from here. The existing bin pick-up area off Warnham Road will be closed and, following completion of the 2nd stage of development (subject to separate approval), once the delivery area is relocated to John Street, an additional car bay will be located in Warnham Road.

The Manager Engineering Services has no objection to the proposal, including the proposed new delivery access off John Street.

- d) *the impact of traffic of any development.*

Comment

The anticipated reduction in patrons to the upgraded courtyard, especially on Sundays during the summer, will likely result in a reduced demand for parking. The hotel currently has no on-site car bays and all parking is on the surrounding streets and in Council car parks. The Manager Engineering Services has advised that he has no objection to the proposal as it does not result in any loss of existing car bays.

- e) *the preservation of privacy, views and quiet in nearby residential developments and areas.*

Comment:

The existing boundary walls are to remain, albeit they will be rendered, painted and modified to accommodate the new access arrangements. This will ensure that privacy is maintained. The proposed new covered areas are mostly of lightweight construction with the exception of the new bar servery and toilets adjoining Warnham Road which are single-storey and will comprise painted weatherboard cladding and a tiled roof. The design and location of these structures are unlikely to significantly impact on views from adjoining properties and, being partially enclosed, should assist in reducing noise.

- f) *the effect of shadow on the foreshore and neighbouring properties.*

Comment:

As the proposed structures are single-storey and will be located behind the existing boundary walls there will not be any further impact of overshadowing on neighbouring properties or the foreshore.

- g) *the effect of development to impede or accelerate air flows.*

It is unlikely that the proposed additional structures will significantly impact on air flows.

- e) *the amenity provisions and policies contained in Part V – General Provisions – of the Scheme.*

The proposed redevelopment of the existing beer garden adequately satisfies Part V of TPS 2.

Other comments:

The following additional comments address specific statutory provisions under TPS 2 for the proposed development:

Open Space:

The modest increase to the existing external bar area and the proposed new toilets and servery will be offset by the structures proposed to be demolished. The other new covered areas will generally be open-sided or have translucent blinds and therefore are not considered to reduce open space provision.

Car parking:

Under Table 2 in TPS 2, the existing beer garden requires parking to be calculated on the basis of 1 space per 2m² of ground area open to the public for consumption of liquor. Where these areas are solely for seated customers and/or for function areas then the ratio may be reduced to 1 space per 4m² of ground area.

The proposed redevelopment of the beer garden is to accommodate food and drinks for seated families, patrons and corporate/family functions, and therefore the parking ratio will be less than that required for the existing beer garden area which does not predominantly accommodate seating.

Setbacks:

The proposed new structures along the northern and southern boundaries are permitted under TPS 2 as the maximum height of the structures do not exceed 6m above the main existing courtyard level which is considered as the NGL for this purpose.

Height

The proposed structures are all single-storey and satisfy the permitted height requirements under TPS 2. The proposed heights vary between approximately 3.2m and 5.3m (to top of main proposed shade-sail roof). This is much lower than the 10.8m roof ridge height of the main building.

Schedule 1 of TPS 2

The façade of the hotel is included in Schedule 1 of TPS 2, which is the heritage listing available in terms of local government heritage control, as a scheme has the force and effect of law, ie: affording heritage protection.

The Schedule lists the property as follows:

- *Façade, Cottesloe Beach Hotel, Two-storey rendered façade constructed circa 1937.*

This invokes Part 6 of the Scheme: *Conservation and Preservation of Places of Natural Beauty and Historic Buildings and Objects of Historic or Scientific Interest*, requiring Council's written consent to proposals in addition to a planning approval under Part 7.

Broadly, Part 6 requires virtually any change to such a place to receive Council's consent, and in practice the making of a development application enables that step to be addressed.

Part 6 states that:

The Council considers that the places of natural beauty, and historic buildings, and objects of historic or scientific interest in Schedule 1 should be conserved and preserved.

The matters covered requiring Council consent include to:

- a) clear, excavate or fill any land;*
- b) fell, remove, kill or irreparably damage any tree;*
- c) erect any fence;*
- d) commence or carry out any renovation, modification, refitting, decoration or demolition of any building; and*
- e) alter or remove any building or object or any part thereof.*

It is considered that the proposal satisfactorily fulfils the heritage requirements under TPS 2 as the façade of the hotel is unaffected by the proposed development and the upgraded courtyard area will complement the historic building.

Heritage Council of Western Australia (HCWA)

The application was referred to the HCWA on 22 July 2011 as the proposed works are within the curtilage of the hotel and the property has a permanent entry on the State Register of Heritage Places. The support of the HCWA is required before planning approval may be granted by Council and its advice is anticipated shortly for consideration at the DSC and/or reporting to Council.

CONCLUSION

The proposed alterations and additions to the existing beer garden at the rear of the hotel have merit and are supported from a planning viewpoint.

The development should result in a significant visual improvement to streetscape as well as assist in addressing the noise and amenity issues that have been associated with the existing use for many years, besides providing a more attractive and family friendly food and beverage environment for residents and visitors.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee was supportive of the proposal as a worthwhile improvement to the premises as well as enhancing the ambience of the locality. There was brief discussion about the intended use of patron access via the side streets having regard to any pre-existing liquor licence requirements in relation to crowd control. Officers advised that this operational aspect required clarification and although not part of the application per se, suggested an additional condition as an amendment in order to capture any physical design changes involved. Officers also undertook to check and advise the applicant and Council about the liquor licence patron access arrangements in any case, should any review be contemplated.

OFFICER RECOMMENDATION

Moved Cr Strzina, Seconded Cr Dawkins

That, subject to support from the Heritage Council of Western Australia, Council GRANT its Written Consent and Approval to Commence Development for the alterations and additions to the existing beer garden at No. 104 (Lot 39) Marine Parade, Cottesloe, as shown on the plans received 21 July and 11 August 2011, subject to the following conditions:

- (1) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Council and any approvals as required under the relevant heritage classification.
- (2) The Building Licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and referred by the Town to the HCWA, if required, for review and advice prior to issue, in order to ensure that all works proposed are in accordance with the heritage requirements.
- (3) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.
- (4) Any works affecting the public domain, including the proposed new crossover, shall be to the specification and satisfaction of the Town and prior-approved as required, and provided at the applicant's cost.

Advice Notes:

- (1) This approval is for 'Stage 1' works only as indicated on the approved plans. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of Cottesloe Town Planning Scheme and any heritage classifications of the property.
- (2) The applicant / owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

AMENDMENT

Moved Cr Strzina, seconded Cr Carmichael

That the following condition (5) be added:

At building licence stage full details of all proposed external materials, finishes and colours, including any wall panelling, balustrades, shade sails and other details indicated on the Courtyard Landscape Concept Plan, shall be formulated to the satisfaction of the Manager Development Services, and the HCWA if required.

COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Dawkins

That, subject to support from the Heritage Council of Western Australia, Council GRANT its Written Consent and Approval to Commence Development for the alterations and additions to the existing beer garden at No. 104 (Lot 39) Marine Parade, Cottesloe, as shown on the plans received 21 July and 11 August 2011, subject to the following conditions:

- (1) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Council and any approvals as required under the relevant heritage classification.**
- (2) The Building Licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and referred by the Town to the HCWA, if required, for review and advice prior to issue, in order to ensure that all works proposed are in accordance with the heritage requirements.**
- (3) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.**
- (4) Any works affecting the public domain, including the proposed new crossover, shall be to the specification and satisfaction of the Town and prior-approved as required, and provided at the applicant's cost.**
- (5) At building licence stage full details of all proposed external materials, finishes and colours, including any wall panelling, balustrades, shade sails and other details indicated on the Courtyard Landscape Concept Plan shall, be formulated to the satisfaction of the Manager Development Services, and the HCWA if required.**

Advice Notes:

- (1) This approval is for 'Stage 1' works only as indicated on the approved plans. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of**
-

Cottesloe Town Planning Scheme and any heritage classifications of the property.

- (2) The applicant / owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 7/0

COUNCIL COMMENT

Cr Walsh referred to the advice Memo from the Manager Development Services and tabled a amendment as circulated to all councillors and proposed that Council endorse the recommended changes.

AMENDMENT

Moved Cr Walsh, seconded Cr Dawkins

Delete the words "subject to support from the Heritage Council of Western Australia" before the words "Council GRANT".

Carried 10/0

AMENDMENT

Moved Cr Walsh, seconded Cr Carmichael

Add an additional point (3) in the advice notes to read "The applicant/owner is reminded of their obligation under the Liquor Licensing Act to have a current Liquor Licence for the premises, including the rear courtyard, and to adhere to all conditions thereto. This is separate from the planning approval process".

Carried 10/0

COUNCIL RESOLUTION

That Council GRANT its Written Consent and Approval to Commence Development for the alterations and additions to the existing beer garden at No. 104 (Lot 39) Marine Parade, Cottesloe, as shown on the plans received 21 July and 11 August 2011, subject to the following conditions:

- (1) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Council and any approvals as required under the relevant heritage classification.
- (2) The Building Licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and referred by the Town to the HCWA, if required, for review and advice prior to issue, in order to ensure that all works proposed are in accordance with the heritage requirements.

- (3) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.
- (4) Any works affecting the public domain, including the proposed new crossover, shall be to the specification and satisfaction of the Town and prior-approved as required, and provided at the applicant's cost.
- (5) At building licence stage full details of all proposed external materials, finishes and colours, including any wall panelling, balustrades, shade sails and other details indicated on the Courtyard Landscape Concept Plan shall, be formulated to the satisfaction of the Manager Development Services, and the HCWA if required.

Advice Notes:

- (1) This approval is for 'Stage 1' works only as indicated on the approved plans. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of Cottesloe Town Planning Scheme and any heritage classifications of the property.
- (2) The applicant / owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
- (3) The applicant/owner is reminded of their obligation under the Liquor Licensing Act to have a current Liquor Licence for the premises, including the rear courtyard, and to adhere to all conditions thereto. This is separate from the planning approval process.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 10/0

**11.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 16
AUGUST 2011****11.2.1 FIREWORK APPLICATION NORTH COTTESLOE BEACH**

File No: SUB/550-02
Attachments: [Fireworks Cottesloe Beach Map No 1](#)
[Beach Map No 2](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Meagan Hodgson
Community Development Officer
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

An application has been received for a Fireworks Event to be held on Saturday 15th October 2011 at 7.15pm for fifteen minutes at Cottesloe beach, between Eileen Street and Eric Street. The event is part of a wedding reception to be held at the applicant's home.

BACKGROUND

At the Council meeting on 27th April 2011, a firework event application was approved with conditions, by Council. The current request has been submitted by the contractor *Fireworks Australia* for the northern end of Cottesloe beach. In the past fireworks have been set up on the Groyne, which is blocked off at the entrance for security and safety during the display. According to the contractor, the fireworks will be set up on the beach between Eileen and Eric Street, therefore *requiring more safety* which will be provided by four security guards. Further measures will also be taken to secure the beach area with signs and roping off access points to the beach. The beach will need to be closed between Eileen and Eric Street from 6.30pm to 8.05pm.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Fireworks: (Resolution No: 12.1.2, Adopted: April, 1997)

STATUTORY ENVIRONMENT

Clause 5 of the Town of Cottesloe's Beaches and Beach Reserve Local Law No.3 provides that in order to protect the quiet and amenity of the beach reserves, no person shall discharge any fireworks except in the course of a function or activities approved in writing by the Council.

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

According to the Fireworks Policy the main issues to be considered by Council when approving a fireworks event are:

- potential damage to sand dune vegetations caused by spectators and fireworks;
- litter management and disposal;
- adverse noises for adjacent residents and nesting birds; and
- public liability protection for the Town of Cottesloe.

Fireworks Australia have stated the following:

- the display would not affect any sand dune vegetation because viewing will take place from the balcony at 150 Marine Parade, Cottesloe;
- all litter will be collected completely;
- noise will be reduced due to the size of the arial shells being 75mm and mid-level type fireworks. Additionally the duration will only be 15 minutes and due to the open area of the fireworks, the noise factor will be minimal; and
- A certificate of Currency for \$10m for public liability insurance has been attached to the report.

Section 7 of the Government of Western Australia, Department of Mines and Petroleum Firework Event Notice shows the various departments which have been notified regarding the possible firework event. These are:

- Department of Planning and Infrastructure (Marine Safety Branch)
- Local Volunteer Marine Rescue
- Local Police
- FESA

Additionally a cadastral map has been attached showing a 50m radius from the event site, in accordance with type of fireworks listed in the application to the department of Mines and Petroleum. The standard supporting the 50m radius is listed in the first row of the table below.

Table 8.2 Minimum clearance distances for aerial fireworks

Size of aerial shell	Minimum clearance distance
Up to and including 75 mm	45 m
100 mm	75 m
125 mm	100 m
150 mm	150 m
200 mm	200 m
250 mm	250 m
300 mm	300 m
Over 300 mm	As required by the Chief Officer

Western Australian Outdoor Fireworks Code of Practice (<http://www.dmp.wa.gov.au/6684.aspx>)

The Firework Policy also states that, 'Applications will not be approved for events within 500m of a Protected Place or for hours outside Restricted Times or for events beginning later than 8.30pm'. The event is scheduled to take place between 7.15pm to 7.30pm and is 500m from any environmental impact area.

