

TOWN OF COTTESLOE



ORDINARY COUNCIL MEETING

AGENDA

**ORDINARY COUNCIL MEETING
TO BE HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
6:00 pm Tuesday, 22 August 2023**

Town of Cottesloe

ORDINARY COUNCIL MEETING

Notice is hereby given that the next Ordinary Council Meeting will be held in the Council Chambers, Cottesloe Civic Centre

109 Broome Street, Cottesloe on **22 August 2023** commencing at **6:00 pm**.

The business to be transacted is shown on the Agenda hereunder.

Yours faithfully,



William Matthew Scott
Chief Executive Officer

18 August 2023

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

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Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

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Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of Council being received.

Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au



Town of Cottesloe

DISCLOSURE OF INTERESTS

Agenda Forum ☐

Ordinary Council Meeting ☐

Special Council Meeting ☐

Name of Person Declaring an interest

Position

Date of Meeting

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 34C.

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

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Financial ☐

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Impartiality ☐

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Nature of Interest

Type of Interest

Financial ☐

Proximity ☐

Impartiality ☐

DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

DISCLOSURE OF INTERESTS

Notes for Your Guidance

IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- a. In a written notice given to the Chief Executive Officer before the Meeting or;
- b. At the Meeting immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- a. Preside at the part of the Meeting relating to the matter or;
- b. Participate in, or be present during, any discussion or decision making procedure relative to the matter, unless and to the extent that, the disclosing member is allowed to do so under *Section 5.68* or *Section 5.69* of the *Local Government Act 1995*.

INTERESTS AFFECTING FINANCIAL INTEREST

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest in a matter**.

1. A Financial Interest, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious etc, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the *Local Government Act 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.

INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, in a matter if the matter concerns;
 - a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
 - b. a proposed change to the zoning or use of land that adjoins the person's land; or
 - c. a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
2. In this section, land (the proposal land) adjoins a person's land if;
 - a. The proposal land, not being a thoroughfare, has a common boundary with the person's land; or
 - b. The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - c. The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
3. In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

INTERESTS AFFECTING IMPARTIALITY

Definition: An interest, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- a. In a written notice given to the Chief Executive Officers before the Meeting or;
- b. At the Meeting, immediately before the matter is discussed.

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest exist.

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

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

2 DISCLAIMER**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4.2 PUBLIC QUESTIONS**5 PUBLIC STATEMENT TIME****6 ATTENDANCE****Elected Members**

Mayor Lorraine Young
Cr Kirsty Barrett
Cr Paul MacFarlane
Cr Chilla Bulbeck
Cr Brad Wylynko
Cr Richard Atkins

Officers

Mr William Matthew Scott	Chief Executive Officer
Mr Shane Collie	Director Corporate and Community Services
Mrr Steve Cleaver	Director Development and Regulatory Services
Mr Shaun Kan	Director Engineering Services
Mr Ed Drewett	Coordinator Statutory Planning
Ms Jacquelyne Pilkington	Governance & Executive Office Coordinator

6.1 APOLOGIES**6.2 APPROVED LEAVE OF ABSENCE**

Cr Helen Sadler
Cr Craig Masarei
Cr Melissa Harkins

6.3 APPLICATIONS FOR LEAVE OF ABSENCE**7 DECLARATION OF INTERESTS****8 CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting of Council held on Tuesday 25 July 2023 be confirmed as a true and accurate record.

That the Minutes of the Special Meeting of Council held on Tuesday 1 August 2023 be confirmed as a true and accurate record.