Including set up and pack down, the fireworks will make the area of the beach between Eric and Eileen Street unavailable from 6.30pm to 8.05pm. Access for a vehicle is possible through a pathway in front of North Cottesloe Surf Life Saving Club and no other events have been scheduled for North Cottesloe Beach on this date. The beach will therefore need to be closed between Eileen and Eric Street from 6.30pm to 8.05pm.

In considering this matter Council has a number of options including:

1. Approve as requested
2. Approve with conditions
3. Approve but for a different location i.e. groyne
4. Not approve

If Council wishes to approve the fireworks with 'closure of' and 'vehicle access to' the Beach at 7.15pm on Saturday 15 October, it should be approved with the following conditions:

- All litter will be collected completely.
- Duration of fireworks display not to exceed 15 minutes.
- Applicants to pay for notice in local newspaper notifying residents of closed section of the beach.
- Vehicle access to the beach to be via North Cottesloe Surf Life Saving Club
- Submission of an acceptable plan detailing how and when the beach will be closed, and the affected area kept clear and safe.

Closure of a public beach, even for short periods, is a significant decision and does affect members of the general public. The safety of the public is also a factor to be considered. On that basis, the officer recommendation is *not to approve* the application as submitted.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the application and noted the comments from Mr Gamble. Issues of beach closure and public safety were noted as important considerations. There was also a general consensus that the "groyne" was perhaps the only place that might be considered suitable as a location for fireworks displays and that this should be noted for staff benefit when considering future applications. The consensus was to support the officer recommendation.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council:

- 1. Advise the applicant that the application for fireworks at 7.15pm on Saturday the 15th October is not approved.**

Carried 10/0

**11.2.2 LITTER BIN MEMORANDUM OF AGREEMENT - NATSALES AUSTRALIA
PTY LTD – REQUEST FOR RENEWAL**

File No: SUB/323
Attachments: [Attachment 1 Memorandum of Agreement](#)
[Attachment 2 Letter from Natsales requesting
renewal of agreement](#)
[Attachment 3 Natsales bin locations](#)
Responsible Officer: Andrew Jackson
Manager Development Services
Author: Darrell Monteiro
Principal Environmental Health Officer
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

The Memorandum of Agreement (Attachment 1) between the Town of Cottesloe and Natsales Australia Pty Ltd for the supply of bins with advertising is due for renewal by 13 September 2011.

Natsales Australia Pty Ltd (Natsales) has fulfilled all requirements under the current agreement at no cost to the Town.

The terms and conditions of the proposed new Memorandum of Agreement are unchanged and the service would continue to be offered to the Town on a no cost, no maintenance basis.

If Council decides not to renew the agreement, there will be a cost to the Town (estimated at \$111,925) to replace the litter bins and enclosures currently provided by Natsales along with associated maintenance costs.

BACKGROUND

In October 2001, following a Council resolution at the September 2001 meeting, a Memorandum of Agreement was entered into with Natsales Australia Pty Ltd for a term of five years. As per the terms of the agreement (Natsales fulfilling its obligations under the agreement and upon request by Natsales), the agreement was extended in 2006 for a further four (4) years and eleven (11) months. The current agreement will conclude on 14 September 2011.

The Agreement -

- Is a legal document.
 - Requires Natsales to install and maintain litter bins and advertising shells, as nominated by the Town for upgrade.
 - Permits Natsales to profit from advertising by local businesses on three sides of the bin shell with one side provided for advertising of the Town's initiatives or messages.
-

Renewal

The Town has received correspondence from Natsales (Attachment 2) requesting renewal of the current arrangement by entering into a new 5 year Memorandum of Agreement with the same set of terms and conditions. Renewal of the Agreement would mean no changes to current mode of operation and no costs to the Town.

History

- Prior to September 2001, the Town had been issued with a work order from Worksafe as the public bins, 70L white drums, in use at the time due to the manual handling involved in clearing the bins.
- The proposal from Natsales was considered the best option at the time and cost savings of \$79,200 were estimated. The savings comprised of the costs of new bins, new shells and the installation.
- The Town received ten (10) written complaints shortly after the start of the contract. This was followed up by an article in the Post. The underlying concern was the visual pollution caused by the advertising.
- No complaints were found for the remainder of the term of the agreement.
- During the past 10 years, Natsales has continued to provide a professional service, with any damage to the bins being dealt with promptly and at no cost to the Town.
- There are currently 37 Natsales advertising bins located along Marine Parade, Forest Street, Curtin Avenue and Stirling Highway (See attachment 3 for a satellite photo with locations of all Natsales bins [in green]).
- The Town determines on the location and number of bins as part of the Agreement.
- All bins are in use and some are collected daily during the summer months.
- No new Natsales bins have been requested since October 2010.
- Local businesses have had the opportunity to advertise.

In considering this matter there are a number of options available to Council:

Option 1 - Not to renew the agreement

There is an underlying concern that the advertising shells are a cause of visual pollution, such is the trend with bus shelters, park benches and so on.

All Natsales bins are currently in use and should Council decide not to renew the Agreement, all 37 Natsales provided bins and advertising shells would need to be replaced as per the bin replacement options in Table 1.

If enclosures are required for the bins, there is a substantial cost which has not been budgeted for in the 2011-12 financial year. Further, with the contract concluding on 14 September 2011, there would be very little time to process quotes and install (depending on the type of bin enclosure chosen).

Local businesses that have been using the bins for advertising would find that they have lost their advertising space without much prior warning.

Choosing not to renew the agreement is therefore not considered the most preferable option.

Table 1: Options for replacement of Natsales bins with estimated costs

Option	Cost of 120L bins	Cost of bin surrounds	Cost of installation	Cost of steel stand	Total cost of option
Replace only the litter bins	\$2,590	\$0	\$1,850	\$3,700	\$8,140
Replace with similar style bin surround.	\$2,590	\$37,000	\$1,850	\$0	\$41,440
Replace with stainless steel bin surrounds	\$2,590	\$94,350	\$14,985	\$0	\$111,925

Note:

Assumptions of unit costs are based on current prices or previous contracts.

Annual cost of maintenance of bins and surrounds is estimated at \$1,000 per annum.

Option 2 – Renewing the Agreement

If the agreement is signed as is, it would lock the Town in for another five (5) years with the option to extend for another four (4) years and eleven (11) months.

Assuming that there is still an underlying concern about the visual pollution caused by the advertising, renewing the Agreement is not considered a preferred option.

Option 3 – Signing an amended agreement with a 12 month term

If the agreement were to be signed for an amended term of 12 months with no provision for further extensions (assuming Natsales were to agree), it would provide the Town sufficient time to budget for bin enclosures and also to get quotes and prepare for the installation of the bins and enclosures.

This would also provide Natsales with sufficient time to inform its clients of the impending conclusion of the amended agreement.

Taking all matters into consideration, endorsement of an amended agreement with a reduced term of no more than 12 months is considered a preferred option.

STRATEGIC IMPLICATIONS

- Maintenance of street furniture installed to prevent litter.
- Endorsement of advertising panels for local businesses.

POLICY IMPLICATIONS

The type of bin surrounds provided by Natsales are similar to those recommended in the Streetscape Policy and Manual that was adopted in 1999.

FINANCIAL IMPLICATIONS

Renewal of the Agreement – Nil.

Non-renewal of the Agreement –

Will cost the Town an initial set-up cost of between \$8,140 and \$111,925 depending on the option chosen for bin surrounds. There is no budget provision for decommissioning and replacement of Natsales bins in the 2011-12 financial year. However, Council has funds of \$68,562 within its Waste Management Reserve, which could be used for this purpose. In addition, there will be a further opportunity to consider additional funding as part of the mid year budget review.

STAFF COMMENT

The Town's current arrangement with Natsales has been effective due to prompt service, cost savings and a reduced workload due to reduced maintenance.

Choosing not to renew the agreement would mean that the Town would have to replace the existing Natsales bins and enclosures. The full costs are estimated at \$111,925, which can be funded by using funds in the Waste Management Reserve and potential surplus funds from the budget review. However, the replacement of bin enclosures would be rushed and businesses that are currently advertising would not have been given much prior warning of the unavailability of advertising spaces.

If the Agreement was renewed in its current form, advertising would be permitted on the bins (potentially) for another ten (10) years.

It is therefore recommended that Council endorse the Town entering into an amended agreement with a reduced term of no more than 12 months and provision be made for their replacement, including enclosures, during the next 12 months.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Strzina, seconded Cr Carmichael

THAT Council:

1. Endorse that the Town of Cottesloe enter into an amended Memorandum of Agreement with Natsales Australia Pty Ltd with a reduced term of 12 months.
2. Authorise the CEO to sign the amended Memorandum of Agreement on behalf of Council.

COMMITTEE DISCUSSION:

Councillor Strzina commented that a reduced term of 12 months could potentially be a *commercial nuisance* for Natsales and suggested that the term be amended to 3 years to allow time for Council to review budgets and potential bin styles to improve the aesthetics of the district. General comments by members were that they were not aware of any major concerns with the bins but did want an opportunity to consider future plans for the Town with respect to bins and other public furniture and therefore agreed to amend the officer recommendation and extend the term. Committee requested that the CEO and staff liaise with Mr Marwick in relation to the Committee recommendation.

AMENDMENT

Moved Cr Strzina, seconded Cr Rowell

Amend point (1) of the recommendation by replacing the words “12 months” with “3 years”.

Carried 6/0

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council:

- 1. Endorse that the Town of Cottesloe enter into an amended Memorandum of Agreement with Natsales Australia Pty Ltd with a reduced term of 3 years.**
- 2. Authorise the CEO to sign the amended Memorandum of Agreement on behalf of Council.**

Carried 10/0

Cr Cunningham and Cr Walsh declared a Proximity interest in Item 11.2.3 due to both Living on Grant Steet Cottesloe and left the meeting at 8.20PM.

11.2.3 PARKING ON GRANT STREET MEDIAN STRIP

File No: SUB/457
Attachments: [Minutes 28 April 2009](#)
[Minutes 23 May 2011](#)
[Map of Grant Mann Street](#)
[Parking Residential Policy](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

At its meeting in May 2011, Council resolved to establish a 3 hour parking zone on a section of the Grant Street median strip between Curtin Avenue and Birkbeck Avenue for the hours of 8am to 6pm, Monday to Saturday with adjacent residents to be issued with parking permits.

The establishment of the 3 hour parking zone has stopped PTA commuters parking on this section of the median strip. However, it has resulted in parking in other areas. Council is being asked to consider further strategies to control parking in this area, to enable residents to park as required, while minimising the impact that patrons accessing PTA facilities have on the amenity of the area.

Further, the previous resolution of Council adopting the Parking and Parking Facilities Local Law, contained a statement that the "*Parking Policy be amended to allow parking on the Grant Street median strip, west of Mann Street.*" This matter also requires attention.

BACKGROUND

In May 2011, Council considered the issue of parking on the Grant Street median strip. This parking had become an issue due to changes in parking arrangements at nearby train stations, that resulted in more people parking at Grant Street to commute via train services.

The action undertaken in May has resulted in reduced parking in the controlled area. There was a small spike in the last week of July, however this has been attributed the resumption of universities and the increased demand for public transport.

Since the May 2011 resolution has been implemented several complaints have been received from residents west of Birkbeck Avenue in regards to people parking on the median strip in this location. Two of the complaints specifically request that the 3

hour restricted zone be extended to cover the frontage of their homes – which have been received in writing.

Administration has undertaken all of the tasks as required by the May 2011 resolution. At the time of writing this report, we had not received a response from the Town of Claremont. The PTA has almost completed works on a new car park facility west of the Cottesloe train station and the 3 hour time restriction is in place and being actively enforced.

STRATEGIC IMPLICATIONS

Council's Future Plan, under the first objective, "Protect and enhance the lifestyle of residents and visitors", covers the challenge of providing sustainable parking solutions, including parking associated with railway stations.

POLICY IMPLICATIONS

No policy deals with this subject.

STATUTORY ENVIRONMENT

There are no applicable statutory requirements for public parking areas, other than Councils Local Law on Parking.

In regards to Council's Parking and Parking Facilities Local Law, which applies to median strips, the wording is:

"A person shall not park a vehicle so that any portion of the vehicle is on or adjacent to a median strip, unless a sign or markings on the carriageway indicate otherwise".

Therefore no parking on any Town of Cottesloe median strip is allowed, except for designated areas sign posted to allow such parking e.g. – in front of Daisies Café.

FINANCIAL IMPLICATIONS

The main thrust of this issue is to have the Public Transport Authority adequately provide for the vehicle parking needs of its patrons, at no cost to Council and on land controlled by that Authority. Therefore, the financial impact on Council should be nil. However there is the potential to increase operational costs (ranger time) in the management of this area, as well as minor costs associated with signage and the administration of permits.

SUSTAINABILITY IMPLICATIONS

The use of public transport is a very positive sustainability pursuit. However, the provision of facilities to expand this objective should be at the cost of the Public Transport Authority, on land more suitable for that purpose controlled by PTA.

CONSULTATION

Public Transport Authority and affected residents in the affected part of Grant Street.

STAFF COMMENT

When the signs were placed as required and cautions issued, a drop in the number of vehicles parking in this location was observed. In the last two weeks, a spike in the number of infringements issued has occurred. It is thought that this is a result of the resumption of school and universities, which results in a larger number of people using public transport.

The issue of parking and the interaction with rail facilities will become an increasing problem as rail services become more popular. While it is easy to think that PTA patrons are not Cottesloe residents, we have had several requests from Cottesloe residents (who do not live on Grant Street) for parking permits in order to leave their cars at this site and access train services.

Rangers have also observed parking increasing on the eastern side of the railway and on verges in adjoining streets, which can create traffic issues. Parking on verges also creates a unique enforcement issue, as Rangers have no way of telling who owns a vehicle at the time of issuing an infringement. However, if a complaint is received from a land owner about a car parked on the verge at the front of their property, action will be taken and the car will most likely be infringed.

When undertaking background research into this issue, an anomaly was discovered in the resolution adopting the Parking and Parking Facilities Local Law. While it doesn't affect the Local Law in any way, there is a reference to allowing parking (under the Parking Policy) on the Grant Street median strip, west of Mann Street. The Local Law, as it stands, states that "*no person shall park a vehicle so that any portion of the vehicle is on or adjacent to a median strip unless a sign or markings on the carriageway indicate otherwise*". The Parking Policy (copy attached) is more focused on provision of residential parking and verge parking and does not reference this matter.

One solution to this is to place signs in the affected area, allowing parking. However, given the current climate this could be seen as a means of transferring the parking problem from one location to another. Another means of resolving this situation is to place time restrictions along the median strip – which allows parking according to certain restrictions. Residents could be issued with permits, in accordance with the Local Law, effectively implementing the intent of the 2009 resolution.

Unfortunately, even if the Parking Policy were amended to include a statement about allowing parking on the Grant Street median strip, this would not prevail over the Local Law. The Local Law is specific in that to allow parking on a median strip, there must be a "*sign or marking on the carriageway*" indicating that parking is allowed.

There are several ways Council could proceed in order to resolve this issue, all of which have management / operational issues. If the current situation is allowed to remain, people are in fact parking illegally on the Grant Street median strip, anywhere there isn't a sign or marking specifically allowing this. Under the circumstances and in order to fully support the prior resolution of Council, it is recommended that an extension of the current system of timed parking and permits be implemented.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Cunningham declared a proximity interest in Item 10.2.1 due to residing on Grant Street and left the meeting at 8:15 PM.

COMMITTEE DISCUSSION

Committee discussed the report and attachments and acknowledged that commuters were now parking further along the Grant Street median. There was also concern expressed about potential parking in side streets and noted that officers will continue to monitor the situation. Committee reaffirmed its view that it was PTA's responsibility to provide adequate parking for its patrons and noted that the only land under their control was on the East side of the line.

AMENDMENT

Moved Cr Rowell, seconded _____

Amend recommendations (1) and (2) by inserting the words "as far as Marmion Street" after the words "west of Mann Street".

The motion lapsed for want of a seconder

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Goldthorpe

THAT Council:

1. Initiate a 3 hour parking restriction on the Grant Street median strip, west of Mann Street from 8.00am to 6.00pm Monday to Saturday.
2. In accordance with recommendation (1), authorise the issuing of parking permits to affected Grant Street residents west of Mann Street, in accordance with the provisions of the Parking and Parking Facilities Local Law.

Carried 3/2

Cr Cunningham returned to the meeting at 8:21 PM

COUNCIL DISCUSSION

Council discussed the current availability of parking at the Grant Street and Cottesloe Railway Stations and acknowledged the parking issue on the Grant Street median strip was a consequence of PTA commuters. Councillors agreed there was a need to ensure the parking issue does not progress further up Grant Street and associated side streets.

Council discussed the existing Local Law provisions with respect to median parking and was of the view that the existing system, with arrangements for local residents, should be applied. Specifically there was discussion in relation to implementation and that this should occur with effect from 1 October 2011 and that during September officers are to consult with property owners and residents in Grant Street with all issues to be raised in a letter. Council agreed to amend the officer recommendation accordingly.

DECLARATION OF INTEREST

Cr Cunningham and Cr Walsh declared a proximity interest in Item 11.2.3 due to residing on Grant Street and left the meeting at 8.20PM.

Cr Strzina left the Chambers at 8.24PM and returned at 8.25PM.

AMENDMENT**Moved Mayor Morgan, seconded Cr Rowell, Cr Dawkins, Cr Goldthorpe**

- 1) Create a new point (1) that states *“Rescind the May 2011 resolution 11.1.4 Grant Street Median Strip (2) Initiate a 3 hour parking restriction to apply to each side of the Grant Street median strip between Curtin Ave and Birbeck Ave from 8.00am to 6.00pm Monday to Saturday”.*
- 2) Create a new point (2) that states *“Install No Parking signs along the Grant Street median strip to include “permit parking only” with effect from 1 October 2011.*
- 3) Amend and re-number point (2) of the officer recommendation to state *“Authorise the issuing of parking permits to affected Grant Street residents west of Mann Street, in accordance with the provisions of the Parking and Parking Facilities Local Law”.*
- 4) Create a new point (4) that states *“During September, consult with property owners and residents in Grant Street”.*

Note: In accordance with Standing Orders 16.20 “Revoking Decisions” due to the proposed rescission motion rescission, four (4) members were required to move and second the motion (Absolute Majority).

Carried 7/1

COUNCIL RESOLUTION**THAT Council:**

- 1. Rescind the May 2011 resolution 11.1.4 Grant Street Median Strip item (2) *Initiate a 3 hour parking restriction to apply to each side of Grant Street median strip between Curtin Ave and Birbeck Ave from 8.00am to 6.00pm Monday to Saturday.***
- 2. Install No Parking signs along the Grant Street median strip to include “permit parking only” with effect from 1 October 2011.**
- 3. Authorise the issuing of parking permits to affected Grant Street residents west of Mann Street, in accordance with the provisions of the Parking and Parking Facilities Local Law.**
- 4. During September, consult with property owners and residents in Grant Street.**

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 7/1

Cr Cunningham and Walsh returned to the meeting at 8.40PM

**11.2.4 RUBBER SPEED CUSHIONS AND BOLLARDS, BROOME STREET,
COTTESLOE**

File No: SUB/573
Attachments: [24 April 2006 Minutes Broome Street Speed Control Installations](#)
[25 August 2008 Minutes Traffic Management Study](#)
[14 December 2009 Minutes Speed Control Rubber Speed Cushions](#)
[Main Roads WA Proposed Speed Cushions 2008 Study](#)
[2001 Study](#)
[Public Comments For](#)
[Public Comments Against](#)
[Policy Traffic Management](#)

Responsible Officer: Carl Askew
Chief Executive Officer

Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 16 August 2011

Author Disclosure of Interest Nil

SUMMARY

In June 2011, rubber speed cushion were installed at three locations on Broome Street, each side of Loma Street and John Street. Due to the provision for cyclists on each side, Main Roads WA required protective side bollards at each of the three sites.

The use of rubber speed cushions on Broome Street was decided by Council in December 2009, after a Black Spot Treatment at the John Street intersection was abandoned. Both types of installations were aimed at removing the high speed issue suffered by this section of Broome Street for many years.

A number of comments have been received from the public, ranging from total support to total rejection.

The recommendation is that Council:

1. Retain the recently installed speed cushions and bicycle safety bollards in Broome Street for the originally intended 12 month trial period.
 2. Support staff meeting with Main Roads WA to determine any available and acceptable alternative to the Broome Street safety bollards, with any viable alternative being reported back to Council for funding consideration.
 3. Inform all people who have commented on this matter of Council's decision.
-

BACKGROUND

The speed problems on Broome Street have been a concern to Council for many years. These problems have been covered by a series of traffic studies:

- 1) February 1989: Traffic Management Study, Sinclair Knight & Partners. Broome Street between Forrest Street and Napier Street mentioned as a speed problem. Main Roads WA annual intersection rankings for 1988, includes Broome Street / John Street as a multiple accident site.
- 2) February 2001: Cottesloe Traffic Management Plan – Sinclair Knight Merz. This study provided a page of description regarding Broome Street speed issues plus a plan showing a proposed treatment of the section between Forrest Street and Napier Street. The plan shows a blister island north of Forrest Street plus a kerbed median island for the full length of the section. These treatments were never constructed by Council.
- 3) May 2008: Town of Cottesloe Traffic Study - Porter Consulting. This study includes extensive advertising, speed data, the study of all recorded complaints on excessive speed and dangerous locations, previous studies, plus a community workshop to establish the issues to be studied. For Broome Street, the study recommendations included traffic / pedestrian islands at Loma Street and John Street.

As a result of the 2008 study, Council resolved to consider a new 5 year program for Road Safety Improvement and Speed Restriction, to start in 2009 /2010. That program eventually commenced in the 2010/2011 budget, with the Broome Street rubber speed cushions being part of that list of works.

Separate to these studies, in 2006, Council considered the results of speed counting, in 2005, on a large number of roads, including Broome Street and resolved in April 2006 due to the high level of speeding on Broome Street, to install four red asphalt speed plateaux in Broome Street, north of Eric Street if residents agreed to the installations. Letters were sent out and 17 responses received, 15 of which supported the works. On this basis works to install the four speed plateaux commenced but were then abandoned after complaints from four people.

In 2008, due to recorded accidents at the Broome Street / John Street intersection, Council was successful in attracting a State Black Spot grant to install pedestrian crossing and speed restriction islands on each of the four 'legs' of the intersection. Designs were completed and approved by Main Roads WA, the island layout survey marked and a corner light pole was relocated. Council resolved to abandon the works after complaints from residents living on the adjacent properties.

In February 2009 Council adopted its first 5 year program for Road Safety Improvement and Speed Restriction, however year 1 of the program was not funded in 2009/10, as a budget reduction. In the 2010/2011 budget, year 1 of the program was both adopted and funded, with three works to be undertaken, including the Broome Street rubber speed cushions. These speed cushions had been agreed to by Council as a replacement to the abandoned Broome Street / John Street Black Spot works.

In due course, design plans were drawn up and, after required changes, Main Roads WA approved the plans. One major change to the plans was the requirement that bollards had to be installed to protect cyclists on the side shoulders through the three rubber speed cushion installations.

All installations were ordered in 2010/2011 but were put in place during July 2011.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Councils Traffic Management policy as per the attached documents.

STATUTORY ENVIRONMENT

Main Roads WA sets all speed zone levels in the State and the Police Department is responsible for policing those speeds.

Main Roads WA must also view and give approval for plans to install structures to control speeds and arrange line markings and signage.

Council has the vesting responsibility of Broome Street, regarding care, control and maintenance of the road surface and alignment, including speed control structures.

FINANCIAL IMPLICATIONS

The Broome Street speed cushion installation was included in the 2010/2011 budget as part of a \$100,000 allocation for the Safety and Speed program Year 1. The design, lighting and speed cushion / bollard installation cost Council \$33,500.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

All properties in Broome Street from Napier Street to Forrest Street received information on the proposal.

STAFF COMMENT

There have been a range of comments both for and against the installations in Broome Street agreed to by Council for the 2010/2011 budget, to control speeding at Loma Street and John Street.

All town wide traffic studies undertaken in the last 20 years in Cottesloe have included Broome Street between Napier Street and Forrest Street as a section with speed control issues. A number of recommendations over the years for the installation of speed control measures have either not been started or have been abandoned before construction.

There are a number of basic facts that apply:

1. Speeding of vehicles on Broome Street past Loma Street and John Street have been occurring for years, prior to the speed cushion installations.
2. This section has been a danger to pedestrians and cyclists due to speeding vehicles.
3. The bollards and rubber speed cushions have been installed to Main Roads WA requirements. If the bollards are removed then the speed cushions must also be removed.
4. Since the speed cushions and bollards have been installed, the speeding problem has been under control.
5. The bollards are required by Main Roads WA standards, because of the side lane provision for cyclists, as a protection for cyclists.
6. If the bollards and speed cushions are removed then Council will still have to deal with the speed issue. Therefore there is potential for future accidents in the section which could be attributed to Councils removal of an effective solution on a connection for liability claims by people involved in such accidents.
7. Any alternative treatment must be first approved by Main Roads WA if new line marking or signage is part of the design.
8. Drivers pulling out of the three verge car parks serving the Civic Centre have reported a much improved safety situation compared with the previous speeding traffic over the crest at Loma Street.

In regards to comments received, the following are perceived negative issues applying:

1.
 - a) Worried about the aggravation caused to drivers and the resultant frustrated driving practices.
 - b) The structures are ugly / non-aesthetic.
 - c) The structures increase local noise levels.
 - d) The structures are a danger to cyclists.
 - e) Doubtful if the structures will have any effect on speeding.
 - f) Traffic control on Broome Street has meant new signs being installed, which is becoming overkill.
 - g) The suburb is becoming 'traffic calmed' with unsightly humps, bollards, road realignments and "dozens of roundabouts".
 - h) Cyclists don't need bollard protection – the existing white lines past the Civic Centre are enough protection.
 - i) Broome Street residents would prefer speeding cars to angry motorists, noisy traffic and huge new bumps.
 - j) No objection to the speed humps but the stanchions beside them are unnecessary, unsightly and potentially dangerous.
 - k) Residential Street – gross traffic management overkill.
 - l) Recumbent bikes and elderly people riding Gophers would not fit between the kerb line and stanchions.
 - m) Why couldn't speed humps similar to Claremont Crescent and Railway Street be installed.
 - n) There is very little speeding since the Forrest Street roundabout was installed and the speed humps are far more than required.