9 PRESENTATIONS**9.1 PETITIONS**

Procedure of Petitions – Local Government (Meetings Procedure) Local Law 2021, Clause 6.11

(3) *The only question which shall be considered by the council on the presentation of any petition shall be:*

- a) that the petition shall be accepted;*
- b) that the petition shall not be accepted;*
- c) that the petition be accepted and referred to the CEO for consideration and report; or*
- d) that the petition be accepted and dealt with by the full council.*

9.2 PRESENTATIONS**9.3 DEPUTATIONS**

10 REPORTS

10.1 REPORTS OF OFFICERS

COUNCIL RESOLUTION

That Council adopts the following en-bloc Officer Recommendations contained in the Agenda for the Ordinary Meeting of Council 22 August 2023:

____, ____, ____, ____, ____, ____, ____

CORPORATE AND COMMUNITY SERVICES**10.1.1 LIVE STREAMING POLICY**

Directorate: Corporate and Community Services
Author(s): Shane Collie, Director Corporate and Community Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/30297
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

For Council to adopt a Live Streaming and Recording of Meetings Policy in conjunction with the installation of new audio visual equipment in the Council Chamber.

OFFICER RECOMMENDATION IN BRIEF

That Council adopt the attached Live Streaming and Recording of Meetings Policy.

BACKGROUND

Council resolved during its Budget Review 2022/23 (March 2023) to increase an existing Budget allocation of \$20,000 to \$50,000 to upgrade the communications in the Council Chamber and introduce Live Streaming of Council meetings. As Council is a Band 3 local government live streaming of meeting is not mandatory. However given that the audio visual equipment in the Council Chambers is past its useful life and requires replacement, there was the opportunity to introduce live streaming as part of this upgrade. Additionally if Band 3 local governments are required to provide live streaming meetings in the future Council will already be compliant.

Council members may recall that the audio and visual quality of meeting has been raised by members of the public previously, and at past Annual General Meetings.

Quotations were subsequently sought and a contractor chosen in accordance with Council's Purchasing Policy for the upgrading of the audio visual equipment including live streaming. The successful contractor price was \$42,000 (Ex GST) and a Purchase Order issued.

The job was unable to be completed prior to 30 June 2023 and was subsequently carried forward into this year. The contractor has prepared the installation which is expected to be undertaken prior to the August 2023 Council meeting.

OFFICER COMMENT

The intention of the new Policy is to ensure information is managed appropriately and that matters such as confidential items remain able to be addressed behind closed doors. The Policy in conjunction with the audio visual equipment upgrade is anticipated to resolve issues of sound quality as well as make the recording of meeting procedures more robust.

The draft Live Streaming and Recording of Meetings Policy was discussed at Council's Briefing Forum held on 1 August 2023. The Policy referenced similar policies from other

local governments and seeks to put the framework around the audio and visual display of Council meetings. The Policy is intended to be applied at all Council meetings held in the Council Chamber.

ATTACHMENTS

10.1.1(a) Live Streaming Policy [under separate cover]

CONSULTATION

The Policy and upgraded audio and visual equipment seeks to be inclusive, open and transparent in communications with members of the public.

STATUTORY IMPLICATIONS

Freedom of Information Act 1992

Local Government Act 1995

Privacy Act 1988 (Commonwealth)

State Records Act 2000

Defamation Act 2005

POLICY IMPLICATIONS

New Policy recommended.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.3: Implement technologies to enhance decision making, communication and service delivery.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority.

OFFICER RECOMMENDATION

THAT Council adopt and implement the attached Live Streaming and Recording of Meetings Policy.

10.1.2 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 30 JUNE 2023

Directorate: Corporate and Community Services
Author(s): Wayne Richards, Acting Finance Manager
Authoriser(s): Shane Collie, Director Corporate and Community Services
File Reference: D23/30675
Applicant(s): Nil
Author Disclosure of Interest: Nil

SUMMARY

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

OFFICER RECOMMENDATION IN BRIEF

That Council receives the Monthly Financial Statements for the period 1 July 2022 to 30 June 2023.

BACKGROUND

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

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

OFFICER COMMENT

Please note that the attached financial statements for the period ending 30 June 2023 is a draft and will be adjusted with year end postings over the coming weeks prior to being reviewed at audit.

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

- The net current funding position as at 30 June 2023 was \$2,949,531 as compared to \$2,696,284 this time last year.

- Operating revenue is more than the year to date budget by \$494,083 with a more detailed explanation of material variances provided at note 2, explanation of material variances, of the attached financial statements. Operating expenditure is \$1,584,224 less than year to date budget, with a more detailed analysis of material variances provided at note 2, explanation of material variances, of the attached financial statements.
- The Capital Works Program is shown in note 13, details of capital acquisitions, of the attached financial statements.
- The balance of cash backed reserves was \$8,283,427 as at 30 June 2023 as shown in note 7, cash backed reserves, of the attached financial statements.

List of Accounts Paid for June 2023

The list of accounts paid during June 2023 is shown on note 14, list of accounts, of the attached financial statements.

The following material payments are brought to Council's attention:

- \$63,194.64 to Civica Pty Ltd relating to software licence charges
- \$152,042.00 to Main Roads Western Australia to refund grant funding relating to a cancelled project
- \$197,105.54 to D B Cunningham Pty Ltd T/as Advanteeing – Civil for construction works relating to the Eric Street shared path
- \$186,260.85 to the Department of Fire and Emergency Services for emergency service levies collected on their behalf
- \$35,712.40 & \$36,345.82 for staff superannuation contributions
- \$89,197.48 to Rico Enterprises Pty Ltd for waste collection services
- \$77,000.00 to Sculpture by the Sea being the Town's contribution towards the event
- \$29,978.21 & \$26,876.86 to Western Metropolitan Regional Council for waste removal
- \$159,400.58 to Classic Contractors Pty Ltd for construction works at Anderson Pavilion
- \$49,500.00 to Eco Shark Barrier Pty Ltd for maintenance costs associated with the shark barrier
- \$36,346.45 to The Trustee for Melville Autos Unit T/as Melville Mitsubishi for a new passenger vehicle
- \$32,805.00 to Fines Enforcement Registry relating to fees for unpaid infringements
- \$68,178.32 to Landgate – VGO for valuation services relating to the three yearly revaluation of gross rental values
- \$139,160.15 & \$136,843.43 to Town of Cottesloe Staff for fortnightly payroll
- \$801,749.00 to invest a new term deposit with National Australia Bank

Investments and Loans

Cash and investments are shown in note 4, cash and investments, of the attached financial statements. The Town has approximately 43% of funds invested with the National Australia Bank, 31% with the Commonwealth Bank of Australia and 26% with Westpac Banking Corporation.

Information on borrowings is shown in note 10, information on borrowings, of the attached financial statements. The Town had total principal outstanding of \$2,460,557 as at 30 June 2023.

Rates, Sundry Debtors and Other Receivables

Rates outstanding are shown on note 6, receivables, and shows a balance of \$291,684 outstanding as compared to \$228,952 this time last year.

Sundry debtors are shown on note 6, receivables, of the attached financial statements. The sundry debtors report shows that 36% or \$21,909 is older than 90 days. Infringement debtors are shown on note 6, receivables, and shows a balance of \$460,952 as at 30 June 2023.

ATTACHMENTS

10.1.2(a) 2023-08-22 Council Report - Monthly Financial Statements for the period 1 July 2022 to 30 June 2023 [under separate cover]

CONSULTATION

Nil

STATUTORY IMPLICATIONS

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2022 to 30 June 2023 as submitted to the 22 August 2023 meeting of Council.

DEVELOPMENT AND REGULATORY SERVICES**10.1.3 126 (LOT 26) RAILWAY STREET - MIXED USE DEVELOPMENT (OFFICE & RESIDENTIAL)**

Directorate: Development and Regulatory Services
Author(s): Ed Drewett, Coordinator Statutory Planning
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/30247
Applicant(s): Allering & Associates
Author Disclosure of Interest: Nil

SUMMARY

Planning approval is sought for a mixed-use development (office & residential) on Lot 26, 126 Railway Street.

OFFICER RECOMMENDATION IN BRIEF

That Council supports the Responsible Authority Recommendation in the attached Responsible Authority Report (RAR).

BACKGROUND

The development has a value of \$20M and is required to be referred to the JDAP for determination.

A Responsible Authority Report (RAR) has been prepared and is due to be submitted to the JDAP on or before noon on Thursday 24 August 2023.