- o) Speed humps were a failure in the past when installed between John Street and Forrest Street, particularly due to empty trucks and trailers.
- p) Broome Street in this section should not bear the brunt of traffic calming for the whole street.
- q) The bollards introduce unnecessary visual pollution to a beautiful streetscape.
- r) There is no need for a speed hump from Forrest Street to John Street because of the roundabout.
- s) No public consultation.
- t) What are Councils priorities regarding the aesthetic and amenity of the public realm.
- u) Few cyclists use Broome Street therefore remove the cycle lanes and the protective bollards.
- v) The hill outside the Civic Centre is only one of the five in Broome Street and the other hills don't have cycle lanes over them.

On the 'other side' of the discussion, support comments are:

- 2 a) Thanks for the "little fence" to separate the speed humps in Broome Street near the Civic Centre from the bike lane.
- b) Support given for the Broome Street speed cushions. The "Porsche and Black Holden department" now use Marmion Street. More speed cushions needed approaching Grant Street from the south and between Grant Street and North Street.
- c) It is true that the installation is having a calming effect on traffic.
- d) It is clear that the speed bumps are more than halving vehicle speeds.
- e) The bollards provide strong visual cues to motorists to slow down.
- f) The bollards protect cyclists from intimidation by motorists passing too closely.
- g) It would be criminal for important road safety improvements to be sacrificed for streetscape aesthetics.
- h) The safety of children, parents and grand parents is far more important than a conservative view of what Broome Street should look like.
- i) A 20KPM speed reduction will reduce injury crashes by about 40% and very dramatically reduce injury severity to pedestrians and cyclists.
- j) A pedestrian is eight times less likely to be killed if struck by a car doing 30KPM then if hit by one doing 50KPM.
- k) The poor sight lines on the crest of Broome Street make it dangerous for people with children crossing to go to the popular Civic Centre playground. Drivers and pedestrians cannot see each other unless pedestrians cross at the top of the hill.
- l) Crucial to slow vehicles as they go over the crest of the hill – speed humps achieve this simply and cheaply.
- m) Over 55 Cycle Club, over 300 members, greatly concerned with the lack of consideration for the needs of cyclists shown by many road authorities. Commendation given for the Town of Cottesloe's consideration for cyclist safety.
- n) There have been many Cottesloe Civic Centre staff comments that it is now much safer driving out of the Broome Street car parking onto Broome Street, because of the reduced speed at which vehicles heading north drive over the Loma Street crest. To remove the existing installation will reduce staff safety, making it an Occupational Safety and Health issue.

From the comments given, it is obvious that a significant proportion of Broome Street users see the bollards as un-aesthetic or ugly and that the speed cushions would be more acceptable if the bike safety bollards were removed.

The options regarding the bollards are:

- Remove bollards and edge white line and disregard all issues for cycling safety between Napier Street and Forrest Street.
- Retain existing bollards to ensure cycling safety.
- Build cycle lanes separate to the road surface either on each side (east and west) of the street verge or a 2 direction cycle lane on one side, from Forrest Street to Napier Street, to allow the removal of the cycle provision on the Broome Street asphalt surface.
- Replace bollards with concrete kerbing. This may require a slight widening of the street width to achieve a MRWA approved installation, plus reflectors and extra line marking and signage.

Apart from the debate regarding aesthetics versus safety and speed control, this issue underlines the controversy that often arises about traffic control proposals. Black Spot funding is based totally on accidents, what causes accidents and the most applicable solution to stop those accidents. There is no room for what the community 'feels' about those solutions. If the approved (by Main Roads WA) solution isn't built then the Black Spot grant is not approved. If Main Roads WA doesn't approve an installation then it will not be line marked and signed, which makes it illegal.

Very often, what residents' judge to be aesthetic proves to be unsuccessful in slowing speeding traffic or improving intersection safety.

Unfortunately, there is insufficient time between when the crash data is made available by MRWA and when a consultant can offer solutions to any crash 'hot spots'. Submissions are then sent off for Black Spot grants. This means Council consideration and community debate, which can take several months, cannot take place before the submission is made.

Some form of working party could be considered to go through known road safety and speeding locations to determine acceptable but successful aesthetic solutions for treatments prior to submissions being made or funds spent under Councils long term speed control and road safety program.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the report at length including the positive outcomes since installation i.e. reduced traffic speed and increased safety. The cycle lane and associated vertical stanchions were also discussed both from an aesthetic and practical purpose. Overall the majority view was that the installation was achieving its intended purpose and that it should remain for the full 12 months prior to being

reviewed. Concern was raised that this may have caused some vehicles to now use Marmion Street and that this needs to be monitored by staff and police.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Boland, seconded Cr Strzina

THAT Council:

1. Retain the recently installed speed cushions and bicycle safety bollards in Broome Street for the originally intended 12 month trial period.
2. Support staff meeting with Main Roads WA to determine any available and acceptable alternative to the Broome Street safety bollards, with any viable alternative being reported back to Council for funding consideration.
3. Inform all people who have commented on this matter of Council's decision.

Carried 5/1

COUNCIL DISCUSSION

Council discussed the report and associated issues at length, noting the comments from the residents and the requirements for the installation to be safe, reduce speed and to be complimentary to the streetscape. As advised by the Town Engineer there are certain minimum requirements by Main Roads that must be adhered to. There was also discussion in relation to the cycle lane, the speed cushions and the vertical bollards and a desire to have the installations re-visited in terms of alternative options and designs. As a consequence an amendment to the Committee recommendation was proposed.

AMENDMENT

Moved Mayor Morgan, seconded Cr Birnbrauer

1. In point (1) add the words "and recently installed speed cushions in Railway Street pending a staff report in September 2011 on alternative options and recommendations" and delete the reference to "12 month trial period".
2. In point (2) replace the words "Broome Street" with the words "speed cushions and".

Carried 9/1

COUNCIL RESOLUTION

THAT Council:

- 1. Retain the recently installed speed cushions and bicycle safety bollards in Broome Street and recently installed speed cushions in Railway Street pending a staff report in September 2011 on alternative options and recommendations.**
- 2. Support staff meeting with Main Roads WA to determine any available and acceptable alternative to the speed cushions and safety bollards, with any viable alternative being reported back to Council for funding consideration.**
- 3. Inform all people who have commented on this matter of Council's decision.**

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 9/1

11.2.5 BLACK SPOT APPLICATIONS FOR 2012/2013

File No: SUB/573
Attachments: [Funding Application Marine Pde Eric Street](#)
[Funding Application Curtin Av Princes St](#)
[Funding Application Eric St Curtin Ave](#)
[Funding Application Eric St Railway St](#)

Responsible Officer: Carl Askew
Chief Executive Officer

Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 16 August 2011

Author Disclosure of Interest Nil

SUMMARY

Submissions for the 2012/2013 State and Federal Blackspot grants closed on the 15th July 2011. Submissions for four locations were submitted on behalf of the Town of Cottesloe.

This report recommends that Council agree in principle that provision be made in the 2012/2013 budget to include up to one third contributory funding for the following State Blackspot projects and that support be given to the National Blackspot project on the Curtin Avenue / Eric Street intersection, subject to these submissions being approved by Main Roads WA and the Minister, for grant funding.

- 1) Curtin Avenue / Princes Street – pedestrian crossing islands
- 2) Curtin Avenue / Eric Street – various intersection upgrades
- 3) Eric Street / Railway Street – increase pre-deflection on northern approach
- 4) Marine Parade / Eric Street – rubber speed cushions on Marine Parade

BACKGROUND

Every year, MRWA makes the data collected on crash statistics available to each local government for their immediate area. Requests are then made for funding submissions under the State and Federal Blackspot programs for solutions to the sites most affected by injuries and damage to property.

A specialist consultant then analyses the data provided and works with the Manager for Engineering Services to determine the sites most likely for success as well as the most applicable treatments.

The data collected is over a five year period and pre-computed costs are assigned to each type of accident to determine a total community cost of accidents occurring at each site. The cost of the proposed treatment is calculated and a Benefit Cost Ratio (BCR) is then determined. The higher the BCR, the better chance of the site crash solution being funded from the grant level available. A high BCR may also indicate that the Federal Blackspot program may fund 100% of the treatment rather than two-thirds by the State program.

STRATEGIC IMPLICATIONS

The most applicable provision within the Cottesloe Future Plan 2006-2010 is under *Objective 1 – Protect and enhance the lifestyle of residents and visitors.*

Strategy 1.1 states “Develop an integrated transport strategy that includes park and ride, Cot Cat, Travel Smart, limited parking and the needs of pedestrians, cyclists and other non-vehicular traffic”. Blackspot and similar safety improvements would be part of this objective.

POLICY IMPLICATIONS

The only associated policy is the *Traffic Management* policy, adopted in 2002. The policy deals with road hierarchy, general overall objectives, the need to foster cycling, pedestrian activity and the use of public transport plus an elaborate series of intervention guidelines when complaints are received regarding potential dangerous sites.

STATUTORY ENVIRONMENT

Main Roads WA (MRWA) is responsible for all traffic control signs and line marking, including ‘Stop’, ‘Give Way’ and speed control signs. The Police Department enforces the law in relation to these lines and signs as well as driver compliance with all posted speed limits. Apart from West Coast Highway and Stirling Highway, all road reserves within the town are vested in the Town of Cottesloe. Therefore responsibility for all road surfaces, kerbing, installation and maintenance of traffic control devices and warning signs rests with the Town of Cottesloe.

Blackspot funding is available to assist local governments to install properly designed traffic treatments which will improve the safety of the built road system – particularly at proven accident sites.

FINANCIAL IMPLICATIONS

State Blackspot grants are approved on the basis of a \$2:\$1, State:Council contribution level. Federal Government Blackspot grants provide for 100% of the cost for each approved project. Two of these projects have been submitted for State funding, only one for both State and Federal grants and one for Federal funding only.

Depending on whether a Federal Grant was achieved for the Curtin Avenue / Princess Street crossing, Council would be responsible for either a maximum total of \$81,000 or a minimum of \$36,000 in 2012/2013.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

No public consultation has occurred on this matter. The submissions for Blackspot funding are based on crash statistics for each site, the applicability of the solution and the benefit cost ratio of the solution. In a minority of cases, a submission can be made based on a safety audit. The Curtin Avenue / Princess Street project for a Curtin Avenue safer pedestrian crossing was based only on a safety audit.

STAFF COMMENT

Staff worked with the consultant to analyse the most accident prone sites, the types of accidents occurring and the most applicable solutions for a total for four sites. One of these sites had no accident justification for an application but a safety audit provided the basis for the grant application. Submissions were then developed and submitted under the 2012/2013 State and Federal Blackspot programs.

These submissions were:

- 1) Eric Street / Curtin Avenue intersection – Submission made due to crash statistics.

Accidents:	53 over 5 years
Benefit cost ratio:	2.99
Project cost	\$276,000

Submitted for National Blackspot

Proposal: Extend right turn pockets (north & south)

- Extend left turn pocket (west)
- Upgrade signals to LED
- Overhead mast arm on Eastern leg
- Install islands (Florence) and reinforce priority

- 2) Eric Street / Railway Street – submission made due to crash statistics

Accidents:	16
Benefit cost ratio:	1.43
Project cost	\$66,000

Submitted for State Blackspot

Proposal: Construction of more pre-deflection on the northern approach

- 3) Marine Parade / Eric Street – Submission made due to crash statistics

Accidents:	7
Benefit cost ratio:	1.72
Project cost	\$42,000

Proposal: Install speed platforms (rubber speed cushions) on north and south approach – improve sight lines by reducing speeds.

- 4) Curtin Avenue / Princes Street – Submission made was based on a safety audit, not crash statistics

Accidents:	N/A
Benefit cost ratio:	N/A
Project cost	\$135,000

Submitted for both National and State Blackspot programs

Proposal: Install two pedestrian refuge islands
Additional lighting to be installed
New section of path and upgrade existing

Of these four potential projects, the combination of works at the Curtin Avenue / Eric Street intersection plus islands in Curtin Ave towards Florence street has been submitted for National funding, with no cost to Council if the project is approved.

The Marine Parade / Eric Street project has been submitted for State funding. The availability of funds and the relative priority of all other submissions will determine if any funds are allocated.

Investigation of the probable reasons for accidents has listed those reasons as speed on Marine Parade, the larger open nature of the busy intersection and the parking in close proximity.

The Eric Street / Railway Street project is submitted for State funding i.e MRWA \$2 : Council \$1.

Accidents have occurred on the northern leg of Railway Street beside the school, due mainly to speed. A pre – deflection curved entry into the intersection would reduce that speed.

The Curtin Avenue / Princes Street pedestrian crossing is the only submission based on a safety audit. At its February 2011 meeting, Council resolved to have this safety audit undertaken, for the purpose of applying for a Blackspot grant. This was one of several sites covered in a petition, at that time, for safer pedestrian crossings.

The submission was either for National or State Blackspot funding.

Main Roads WA staff are now assessing the relative priorities of all submissions from metropolitan councils. Separate grant funding sources are available for both State and National projects, with different 'point scores' to be applied.

Council will not be informed of the level of success of its submissions until early 2012. Detailed design plans would not be undertaken until Council resolves to provide required funding in the 2012/2013 budget.

One concern which has previously arisen is when Council agrees to the projects, includes these projects in a new budget, design plans are created and approved by Main Roads WA and a surveyor sets out the proposed changes.

At that point local residents have then objected, Council has reconsidered and / or abandoned the original intention and funds have been returned to Main Roads WA.