The purpose of this report is for Council to:

- i. Consider the Officer Recommendation in the attached RAR;
- ii. Be informed that the RAR will be referred to the JDAP on or before noon on Thursday 24 August 2023 for its determination in accordance with the *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regs).

OFFICER COMMENT

The proposed development has been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy section of the RAR.

ATTACHMENTS

- 10.1.3(a)** Attachment 1 - DAP Responsible Authority Report [under separate cover]
10.1.3(b) Attachment 2a - Site and floor plans (16 June 2023) [under separate cover]
10.1.3(c) Attachment 2b - Elevations and sections (16 June & 15 August 2023) [under separate cover]
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- 10.1.3(d) Attachment 2c - Perspectives (16 June 2023) [under separate cover]
- 10.1.3(e) Attachment 3 - Site analysis and proposed design (16 June 2023) [under separate cover]
- 10.1.3(f) Attachment 4 - DA appendix - planning assessment plans (16 June 2023) [under separate cover]
- 10.1.3(g) Attachment 5 - Applicant's report (March 2023) [under separate cover]
- 10.1.3(h) Attachment 6 - Applicant's R-Codes assessment (March 2023) [under separate cover]
- 10.1.3(i) Attachment 7 - Applicant's response to planning assessment, including plans (30 May 2023) [under separate cover]
- 10.1.3(j) Attachment 8 - Transport Impact Statement (February 2023) [under separate cover]
- 10.1.3(k) Attachment 9 - Reduction of Vehicle Use policy [under separate cover]
- 10.1.3(l) Attachment 10 - Acoustic report (2 February 2023) [under separate cover]
- 10.1.3(m) Attachment 11 - Waste Management Plan (2 February 2023) [under separate cover]
- 10.1.3(n) Attachment 12 - Landscape Architecture Report (19 June 2023) [under separate cover]
- 10.1.3(o) Attachment 13 - Architectural Design Statement (March 2023) [under separate cover]
- 10.1.3(p) Attachment 14 - Sustainable Design Assessment Report (2 February 2023) [under separate cover]
- 10.1.3(q) Attachment 15 - DRP presentation pack (July 2023) [under separate cover]
- 10.1.3(r) Attachment 16 - Design Review Panel comments [under separate cover]
- 10.1.3(s) Attachment 17 - Public submission [under separate cover]
- 10.1.3(t) Attachment 18 - Legal advice - site cover (applicant) [under separate cover]
- 10.1.3(u) Attachment 19 - Local Development Plan [under separate cover]

CONSULTATION

Please refer to attached RAR.

STATUTORY IMPLICATIONS

Please refer to attached RAR.

POLICY IMPLICATIONS

The application of relevant Local Planning Policies are addressed in the RAR.

STRATEGIC IMPLICATIONS

Please refer to attached RAR.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

Environmental sustainability implications of the proposed development are addressed in the RAR and associated attachments.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

1. **THAT Council supports the Responsible Authority Recommendations attached within the Responsible Authority Report (RAR) being:**

That the Metro Inner-North JDAP resolves to:

Approve DAP Application reference DAP/23/02456 and the following plans and documentation:

- ***Plans dated 16/6/23: Drawing Nos: DA-29; DA-30 (Issue A); DA-31 (Issue A); DA-32 (Issue A); DA-33 (Issue A); DA-34 (Issue A); DA-40 (Issue A); DA-41 (Issue A); DA-42 (Issue A); DA-43 (Issue A); DA-45 (Issue A); DA-46 (Issue A); DA-47 (Issue A); DA-67 (Issue A); DA-68 (Issue A); DA-69 (Issue A);***
- ***Plan dated 15/8/23: Drawing No: DA93 (Issue A).***

in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Town of Cottesloe's Local Planning Scheme No. 3, subject to the following conditions:

Conditions

1. **All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site where climatic and soil conditions allow for the effective retention of stormwater on-site.**
2. **Plant and equipment, including air-conditioning units, shall be designed, positioned and screened so as to not be visible from the street; designed to integrate with the building; or located so as not to be visually obtrusive.**
3. **A minimum 12 carbays shall be provided on-site, together with end-of-trip facilities and bicycle parking as shown on the approved plans. Details to be submitted at the Building Permit stage to the satisfaction of the Town.**

4. Prior to occupation, all car parking spaces and access aisles are to be provided in accordance with Australian Standards, and thereafter maintained at the owner's cost.
5. Prior to the submission of a Building Permit application, details of vehicle delivery parking and loading/unloading areas together with the nature and times of use of any special delivery vehicle parking, suitable line markings, sign posting, operational procedures and management measures shall be submitted to, and approved, by the Town.
6. The security gates across the vehicle access driveway shall be operated so as to not prevent occupants and visitors from entering and exiting the site, to the satisfaction of the Town.
7. The design and functionality of the access ramp and bin storage area(s) shall be to the Town's specifications and Australian Standards. Details to be submitted at the Building Permit stage to the satisfaction of the Town.
8. Final details of a *Reduction in Vehicle Use* policy for all employees to incentivise the use of alternative transport options for those residing in the residential building, guests, and clients, shall be submitted to, and approved, by the Town, and implemented at the applicant's cost in perpetuity.
9. Prior to the submission of a Building Permit application, final landscape plans and specifications for both the subject site and the public realm, including hard and soft landscape specifications and reticulation details shall to be submitted to, and approved, by the Town.
10. Prior to occupation of the development, all landscape areas within the site and in the public realm shall to be installed in accordance with the final approved landscape plans and thereafter maintained, at the applicant's cost to the satisfaction of the Town.
11. Landscaping and planters shown on the approved plans shall be arranged and maintained so as to restrict overlooking of the adjoining properties. Details to be submitted at the Building Permit stage to the satisfaction of the Town.
12. Prior to submission of a Building Permit application, a final Waste Management Plan and Acoustic Report shall be submitted to, and approved, by the Town.
13. The ground floor, west-facing opening(s), to the amphitheatre shall be non-openable. Details to be submitted at the Building Permit stage.
14. All external glazing to the ground floor office tenancy shall be visually permeable (clear glass) to provide visual interest to the building at street level. Details to be submitted at the Building Permit stage to the satisfaction of the Town.

15. The finish and colour of the boundary wall(s) facing the adjoining southern and western boundaries shall be to the satisfaction of the Town. Details to be shown at the Building Permit stage.
16. All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
17. The landowner shall be responsible for the costs of any changes to the public domain outside the site proposed by or due to the development, including (but not limited to) the removal of any redundant crossovers and reinstatement of the verge and kerb, construction of any new crossover and any upgrading of verge pavements or landscaping. All such works shall be to the specification and satisfaction of the Town.
18. Pergola structures shown on the approved plans shall be open-framed and covered in a water permeable material or unroofed. Details to be submitted at the Building Permit stage to the satisfaction of the Town.
19. Prior to occupation, a notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the Certificate(s) of Title of the lot. The notification shall be created at the owner/applicant's expense and lodged with the Registrar of Titles for endorsement. The Notification is to state as follows:

"This lot is in the vicinity of a transport corridor and is affected, or may in the future be affected, by road and rail transport noise. Road and rail transport noise levels may rise or fall over time depending on the type and volume of traffic."
20. Prior to the issue of a building permit for the development, details are to be included with the building permit demonstrating to the satisfaction of the Town that the development incorporates the noise mitigation 'Quiet House Requirements' of the State Planning Commission 'Road and Rail Noise Guidelines', or designs and implements an approved Noise Management Plan by a qualified acoustic practitioner. All requirements are to be implemented prior to occupation and maintained for the life of the development to the satisfaction of the Town.
21. A public art contribution to the value of at least 1% of the development cost shall be provided in accordance with the Town's *Developer Contributions for Public Art* policy. Details to be submitted to the satisfaction of the Town prior to lodgement of a Building Permit application.
22. Prior to submission of a Building Permit application, the proposed roof projection over Railway Street is to be modified to ensure that the structure is contained within the subject lot boundary (unless approval is otherwise granted for development in the road reserve).
23. A Construction Management Plan shall be submitted to and approved by the Town prior to the submission of a building permit application. The management plan shall include details regarding mitigation measures to address impacts associated with construction works, including but not limited to:
 - the control of vibration, dust, noise, waste, sand and sediment; temporary fencing; hoardings and gantries; site access/egress; deliveries of construction