Council then has to carry the design and survey costs, plus any relocations of light poles etc for no actual works at an intersection with applicable crash statistics and a probability of further accidents at the intersection due to no solution being put in place.

The timing for the closure of submissions to Main Roads WA is connected to the availability of the crash statistics data made available from MRWA and Police information. There is no time available in that time period for the completion of submissions and a public comment period prior to the closure date for submissions.

The basis for Blackspot submission also does not include whether the public thinks the treatment is aesthetic or if there is agreement that the solution is the correct application. As has been found in the past, MRWA will only fund the approved traffic solution to the recorded reasons for accidents. Deviation from the approved plan will mean the removal of funding and the illegality of any non-approved installations.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Cunningham, seconded Cr Rowell

THAT Council agree in principle that provision be made in the 2012/2013 budget to include up to one third contributory funding for the following State Blackspot projects and that support be given to the National Blackspot project on Curtin Avenue / Eric Street intersection, subject to these submissions being approved by Main Roads WA and the Minister, for grant funding.

- 1) Curtin Avenue / Princes Street – pedestrian crossing islands
- 2) Curtin Avenue / Eric Street – various intersection upgrades
- 3) Eric Street / Railway Street – increase pre-deflection on northern approach
- 4) Marine Parade / Eric Street – rubber speed cushions on Marine Parade

COMMITTEE DISCUSSION

At the meeting the Manager Engineering Services advised the Committee that he had received advice from the Main Roads “Black Spot” Auditor that submission (4) Marine Parade / Eric Street was unlikely to be accepted as the proposed solution would not resolve the identified problem. As a consequence Cr Rowell moved an amendment to remove that part of the recommendation.

AMENDMENT

Moved Cr Rowell, seconded Cr Strzina

Amend the officer recommendation by removing point (4).

Carried 4/2

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council agree in principle that provision be made in the 2012/2013 budget to include up to one third contributory funding for the following State Blackspot projects and that support be given to the National Blackspot project on Curtin Avenue / Eric Street intersection, subject to these submissions being approved by Main Roads WA and the Minister, for grant funding.

- 1) Curtin Avenue / Princes Street – pedestrian crossing islands**
-

- 2) Curtin Avenue / Eric Street – various intersection upgrades**
- 3) Eric Street / Railway Street – increase pre-deflection on northern approach**

Carried 10/0

**11.2.6 GEOPHYSICAL INVESTIGATION FOR SUBSURFACE LITHOLOGY
ALONG THE FORESHORE OF COTTESLOE BEACH**

File No: SUB/537
Attachments: [GBG Maps Report](#)
[Study Location Plans](#)
[Ground Penetrating Radar Cross Section Report](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

In March 2011, Council received a report in relation to Geophysical Investigation for Subsurface Lithology Along the Foreshore of Cottesloe Beach, and resolved as follows:

THAT Council

- 1. Receive the study findings*
- 2. Agrees to make its share of the \$80,000 so far uncommitted to the Geophysical Foreshore Investigation available for further testing to gain cross sectional subsurface data to add to the so far undertaken study.*
- 3. Request the Department of Transport to agree to its uncommitted share of the study budget to be used for further geophysical investigation on the Cottesloe Beach foreshore.*
- 4. Request the Department of Transport consider making available departmental 'in house' investigation capacity and any applicable existing geotechnical data to expand the value and applicability of the Cottesloe Geophysical Investigations for foreshore resurface lithology.*

In regards to Item 2 of the resolution, further geophysical investigations took place to gain cross sectional subsurface data, as required. The second study results are included in the attachments.

The recommendation is that Council:

1. Notes the receipt of the final stage of the Cottesloe Beach Foreshore Geophysical Study and agrees that the full study result be included on Councils' website along with the existing Vulnerability to Sea Level Rise report.
 2. Agrees to make available to the general public, affected residents and potential developers along Marine Parade the full content of the study via the website.
 3. Use the study results for the long term planning of asset replacement in the foreshore area and for considering development proposals in that area.
-

4. Require major foreshore developments to undertake geophysical studies of their development sites to assess the below ground capacity to carry their proposals and to determine requirements to deal with future sea level rise and erosion.

BACKGROUND

Councils' original study of the foreshore in June 2008, "Vulnerability of the Cottesloe Foreshore to the Potential Impacts of Climate Change", recommended as one of the main treatment actions, the combined need to review geotechnical information, develop a process for a geotechnical study of the foreshore and source funding for that study.

The first part of that study was completed, to give Council a detailed understanding of the location of rock along a north / south line on the foreshore, west of Marine Parade. Council received that report in March 2011 and resolved to commit unexpended funds from the \$80,000 budget into a second stage of the study, to cover cross sections on an east / west axis, with the Department of Transport also being requested to commit the Department's portion of unexpended funds to the same purpose.

The second part of the study has been completed and presented.

STRATEGIC IMPLICATIONS

Under Councils Future Plan, Major Strategy 3.2 is to improve beach access and dune conservation outside the central foreshore zone. This would include studies regarding foreshore / climate change damage.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The original study budget was \$80,000 funded 50/50 between the Department of Transport and Council. The final cost of the combined parts of the study totalled \$65,845.

SUSTAINABILITY IMPLICATIONS

This study was aimed at providing Council with the knowledge as to where protective works would be required to minimise damage done by severe storms and a future sea level increase. This would therefore increase the potential to protect and sustain natural and constructed assets on the foreshore.

CONSULTATION

Nil

STAFF COMMENT

The original expectation from this geophysical study of the foreshore was information that would indicate gaps in generally prevalent underground limestone rock, much of it close to the surface. The actual results were very clear, with little doubt. However, they show that, along the actual line of testing, in only one location was rock recorded as close as 4m from the surface. Depths to rock were generally less south of No1 car park, 5 to 8m down, while north of that point, depths to rock sometimes exceeded mean sea level and were in excess of 10 meters.

The first part of the study posed questions regarding how far back i.e. to the east, the deep sand conditions existed.

The second part of the study has shown a mixed result regarding located rock levels. In most cases the rock level is roughly flat, with small peaks and troughs. In some cases the rock becomes more shallow to the east.

With the cross section data, there were a few areas where rock was located 3m to 5m below surface level, however much of the depth to rock was 6m to 10m+, in some cases around existing sea level.

All of the data shows that little reliance should be placed on the idea that shallow rock layers or formations would provide any real protection of the foreshore from heavy erosion caused by storms, high tides and sea level rise.

All future infrastructure along Marine Parade, either on the east or west side, planned by Council, State & Federal service departments and private developers, should be fully aware of the potential for major erosive loss of sand from the foreshore and design accordingly.

As Council owned infrastructure comes due for replacement, consideration must be given to how such infrastructure can be moved away from the active sea front, particularly if such assets are expected to last beyond 10 or 15 years.

Buried services on the west side of Marine Parade, such as the large sewer pump main between Eric Street and North Street, could be installed on the east side of the street when the time for replacement comes due. Large buildings and structures proposed for the eastern frontage of Marine Parade should require geotechnical studies of the depth to rock for footing details, underground parking provision and any long term provision for the projected sea level rise.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Strzina, seconded Cr Boland

THAT Council:

1. Notes the receipt of the final stage of the Cottesloe Beach Foreshore Geophysical Study and agrees that the full study result be included on Councils' website along with the existing Vulnerability to Sea Level Rise report.

2. Agrees to make available to the general public, affected residents and potential developers along Marine Parade the full content of the study via the website.
3. Use the study results for the long term planning of asset replacement in the foreshore area and for considering development proposals in that area.
4. Require major foreshore developments to undertake geophysical studies of their development sites to assess the below ground capacity to carry their proposals and to determine requirements to deal with future sea level rise and erosion.

COMMITTEE DISCUSSION

In considering the officer report and recommendation Cr Boland noted that recommendation (2) appears to “duplicate” the intent of recommendation (1) and as a consequence moved to delete it.

AMENDMENT

Moved Cr Boland, seconded Cr Strzina

Amend the Officer Recommendation by removing point (2) and re-numbering items (3) and (4).

Carried 6/0

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council:

1. **Notes the receipt of the final stage of the Cottesloe Beach Foreshore Geophysical Study and agrees that the full study result be included on Councils’ website along with the existing Vulnerability to Sea Level Rise report.**
2. **Use the study results for the long term planning of asset replacement in the foreshore area and for considering development proposals in that area.**
3. **Require major foreshore developments to undertake geophysical studies of their development sites to assess the below ground capacity to carry their proposals and to determine requirements to deal with future sea level rise and erosion.**

Carried 10/0

11.2.7 TENDER: CAST - IN - SITU CONCRETE PATH CONSTRUCTION -3 YEAR PERIOD

File No: SUB/1221
Attachments: [Tender Results](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

Council accepted a tender from a contractor in July 2010, for a 3 year contract to replace concrete slab footpaths with in-situ concrete footpaths. The contractor selected proved unsuitable and therefore the contract was cancelled.

A new tender has been advertised and closed. The results of this new tender are included, with the recommendation that Council award the Cast In Situ Concrete Footpath contract, for a period of three years, to Cobblestone Concrete, at the rates tendered.

BACKGROUND

Three year contracts provide an understanding of what will occur with footpath replacement prices over the longer period, apart from CPI or other price increases due to labour, plant or material (concrete) supply or other abnormal cost changes. Such changes are normally built into a price rise equation for years 2 and 3.

Three years also reduces the resource impacts on Council staff, advertising costs etc.

The three year limit period allows the contractor to gain a better understanding of the Town of Cottesloe's requirements which should in turn, provide for efficiency improvements over the longer term.

The documents used for this tender were based on the previous 3 year contract.

STRATEGIC IMPLICATIONS

Two areas of Council's Strategic Plan apply to this item:

Governance – Long Term Vision: Decisions are made based on the best available advice in the long term interests of the general community.

Environment – Streetscape: Provision of clean, safe, sustainable managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

POLICY IMPLICATIONS

Council's *Purchasing* policy applies.

STATUTORY ENVIRONMENT

The Local Government (Function and General Regulations) 1996 (WA) have a threshold of \$100,000 at which tenders must be called. The annual expenditure for this work is normally in excess of \$100,000.

FINANCIAL IMPLICATIONS

Council has a range of footpath replacement projects in its 2011/2012 budget. Because the expenditure exceeds \$100,000 per year, the tender process was required.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The tender has been advertised and a variety of explanatory discussions have been held with intending tenderers.

STAFF COMMENT

The tender process including advertising, closed on Friday 5th August 2011. Eight tenders were received (see attachment). The tenders required costs for one meter length by, 1.5m wide, per square meter, per pedestrian ramp and extra cost to supply and lay limestone coloured concrete.

Of the tenders received, the lowest tenderer, Cobblestone Concrete, had been Council's footpath contractor for three years prior to July 2010, and was the second lowest tenderer in 2010.

Cobblestone Concrete supplied good service during the previous 3 year contract period and has offered the lowest tendered price. Staff has no reason not to recommend this company.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council award the Cast In Situ Concrete Footpath contract, for a period of three years, to Cobblestone Concrete, at the rates tendered, commencing the 1st September, 2011.

Carried 10/0

11.2.8 WRITE OFF MINOR BAD DEBTS

File No: SUB/145
Attachments: [Invoice Applicant 1](#)
[Invoice Applicant 2](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

The recommendation is to write off \$2751.99 of bad debts.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The Council has given delegated authority to the CEO to write off amounts up to \$100. The attached debts are in excess of this limit.

STATUTORY ENVIRONMENT

Local Government Act 1995
Part 6-Financial management
Division 4-General financial provisions

6.12. Power to defer, grant discounts, waive or write off debts

1. Subject to subsection (2) and any other written law, a local government may:
 - a. when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
 - b. waive or grant concessions in relation to any amount of money;
or
 - c. write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

2. Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
-

3. The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
4. Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

FINANCIAL IMPLICATIONS

The total value of the debts to be written off is \$2751.99.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

Applicant 1 was invoiced on a quarterly basis for a commercial waste service. They left their premise and are no longer obtaining the service. Officers have tried numerous methods, including debt recovery via a third party agency.

Applicant 2 was invoiced on the 18/04/2011 for the period covering 01/01/2011 to 31/03/2011. Applicant 2 had paid a portion of their bill (being \$305.37) before they went into liquidation. As the applicant has since gone into liquidation, officers have been informed it will not be possible to obtain these monies.

Given the low probability of recovering these funds and the cost involved in pursuing these debtors, these amounts have been recommended for write off.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council approve the write off debts of \$2751.99 for the applicant's unpaid fees as per the attached invoices.