- materials; heavy construction machinery; parking for contractors and tradespersons; and traffic control;
- any trees (including roots) that are to be retained on the development site, and in close proximity to the proposed works should be appropriately protected during construction works (e.g. tree protection zones).

The construction works shall be undertaken in accordance with the approved Construction Management Plan.

- 24. The gym/communal recreation area shall not be used by the general public.
- 25. The wall height (to level of roof) of the upper floor lobby and lift shaft to the office shall not exceed 9m above natural ground level. Details to be submitted to the satisfaction of the Town prior to lodgement of a Building Permit application.
- 26. The portion of roof that vertically aligns with the gym below shall be permeable. Details to be submitted to the satisfaction of the Town prior to lodgement of a Building Permit application.

Advice Notes:

- 1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
- 2. The owner/applicant is responsible for applying to the Town for a Building Permit and obtaining approval prior to undertaking the development.
- 3. The owner/applicant may be required to submit an acoustic noise report that includes predicted noise emissions at the Building Permit stage and comply with all relevant health requirements.
- 4. The existing redundant crossover(s) shall be removed and the verges, kerbs and all surfaces made good at the applicant's expense to the satisfaction of the Town.
- 5. Signage does not form part of this approval and may require a separate approval.
- 6. The applicant is advised that any approval for built strata subdivision issued pursuant to the Strata Titles Act 1985 may include conditions that require the provision of public open space in the form of cash-in-lieu. It is recommended that the applicant lodge any built strata application prior to commencement of construction.
- 7. The applicant/owner shall liaise with Western Power in respect to any necessary modifications to the existing power lines adjoining the lot.
- 8. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.

9. This decision constitutes planning approval only and is valid for a period of 4 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

10.1.4 110-112 (LOT 6) MARINE PARADE - AMENDMENTS TO APPROVED MIXED USE DEVELOPMENT (COMMERCIAL & RESIDENTIAL)

Directorate: Development and Regulatory Services
Author(s): Ed Drewett, Coordinator Statutory Planning
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/30231
Applicant(s): Element Advisory Pty Ltd
Author Disclosure of Interest: Nil

SUMMARY

Planning approval is sought for amendments to a previously approved development for a 5-storey mixed-use development that was approved by the Metro Inner-North Joint Development Assessment Panel (JDAP) on 21 December 2021 (DAP/21/02066)

OFFICER RECOMMENDATION IN BRIEF

That Council supports the Responsible Authority Recommendation in the attached Responsible Authority Report (RAR).

BACKGROUND

The applicant has opted for this Form 2 application to be referred to the JDAP for determination.

A Responsible Authority Report (RAR) has been prepared and is due to be submitted to the JDAP on or before noon on Thursday 24 August 2023.

The purpose of this report is for Council to:

- i. Consider the Officer Recommendation in the attached RAR;
- ii. Be informed that the RAR will be referred to the JDAP on or before noon on Thursday 24 August 2023 for its determination in accordance with the *Planning and Development (Development Assessment Panel) Regulations 2011* (DAP Regs).

OFFICER COMMENT

The proposed amendments have been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy section of the RAR.