Carried 10/0

11.2.9 STATUTORY FINANCIAL REPORTS FOR THE PERIOD ENDING 31ST JULY 2011

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Statement of Financial Activity, the Operating Statements by Program and by Nature and Type, the Statement of Financial Position, and supporting financial information for the period ending 31st July 2011.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Statement of Financial Activity on page 1 of the Financial Statements shows an unfavourable operating revenue of \$101,204. The reasons for this variance are mainly timing issues and are outlined on the Variance Analysis on page 7 of the attached Financial Statements. However part of this variance relates to a grant application for approximately \$23,000 which was unsuccessful. Operating expenditure is \$373,995 or 38% less than expected. Of this, \$149,647 relates to depreciation expenses which cannot be processed until the completion of the 2010-

2011 Annual Financial Statements and is therefore just a timing issue. Other factors contributing towards this variance are outlined in the variance analysis.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council receive the Statement of Financial Activity, Operating Statements by Program and by Nature and Type, the Statement of Financial Position and other supporting financial information for the period ending 31st July 2011, as per the attached Financial Statements, as submitted to the 16th August 2011 meeting of the Works and Corporate Services Committee

Carried 10/0

11.2.10 LIST OF ACCOUNTS PAID FOR THE MONTH OF JULY 2011

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 August 2011
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the list of account paid for the month ending 31st July 2011 to Council, as per the attached Financial Statements.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The list of accounts commencing on page 8 of the Financial Statements has the following significant payments that are brought to the attention of Council:

- \$16,139.00 to WA Local Government Superannuation Scheme for staff superannuation contributions.
 - \$21,431.21 to BCITF for levies collected during June 2011.
 - \$36,825.75 to Cobblestone Concrete for the installation of concrete footpaths at various locations in Cottesloe.
 - \$10,105.85 to Synergy for street lighting charges etc
-

- \$14,721.70 to Water Corporation for annual water service charges at various sites in Cottesloe.
- \$17,161.76 to the Australian Taxation Office for the monthly Business Activity Statement.
- \$26,391.20 to Kalamunda Fencing & Gatemakers for fencing installation at Cottesloe's Depot site.
- \$145,575.38 to the Shire of Peppermint Grove for the quarterly contribution towards the Grove Library.
- \$10,015.50 to Burgess Rawson for the quarterly rent of various railway reserves within Cottesloe.
- \$23,435.50 to Civica Pty Ltd for annual licence fees, training and software upgrade fees.
- \$16,588.00 to Turfmaster facility Management for the re-turfing of the terraces at Cottesloe Beach Foreshore.
- \$43,734.00 to Landgate for the 2010-2011 revaluation of Cottesloe properties.
- \$13,726.29 to WMRC for waste tipping fees.
- \$34,853.97 to Transpacific Cleanaway for waste collection services for June 2011.
- \$26,697.00 to Saferoads Pty Ltd for the supply of bollards.
- \$13,117.50 to GBGMaps Pty Ltd for a geophysical investigation.
- \$28,042.65 to LGIS Insurance Broking for motor vehicle and plant insurance for 2011/2012.
- \$44,157.44 to the Shire of Peppermint Grove for contributions towards the construction of the new library.
- \$75,293.43 & \$77,839.16 to town of Cottesloe Staff for fortnightly payroll.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council receive the List of Accounts for the month ending 31st July 2011, as per the attached Financial Statements, as submitted to the 16th August 2011 meeting of the Works and Corporate Services Committee.

Carried 10/0

11.2.11 SCHEDULE OF INVESTMENTS AND LOANS AS AT 31ST JULY 2011

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16th August 2011
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and the Schedule of Loans for the period ending 31st July 2011, as attached in the Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 17 of the attached Financial Statements shows that \$1,271,788.98 was invested as at 31st July 2011. Approximately 59% of the funds are invested with the National Australia Bank, 27% with Bankwest and 14% with the Commonwealth Bank of Australia..

The Schedule of Loans on page 18 shows a balance of \$6,526,652.09 as at 31st July 2011. There is \$421,433.90 included in this balance that relates to self supporting loans with community organisations.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council receive the Schedule of Investments and the Schedule of Loans for the period ending 31st July 2011, as per the attached Financial Statements, as submitted to the 16th August 2011 meeting of the Works and Corporate Services Committee.

Carried 10/0

11.2.12 PROPERTY AND SUNDRY DEBTORS REPORT AS AT 31ST JULY 2011

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16th August 2011
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Report for the period ending 31st July 2011.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors report on pages 19 and 20 of the Financial Statements shows a balance of \$55,593.13, of which \$13,124.99 relates to the current month. The balance of aged debtors stood at \$42,468.14.

Property Debtors are shown in the Rates and Charges Analysis report on page 21 of the Financial Statements and shows a balance of \$8,327,652.01. Of this amount \$195,210.14 and \$1,006,405.85 are deferred rates and outstanding ESL respectively. As can be seen on the Statement of Financial Position on pages 4 and 5 of the Financial Statements, rates as a current asset are \$8,608,194 as compared to \$8,148,149 this time last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

THAT Council receive the Property and Sundry Debtors Report for the period ending 31st July 2011, as per the attached Financial Statements as submitted to the 16th August 2011 meeting of the Works and Corporate Services Committee.

Carried 10/0

11.3 STRATEGIC PLANNING COMMITTEE MINUTES - 17 AUGUST 2011**11.3.1 TOWN OF COTTESLOE - ACTION PLAN REVIEW - AUGUST 2011**

File No: SUB/108
Attachments: [Action Plan 17 August 2011](#)
[DLG Integrated Planning and Reporting Framework and Guidelines](#)
[DLG Integrated Planning and Reporting Schedule](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 17 August 2011
Author Disclosure of Interest Nil

SUMMARY

This report recommends that Committee receive the updated *Action Plan* report and provide feedback to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan for subsequent presentation to Council.

BACKGROUND

The *Future Plan 2006 to 2010* for the Town of Cottesloe was finalised and adopted by Council in June 2007. At that time two review dates for the Future Plan were set, so that the document would return to Council. The first of those review dates was set at November 2008 and the second was in November 2010. Following the adoption of the *Future Plan*, an *Action Plan* was developed and an updated review of that plan is tabled for consideration at each meeting of the Strategic Planning Committee.

In September 2009, Committee determined to make changes to objectives 5.2 and 6.1 by updating the intent and focus of each. These changes were subsequently approved by Council. In November 2010 Council resolved to receive an amended Action Plan report having noted the completion of the development of the new joint library facilities and determining to add in two new items:

- Under Objective 4: Development, a new item 4.7 be added to read “Develop a strategy to address the requirements of the State Government’s Directions 2031 Strategies and Policies”.
- A new Dynamic Priority be added to read: “Develop a strategy to promote Council services and activities at the beachfront in order to better align with expectations for the wellbeing and enjoyment of the local community and visitors to the Town of Cottesloe”.

STRATEGIC IMPLICATIONS

The Action Plan has obvious strategic implications. Council’s Strategic (Future) Plan, from which the Action plan is derived, now requires review.

In addition, and as part of the suite of changes introduced by the Minister for Local Government, all Councils have been advised of the need to undertake and improve their strategic planning. An *Integrated Planning and Reporting Framework* has been prepared, together with associated guidelines for local governments, and inclusive of asset management and long term financial planning.

All local governments are currently required to produce a plan for the future under S5.56 (1) of the *Local Government Act 1995* (the Act). It is intended that regulations will be made under S5.56(2) of the Act to briefly outline the minimum requirements to achieve this. These changes are anticipated to be made by the Department in August 2011

The following information is taken from the documentation provided by the Department and a copy of the full Framework and Guidelines is attached to this report.

The Integrated Strategic Planning Framework provides the basis for improving the practice of strategic planning in local government. It addresses the minimum requirements to meet the intent of the Act and outlines processes and activities to achieve an integrated strategic plan at the individual local government level.

There are three major parties to the development of an integrated strategic plan:

- 1. **The community** – participates in a community planning process to determine major vision or intended big picture directions and also participates in regular reviews of those directions.*
- 2. **The Council** – signs off the Strategic Community Plan resulting from the community planning process, the four year reviews updating that plan, and the annual budget.*
- 3. **The local government administration** – supports delivery of the Strategic Community Plan, the 4-yearly reviews, and annual budget through its corporate business planning.*

To achieve an integrated strategic planning process at least two plans are needed: The minimum requirement to meet the intent of the plan for the future is the development of:

- **A Strategic Community Plan;** and*
- **A Corporate Business Plan.***

The key principle of the planning process is to provide both the future aspirations for the local government and a path to achieve them. Specific strategies address issues such as community safety or disability plans and place or local area plans. Strategic outcomes are supported by the identification and planning of all financial, human resource, asset and infrastructure requirements and income opportunities over the longer term. It is acknowledged that local governments will have different starting points for integrated strategic planning and many will have existing processes that specify how place or area plans, specific strategies, Council endorsement of four year plans or annual plans are to be treated.

The framework does not intend to require a single methodology to be applied by local governments and is intended to guide local governments to a successful integrated

strategic planning process, which, at its most simple, would deliver the following outcomes:

- *There is a long term strategic plan that clearly links the community's aspirations with the Council's vision and long term strategy.*
- *The local government has a Corporate Business Plan that integrates resourcing plans and specific council plans with the Strategic Plan.*
- *The Council has a clearly stated vision for the future viability of the local government area.*

Adopting integrated strategic planning is potentially the most important performance improvement initiative available to local governments. Currently, more than two thirds of local governments in Western Australia do not have a strategic planning process that is linked to long term asset management and financial planning.

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

Division 5 — Annual reports and planning principal activities

5.56. Planning principal activities

- (1) *Each financial year, a local government is to prepare a plan for the next 4 or more financial years.*
- (2) *The plan is to contain details of —*
 - (a) *the principal activities that are proposed to be commenced or to be continued in each financial year affected by the plan;*
 - (b) *the objectives of each principal activity;*
 - (c) *the estimated cost of, and proposed means of funding, each principal activity;*
 - (d) *how the local government proposes to assess its performance in relation to each principal activity;*
 - (e) *the estimated income and expenditure for each financial year affected by the plan; and*
 - (f) *such other matters as may be prescribed.*

Regulation 19C of the Local Government (Administration) Regulations 1996 refers, i.e.

19C. Planning for the Future – section 5.56 of the LGA

- (1) *In this regulation – “**plan for the future**” means a plan made under section 5.56.*
 - (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
 - (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
 - (4) *a local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
-

- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

FINANCIAL IMPLICATIONS

Adoption of the Future Plan and associated Action Plans will inevitably require expenditure as per Council's adopted budget and long term financial plan.

SUSTAINABILITY IMPLICATIONS

The Town has continuously demonstrated a high level of regard for the sustainable management of Council's resources and the Future Plan not only supports sound financial management but also meets the legislative requirements contained within the Local Government Act 1995 and associated Regulations.

CONSULTATION

The Future Plan was developed in consultation with the community by way of public submission periods and refined by the Town's Strategic Planning Committee prior to adoption by Council.

STAFF COMMENT

In relation to the Action Plan, the following strategies were identified by Council as priorities for 2010/11.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 1.9 Develop a Community Safety Strategy
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.
- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
- 3.4 Introduce electronically timed parking.
- 4.1 Develop planning incentives for heritage properties.
- 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
- 4.7 Develop a strategy to address the requirements of the State Government's Directions 2031 Strategies and Policies.
- 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
- 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
- 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.

- 5.6 Develop a long term asset management plan and accompanying financial plan.
- 6.1 Further improve the community consultation policy in recognition of the need for greater community engagement when change is needed.
- DP1 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
- DP2 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe
- DP3 Develop a strategy to promote Council services and activities at the beachfront in order to better align with expectations for the wellbeing and enjoyment of the local community and visitors to the Town of Cottesloe.

The following *program summary* in relation to the above strategies is provided. More detail is contained in the attached updated Action Plan.

Rating	Ref	Comment
O	1.2	Council's strategy to monitor anti-social behaviour is ongoing. Last report to Council in August 2010. Changes at CBH have significantly reduced (improved) incidents of anti-social behaviour.
O	1.5	Civic Centre future use study reported to Council in February 2010. Additional report to all Councillors in August 2010 including consideration by Public Events Committee. Report on Catering contractor in February 2011. Ongoing.
C	1.9	Develop a Community Safety Strategy. Report to Council in May 2010 and adoption of Safer Sustainable Cottesloe Plan 2010 – 2014. .
O	2.1	As per Council resolution in October 2009, Draft Plan progressed through EbD. Working Group reconvening with a view to further community consultation on a preferred alignment. Suggestion from Minister and meeting with DoP regarding Council liaising with LandCorp to plan a ToD.
O	3.1	As per Council resolution in October 2009, Foreshore Implementation Working Group meeting regularly to consider and oversee realisation of the Concept Plan. Consultant engaged. Plan completed with implementation schedule a cost estimates being finalised. Outlook is to present Plan and Strategy to Council for endorsement.
C	3.4	Meter Eyes have been installed at the Foreshore and Town Centre with a second phase roll out in the Town Centre to be planned as part of Town Centre Working Group and subject to budget consideration.
C/O	4.1	Proposed LPS3 and related draft policy as well as practice by staff and the Heritage Advisor have addressed the consideration and application of heritage incentives so far.
O	4.5	Council has resolved to pursue structure planning for the area which will include consideration of higher density development. At present the focus is on resolving Curtin Avenue, the railway and

		east-west connectivity as the key infrastructure prerequisites to overall structure planning for land uses and development. Subject to finalisation of LPS3 development zones.
O	4.7	Develop a strategy to address the requirements of the State Government's Directions 2031 Strategies and Policies. Research being undertaken and report to be prepared.
C/O	5.1	Plan is currently progressing for the Depot. Consultants investigating concept and feasibility of joint facility at Mosman Park. Shared option with Subiaco and Nedlands is ongoing. Station Street sump site under consideration.
C	5.2	Joint Library construction complete. Landscaping finalised. Official February 2011.
C/O	5.3	A consultant has completed this study having regard to the related Station Street and railway lands planning initiatives influencing the future of the Town Centre.
O	5.6	WAAMI program has been restarted and will become the basis for the Town's asset management plan and will link to the long term financial plan adopted in August 2010.
H	6.1	This matter has not progressed due to other priorities.
C/O	DP1	LPS3 was submitted to WAPC in May 2009 and has been re-advertised for modifications proposed by the Minister for Planning. Council is currently considering the submissions for response on finalisation of the Scheme.
C	DP2	Geological study to determine the rock/sand sections of the foreshore approved with grant funding. Work completed in February and reported to Council in March 2011. Final report due in August 2011.
O	DP3	Develop a strategy to promote Council services and activities at the beachfront in order to better align with expectations for the wellbeing and enjoyment of the local community and visitors to the Town of Cottesloe. Draft Local Law prepared in preparation for workshop and report to Council. Draft Management Plan being researched.
Legend	O=Ongoing C=Complete/substantially complete H=On Hold	

This agenda item represents an opportunity for Committee members to review progress and provide informal feedback on where staff should be headed in terms of implementing individual actions. It is recommended that Committee receive the Action Plan and provide comment to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan prior to presentation to Council.

In relation to the Future Plan there is now a stated process, framework and guidelines for the creation of both a Strategic Community Plan and a Corporate Business Plan. The expectation is that these new plans will be developed and introduced over the next 18 months in time for the 2013/14 Budget (refer to attached schedule). It is recommended that Council commence the process of undertaking its Strategic Community Plan.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION**Moved Mayor Morgan, seconded Cr Strzina**

That Council;

1. receive the Action Plan Report as endorsed by the Strategic Planning Committee
2. commence the process of reviewing its Strategic Plan and developing a Strategic Community Plan in line with the Minister's Integrated Planning and Reporting Framework.

Carried 4/0

COUNCIL DISCUSSION

In speaking to this item Cr Cunningham referred members to the Action Plan and specifically items 2.1 *Draft Structure Plan showing a sinking of the Railway and realignment of Curtin Avenue* and item 5.3 *Develop an Integrated Town Centre Plan*. In discussing the many issues associated with item 2.1 Cr Cunningham suggested that Council's focus should be on the "sinking of the rail line" as this will improve east west connectivity as opposed to raising the rail line. In relation to item 5.3 Cr Cunningham identified the need for Council to finalise its Town Centre plan and to develop implementation programs with future budgets in order to deliver outcomes in the Town Centre. As a consequence he proposed two amendments.

AMENDMENT**Moved Cr Cunningham, seconded Cr Dawkins**

That Council:

- 1) Amend the officer recommendation by adding a new point (2) to read "receive a report from administration in September 2011 in relation to furthering the outcomes to Action Plan objectives 2.1 and 5.3.
- 2) Re number point (2) of the officer recommendation to point (3).

Carried 10/0

COUNCIL RESOLUTION

That Council;

1. receive the Action Plan Report as endorsed by the Strategic Planning Committee.
2. receive a report from administration in September 2011 in relation to furthering the outcomes to Action Plan objectives 2.1 and 5.3.
3. commence the process of reviewing its Strategic Plan and developing a Strategic Community Plan in line with the Minister's Integrated Planning and Reporting Framework.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 10/0

11.3.2 LOCAL GOVERNMENT ELECTIONS – PROPOSED CHANGE OF MEETING DATES FOR OCTOBER 2011

File No: SUB/383
Attachments: [Committee and Council Meeting Dates 2011](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 17 August 2011
Author Disclosure of Interest Nil

SUMMARY

Due to the Local Government elections in October 2011 this report recommends a variation to the advertised Council and Committee meeting dates for October 2011.

BACKGROUND

The Local Government Elections are scheduled for Saturday 15 October 2011 and it is usual for the new Council to meet as soon as possible after the election results are known, in order for elected members to make their declaration of office, determine Council seating arrangements, elect a deputy Mayor, determine Standing Committee memberships and arrangements, as well as Advisory Committee memberships, appointment of Council delegates to other Local Government bodies, and appointment to various community organisations and informal working groups.

Council at its meeting of 13 December 2010 resolved to recommend to the Local Government Advisory Board (LGAB) that the number of elected members (Councillors) be reduced from ten (10) to eight (8), effective from the next ordinary elections in October 2011 and that changes be made to ward boundaries. This resolution was subsequently formally communicated to the Chairman of the LGAB and the Department of Local Government.

In March 2011 the Department of Local Government advised the Town that the Minister for Local Government had accepted the recommendations of the LGAB as outlined by Council, with changes to be implemented in time for the 2011 elections, and with all Councillor positions to be declared vacant. Administrative processes to obtain the Governor's approval and to publish the changes in the Government Gazette were undertaken and the Government Gazette dated 3 May 2011 (No:73) subsequently confirmed that Order.

In November 2010 Council resolved to set its meeting dates for 2011 and these dates were subsequently advertised as required by the Act. A copy of the report to and resolution by Council is attached for information purposes.

The meeting dates as approved by Council for October 2011 are as follows;

- Development Services Committee meeting Monday 17 October
 - Works & Corporate Services Committee Tuesday 18 October
 - Ordinary Council Meeting Monday 24 October
-

In 2009 the Local Government elections took place on Saturday 17 October and a Special Council meeting was held on Monday 19 October. The Ordinary meeting of Council was held the following Monday 26 October 2009 with Standing Committee meetings having been held immediately following the Special Council meeting on Tuesday 20 October and Wednesday 21 October 2009 (*Note: the Development Services Committee was moved from the Monday to the Wednesday to accommodate the Special Council meeting*).

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).*

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Strategic Planning Committee

STAFF COMMENT

The endorsed meeting dates for October 2011 are outlined above. The Local Government elections are scheduled for Saturday 15 October 2011. If it is intended to hold the first meeting of the new Council on the first available Monday after the elections, as per convention, then there is a need to change the currently advertised Development Services Committee meeting.

In relation to meeting options, the following are provided for consideration;

1. Based upon the process followed in 2009, one option is for Council to *defer* the current date of the Development Services Committee meeting from Monday 17 October to Wednesday 19 October and to advertise a Special Council meeting on Monday 17 October 2011. All other dates including the Ordinary Council meeting on Monday 24 October remain as advertised.
2. A second option is to *cancel* both the October Standing Committee meetings and maintain the current scheduled Ordinary Council meeting date of Monday 24 October but advertise it as a *Special meeting of Council* in order to conduct *only* the business of elected member declarations of office, determination of Council seating arrangements, election of the deputy Mayor, and determination of Standing Committee and Advisory Committee memberships, appointment of Council delegates to other Local Government bodies, and appointment to various community organisations and informal working groups.
3. A third option is to *defer* the existing October Committee and Council meetings by one week and to advertise a Special Council meeting for Monday 17 October 2011. The current Development Services and Works & Corporate Services committee meetings would be deferred from Monday 17 October and Tuesday 18 October to Monday 24 October and Tuesday 25 October respectively, and the Ordinary Council meeting would be deferred from Monday 24 October to Monday 31 October, with all changes to be advertised accordingly.

With option 1 above, the timeframes are very short and newly appointed elected members would need to obtain copies of the respective Committee agenda and be available to meet on the following two days (Tuesday 18 October and Wednesday 19 October respectively) and consider their respective reports before deliberating. Committee recommendations would then be made to the Ordinary Council meeting on Monday 24 October.

Option 2 provides a more reasonable timeframe after the elections for all members, especially any new members, an opportunity to familiarise themselves with the business of Council and the content of Committee agenda prior to meeting. It will however increase the size of the Committee agenda in November. If there was an imperative for a particular issue to be considered by Council or a decision to be made, or it was considered that the content of the Committee agenda in November may be too large, Council could determine to set alternative Committee dates after the appointment of the new Council and potentially schedule a Special meeting to determine the respective Committee business.

Option three, on balance, allows for a Special Council meeting to be held as soon as possible after the elections as well as allowing for the normal business of Committee to be transacted the following week and Council the week after. However it will require the deferral of the current advertised dates by seven days. This timing would allow new Councillors opportunity to liaise with the Mayor and other elected members as well as receive an initial induction and background briefings on the business of Council, prior to formally meeting as a new Council.

On balance option three is the preferred way forward and is recommended.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council

1. declare a Special Council meeting on Monday 17 October 2011 the purpose of which is for newly elected members to make their declaration of office, determine Council seating arrangements, elect a deputy Mayor, determine Standing Committee as well as Advisory Committee memberships, appointment of Council delegates to other Local Government bodies, and appointments to various community organisations and informal working groups.
2. amend and adopt the following meeting dates for October 2011;
 - Development Services Committee meeting - Monday 24 October
 - Works & Corporate Services Committee meeting - Tuesday 25 October
 - Ordinary Council meeting - Monday 31 October
3. advertise all meeting dates in accordance with the Act.

Carried 10/0

11.3.3 LEGAL PROCEEDINGS - POLICY REVIEW

File No: POL/12
Attachments: [Draft Policy Legal Proceedings](#)
[Amended Policy Legal Proceedings Cr Boland](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 17 August 2011
Author Disclosure of Interest Nil

SUMMARY

The Town of Cottesloe policy for Legal Proceedings has been amended by Council staff. This report recommends that Council adopt the policy, noting some minor changes have been recommended.

BACKGROUND

A process of review and update for all Council policies has been implemented by the Administration and policies are being presented to Council as they are reviewed for endorsement.

The Legal Proceedings policy was presented to Council in June 2011 however as part of its consideration Committee noted that the attached amended policy did not *highlight* the changes made by officers and therefore determined to refer the matter direct to Council, with the CEO to include a “marked up” version of the proposed policy with the Council agenda. The marked up policy was circulated with the Council agenda and a subsequent amendment to the policy from Cr Boland was also circulated to all members and tabled at the meeting. Given the changes proposed and after consideration, Council determined to refer the matter back to administration for further consideration by Committee.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Proposed minor changes have been made by officers and an amended version has also been previously circulated by Cr Boland (copies attached).

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The matter was considered by Committee and Council in June 2011 and Cr Boland circulated an amended policy for discussion.

STAFF COMMENT

This policy has been reviewed to ensure it is relevant to the Town of Cottesloe's current working environment. Minor changes are recommended to be made to this policy at this time, as per the attachment.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Walsh

THAT Council adopt the updated Policy on Legal Proceedings as per attached.

COMMITTEE COMMENT:

Committee discussed the attached Policy and Cr Boland spoke to the changes he had proposed. With the exception of the references to civil matters/proceedings in points (2), (3) and (4) Committee endorsed the other changes. The CEO agreed to provide a copy of the amended policy with the Council agenda.

AMENDMENT

Moved Cr Boland, seconded Mayor Morgan

That the amended policy as discussed and agreed at Committee be accepted and presented to Council for adoption.

Carried 4/0

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That the amended policy as discussed and agreed at Committee be accepted and presented to Council for adoption.

Carried 10/0

11.3.4 REGIONAL COOPERATION - POLICY REVIEW

File No: POL/3
Attachments: [Draft Policy Regional Cooperation Amended Policy Regional Cooperation Cr Boland](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 17 August 2011
Author Disclosure of Interest Nil

SUMMARY

The Town of Cottesloe policy for Regional Cooperation has been amended by Council staff. This report recommends that Council adopt the policy, noting some minor changes have been recommended.

BACKGROUND

A process of review and update for all Council policies has been implemented by the Administration and policies are being presented to Council as they are reviewed for endorsement.

The Regional Cooperation policy was presented to Council in June 2011 however as part of its consideration Committee noted that the attached amended policy did not *highlight* the changes made by officers and therefore determined to refer the matter direct to Council, with the CEO to include a "marked up" version of the proposed policy with the Council agenda. The marked up policy was circulated with the Council agenda and a subsequent amendment to the policy from Cr Boland was also circulated to all members and tabled at the meeting. Given the changes proposed and after consideration, Council determined to refer the matter back to administration for further consideration by Committee.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Proposed minor changes have been made by officers and an amended version has also been previously circulated by Cr Boland (copies attached).

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The matter was considered by Committee and Council in June 2011 and Cr Boland circulated an amended policy for discussion.

STAFF COMMENT

This policy has been reviewed to ensure it is relevant to the Town of Cottesloe's current working environment. Minor changes are recommended to be made to this policy at this time, as per the attachment.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

THAT Council adopt the updated Policy on Regional Cooperation as per attached.

Carried 10/0

11.3.5 CHIEF EXECUTIVE OFFICER'S ANNUAL PERFORMANCE REVIEW

File No: PER/94
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 17 August 2011

Author Disclosure of Interest The author has an interest in the matter as it directly relates to his employment.

SUMMARY

This report recommends that Council confirm the establishment and appointment of the Performance Review Panel for the Chief Executive Officer's annual performance appraisal in order to make recommendations to Council in accordance with Clause 8 of the Chief Executive Officer's contract of employment. It further recommends that Council invite a representative from WALGA's *Workplace Solutions* to join the panel to provide independent facilitation and professional advisory services.

BACKGROUND

In December 2010 Council resolved as follows:

THAT Council:

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

- 3.8 *Finalise a short and long term asset management plan and accompanying financial plan.*
 - 3.9 *Assist Council with a review of its Future Plan 2006 – 2010.*
 - 3.10 *Manage the introduction of the Local Government Industry Award 2010 inclusive of the development and implementation of a new Enterprise Bargaining Agreement (EBA No. 4) for the Town.*
 - 3.11 *That the CEO conducts a desktop review of the Town's Standing Orders with the review to address the application of clause 12.1.*
- 4 Conduct the next review of the CEO's performance by December 2011, in accordance with the contract of employment between Council and Mr Askew.

Carried 9/0

In accordance with the Position Description for the Chief Executive Officer the principal Objectives of the position are;

- Provides visionary leadership and strategic management and direction for the Town of Cottesloe.
- Provides the primary link through effective engagement between the Council, Staff, Stakeholders and the Community to achieve the Town's goals and objectives.
- Responsible for ensuring the highest level of business excellence, integrity, corporate governance and accountability, which is demonstrated within an environment of transparency, trust, openness, honesty and fairness for all.
- Commits to "Broad Objectives for the Future" in the Future Plan 2006 – 2010, namely:
 - Protecting and enhancing the lifestyle of residents and visitors.
 - Resolving the divisive nature of the configuration of the railway and main roads.
 - Enhancing beach access and the foreshore.
 - Managing the complexities involved in pressures for development.
 - Managing infrastructure and council buildings in a sustainable way.
 - Earning the community's confidence in council.

Clause 7 of the CEO's contract reads as follows;

7. PERFORMANCE CRITERIA & KEY RESULT AREAS

The following performance criteria apply to this contract:

- *Provide accurate and timely advice to Council based on available and appropriate information;*
- *Works collaboratively with Council;*
- *Facilitate the development and achievement of the Local Government's strategic plan through the involvement of stakeholders and the persistent application of effort;*

- *Maintain a work environment that facilitates the development of people and encourages them to perform at a high level;*
 - *Ensure the effective and accountable application of financial and physical resources;*
 - *Develop and implement continuous improvement strategies to enhance service delivery;*
 - *Initiate the development, implementation and review of Policy.*
- These performance criteria may be varied and any other criteria may be included by agreement between the parties at any time during the term of this contract.*

Key Result Areas

- *Key Result Areas will be developed for each 12-month period of the Contract.*
- *Key Result Areas are not intended to cover all aspects of the position, only those which are most clearly linked to the achievement of the Local Government's strategic objectives and Future Plan.*
- *Key Result Areas will be tangible and measurable and within the Employee's area of control and authority.*

Clause 12 of the CEO's contract reads as follows;

12. REMUNERATION

12.2.1 The remuneration package referred to in sub-clause 12.1 shall be reviewed annually by Council. A review shall not result in a decrease in the remuneration package.

As part of the Town's Future Plan 2006 to 2010 there are a number of *Strategic Priorities and Dynamic Priority Projects*. In relation to both the Action Plan and Dynamic Projects, the following strategies were identified by Council as ongoing priorities for 2011 at its November 2010 meeting.

Priority	Item	Related Objective
1	Finalise Local Planning Scheme No. 3 including the preparation of all draft policies	DP1 A
2	Progress options for the Council depot site	Objective 5.1
3	Implement a strategy to oversee the realisation of the Foreshore Concept Plan	Objective 3.1
4	Proactively pursue solutions for Curtin Avenue and the railway	Objective 2.1
5	Report on the proposed tasks identified in the Climate Change Vulnerability study and their	DP 2

	impacts, priorities and applicability to the Town of Cottesloe	
6	Complete the development of new joint library facilities	Objective 5.2
7	Finalise and adopt a plan for the Town Centre and Station Street.	Objective 5.3
8	Enhance use of the Civic Centre	Objective 1.5
9	Develop sustainability and capacity criteria to assess major strategies	

STRATEGIC IMPLICATIONS

The achievement of Council's Future Plan is related to the performance of the Chief Executive Officer.

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

The relevant sections of the Local Government Act read, in part, as follows:

5.23. Meetings generally open to the public

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
 - (a) *all council meetings; and*
 - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
 - (a) *a matter affecting an employee or employees;*
 - (b) *the personal affairs of any person;*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*
- (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.*

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO's and senior employees

(1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

(1a) Despite subsection (1) -

(a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and

(b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.

(2) A contract under this section -

(a) in the case of an acting or temporary position, cannot be for a term exceeding one year;

(b) in every other case, cannot be for a term exceeding 5 years.

(3) A contract under this section is of no effect unless -

(a) the expiry date is specified in the contract;

(b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and

(c) any other matter that has been prescribed as a matter to be included in the contract has been included.

(4) A contract under this section is to be renewable and subject to subsection (5), may be varied.

(5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.

(6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.

(7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

Regulation 18D:

- ***The performance of the CEO be reviewed at least once a year;***
- ***The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review. and,***
- ***A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.***

FINANCIAL IMPLICATIONS

Any change in remuneration will have a budgetary impact. The current budget allows for a minimum CPI increase.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Mayor

STAFF COMMENT

As listed above, a number of organisational strategies were identified by Council as ongoing priorities for 2010/11 whilst a number of specific Key Result Areas (KRA's) for the CEO were also identified in December 2010. In addition, 2011 has seen ongoing challenges placed before Council, including the ongoing local government reform agenda, budget, ward review and reduction in elected member numbers, and local government elections in October 2011.

The review process is conducted by the Review Panel under the auspices of the Mayor (whose role is to *"liaise with the CEO on the Local Government's affairs and the performance of its functions"*) and it is recommended that evaluation of performance should also invite input from all elected members.

In accordance with Council's December 2010 resolution, the CEO's performance and remuneration review should be completed by December 2011. Initial contact with Mr John Phillips, Executive Manager WALGA Workplace Solutions has confirmed his availability to once again support Council and the Review Panel with facilitation and professional advisory services.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

THAT Council

- 1. Confirm the appointment of the Mayor, Deputy Mayor and Deputy Presiding Members of the Development Services and Works & Corporate Services Committees as members of the CEO's Performance Review Panel with its role/responsibility being to;**
 - a. Conduct the CEO's annual performance review based upon the performance objectives set for 2011.**
 - b. Make recommendations to Council on the CEO's contract, remuneration and performance objectives for 2012.**
- 2. Invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.**

Carried 10/0

11.3.6 REVIEW OF STANDING ORDERS LOCAL LAW 2011

File No: CLL/5
Attachments: [Draft Standing Orders Local Law 2011](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 17 August 2011
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to endorse the proposed Standing Orders Local Law 2011 and refer for State wide public advertising.

BACKGROUND

The existing Standing Orders Local Law is due for review, having been last gazetted in December 1999. Provisions within the existing law have been identified by staff as lacking or generally requiring update and specifically some clauses, such as 12.1 *Members to Rise*, have been identified by Council as requiring change.

The Purpose of the local law is to provide rules and guidelines which apply to the conduct of meetings of the Council and its Committees and to meetings of electors. All meetings are to be conducted in accordance with the Act, the Regulations and the Town's Standing Orders.

The Effect of this local law is to deliver;

- (a) better decision making by the Council and committees;
- (b) the orderly conduct of meetings dealing with Council business
- (c) better understanding of the process of conducting meetings; and
- (d) the more efficient and effective use of time at meetings.

A summary of the sequence of events involved in adopting or amending Local Laws is as follows;

- Proposed Local Law considered by the Council
 - Statewide and local public advertising undertaken with a six (6) week submission period
 - A copy of the proposed Local Law and a copy of the notice is forwarded to the appropriate Minister(s)
 - After the last day for public submissions, the local government considers any submissions made and makes (adopts) the Local Law (as proposed or with minor variations)
 - After making the Local Law, the local government publishes it in the Gazette, again advertises locally and forwards a copy of it to the appropriate Minister(s)
 - Copies of the Local Law, together with explanatory memoranda, are then submitted to the Parliamentary Joint Standing Committee on Delegated Legislation for scrutiny.
-

STRATEGIC IMPLICATIONS

Council Local Laws are an important part of the administration and good governance of the district. Review of Local Laws ensures continued relevance to our community.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Section 3.5 & 3.12 of the Local Government Act applies.

3.5. Legislative power of local governments

1. *A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
2. *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.*
3. *The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*
4. *Regulations may set out –*
 - (a) matters about which, or purposes for which, local laws are not to be made; or*
 - (b) kinds of local laws that are not to be made,*

and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind
5. *Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).*

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;*

- (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;*

- (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;*
- (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.

Regulation 3 of the Local Government Functions and General Regulations provides the following.

3. Notice of purpose and effect of proposed local law - s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that –

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law*

FINANCIAL IMPLICATIONS

The primary costs associated with the review of local laws are the officer time to research and review the existing Local Law, prepare reports for Committee and Council and analyse any submissions received. In addition there are associated state wide/local advertising and gazettal costs which are estimated at \$3,000.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

If Council approves the proposed amended Standing Orders Local Law 2011 it will be forwarded for public state wide and local advertising. It will also be forwarded to the Minister for Local Government in accordance with the Act. As a minimum, advertising will include the West Australian, local press, the Cott news page, copies at the Administration and Library, and the Town's notice boards and website. After the statutory advertising period has closed and submissions analysed a second report will be prepared for Council's consideration.

STAFF COMMENT

In December 2010 Council resolved, as part of the CEO's performance review, to adopt a number of Key Result Areas (KRA) for the 2011 appraisal period. One such objective was;

- 3.11 That the CEO conducts a desktop review of the Town's Standing Orders with the review to address the application of clause 12.1.*

In considering the existing Standing Orders Local Law the Chief Executive Officer has carried out research with the Department and from recently gazetted Standing Orders Local Laws, as well as previous legal advice obtained. In summary, the desktop review has identified a number of additions to the existing Local Law, some changes in language and terminology, the removal of two clauses, changes to other existing clauses, including clause 12.1 and 7.3, and a re-numbering of the document to accommodate these changes.

A copy of the proposed Local Law is attached to this report. Included at the front of the Local Law is a Memo from the CEO which summarises the reasons for the major changes (additions and amendments) to the existing Local Law. To assist Councillors in assessing proposed changes, any deletions of existing text are shown in the draft document as a "*strikethrough*" and any additions (new clauses) are shown in "*blue*". There are a number of changes that have been made to the Standing Orders Local Law to ensure good governance and meeting process. The resulting

(final) draft Local Law, once endorsed by Council, will delete all *strikethroughs* and remove all text colouring prior to advertising.

In considering the report and amended Local Law Council has three main options;

1. Leave the Standing Orders as they are for now on the basis that there will be a new Council in October 2011 who may have different views/opinions.
2. Propose only minor amendments to the current Standing Orders such as clause 12.1 "Members to Rise" (and associated clause 7.3). The risk with this option is that the Department and/or Joint Standing Committee (JST) may not accept only the minor changes and will direct the Town to complete a full review.
3. Undertake a more substantial review (as per the attached) and advertise accordingly. Given the age of the current Local Law, the need for various changes, the views of the Department and JST in relation to Standing Orders and more recently gazetted Standing Orders Local Laws, this is the officer preferred approach.

Overall, option three is recommended and Committee input into the attached draft Standing Orders Local Law 2011 is sought prior to endorsement by Council.

The initial resolution of Council is *only* to endorse the advertising of the Local Law in accordance with the provisions of the Act and a copy is to be provided to the Minister for Local Government. After the advertising period has closed officers are to prepare a second report to Council summarizing the feedback and submissions received, prior to any further consideration.

VOTING

Simple Majority

COMMITTEE COMMENT:

Committee discussed the attached draft Local Law and a range of issues were raised, with a number of changes made to the document. The CEO agreed to document all changes and to include an updated version with the Council Agenda. Committee determined to amend the officer recommendation, point (2), to note that the draft Local Law had been amended.

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Walsh

THAT Council;

1. Note that a review of Local Law No. 1 - Standing Orders has been undertaken.
2. Cause state wide public notice to be given of the proposed Standing Orders Local Law 2011, as attached, in accordance with the provisions of the Local Government Act 1995 and with a copy to be provided to the Minister for Local Government for comment; and
3. Consider any comment received following the close of public submissions.

AMENDMENT

Moved Cr Boland, seconded Cr Walsh

That the word 'attached' in item 2 of the officer recommendation be replaced with word 'amended'.

Carried 4/0

COUNCIL DISCUSSION

In discussing the attached draft local law Cr Cunningham raised two items for consideration including section 7.2 "Presiding Member to take part in debate" and item 12.1 "Invitation to Speak". As a consequence he proposed two amendments.

AMENDMENT

Moved Cr Cunningham, seconded _____

In item 7.2 on page 11 after the words " in accordance with these standing orders", include the words "amongst other requirements", after the words "speak once" add the words "as per clause 12.4" and at the end of the clause add the following "the presiding member is also subject to clause 12.5 "Limitation of duration of speakers".

The motion lapsed for want of a seconder

AMENDMENT

Moved Cr Cunningham, seconded Cr Dawkins

In item 12.1 on page 19 after the words "members shall" delete the words "remain seated".

Lost 3/7

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

1. Note that a review of Local Law No. 1 - Standing Orders has been undertaken.
2. Cause state wide public notice to be given of the proposed Standing Orders Local Law 2011, as amended, in accordance with the provisions of the Local Government Act 1995 and with a copy to be provided to the Minister for Local Government for comment; and
3. Consider any comment received following the close of public submissions.

THE SUBSTANTIVE MOTION WAS PUT

Carried 10/0

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

Nil

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

Nil

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9:10 PM

CONFIRMED MINUTES OF 22 AUGUST 2011. PAGES 1 – 123 INCLUSIVE.

PRESIDING MEMBER: KEVIN MORGAN
POSITION: MAYOR

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DATE: / /