ATTACHMENTS

- 10.1.4(a) Attachment 1 - Responsible Authority Report [under separate cover]**
10.1.4(b) Attachment 2 - Development Plans [under separate cover]
10.1.4(c) Attachment 3 - Previous DAP decision [under separate cover]
10.1.4(d) Attachment 4 - Transport Impact Statement (15 February 2023) [under separate cover]
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- 10.1.4(e) Attachment 5 - Transport Statement (22 June 2023) [under separate cover]
- 10.1.4(f) Attachment 6 - Waste Management Plan [under separate cover]
- 10.1.4(g) Attachment 7 - Applicant's cover letter [under separate cover]
- 10.1.4(h) Attachment 8 - Design Review Panel presentation [under separate cover]
- 10.1.4(i) Attachment 9 - Design Review Panel comments [under separate cover]
- 10.1.4(j) Attachment 10 - Public submissions [under separate cover]
- 10.1.4(k) Attachment 11 - Applicant's response to public submissions [under separate cover]
- 10.1.4(l) Attachment 12 - Legal Advice (neighbours) [under separate cover]
- 10.1.4(m) Attachment 13 - Legal Advice (applicant) [under separate cover]

CONSULTATION

Please refer to attached RAR.

STATUTORY IMPLICATIONS

Please refer to attached RAR.

POLICY IMPLICATIONS

The application of relevant Local Planning Policies are addressed in the RAR.

STRATEGIC IMPLICATIONS

Please refer to attached RAR.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

Environmental sustainability implications of the proposed development are addressed in the RAR and associated attachments.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

1. THAT Council supports the Responsible Authority Recommendations attached within the Responsible Authority Report (RAR) being:

That the Metro Inner North JDAP resolves to:

1. Accept that the DAP Application reference DAP/21/02066 as detailed on the DAP Form 2 dated 23 March 2023 is appropriate for consideration in

accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;

2. Approve DAP Application reference DAP/21/02066 and accompanying plans received 17 March 2023 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Town of Cottesloe Local Planning Scheme No.3, for the proposed minor amendment to the approved mixed-use development at Lot 6, 110-112 Marine Parade, Cottesloe subject to the following conditions:

Amended Conditions

Condition 3:

A minimum 21 car bays shall be provided on-site, with a minimum 11 car bays being exclusively allocated to the ground floor commercial uses and not used for residential purposes, in perpetuity;

Or, alternatively:

Prior to the commencement of development, payment of \$232,470 shall be made to the Town of Cottesloe for Payment in Lieu of 9 car parking bays which have not been provided on site or in a shared parking arrangement. This condition has been imposed under the requirements of the Town of Cottesloe's Payment in Lieu of Parking Plan and Schedule 2, clause 77H of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Condition 5:

The maximum total number of patrons permitted to be accommodated in the ground floor commercial restaurant shall not exceed 89 patrons at any one time.

Condition 6:

All commercial bins shall be located in an appropriate commercial bin store area with direct access to Warnham Road. Details to be provided prior to submission of a Building Permit, to the satisfaction of the Town.

Condition 12:

Prior to the submission of a Building Permit, a final Waste Management Plan shall be submitted to, and approved, by the Town. The approved plan shall be adhered to at all times by the owners and/or managers of the development, to the satisfaction of the Town.

New Conditions**Condition 14:**

Prior to the submission of a Building Permit application, detailed plans, endorsed by a suitably qualified engineering consultant, shall be provided which demonstrates the proposed car parking areas, vehicle (laneway) access, universal access and bicycle bays have been designed to the specifications of the Town, in accordance with the relevant Australian Standards. If the vehicle (laneway) access is required to be widened to comply with the Australian Standards, then an easement shall be provided on the title of the subject property prior to occupation allowing all other adjoining properties that currently have a right of carriageway across the 4 Warnham Road easement to have a reciprocal right of access across the widened laneway on Lot 6.

Condition 15:

Prior to occupation of the development, a Parking and Operational Management Plan is to be submitted to, and approved, by the Town. The approved plan shall be implemented and adhered to at all times by the owners and/or managers of the development, to the satisfaction of the Town.

Condition 16:

A Construction Management Plan shall be submitted to and approved by the Town prior to the submission of a building permit. The management plan shall include details regarding mitigation measures to address impacts associated with construction works, including but not limited to:

- the control of vibration, dust, noise, waste, sand and sediment; temporary fencing; hoardings and gantries; site access/egress; deliveries of construction materials; heavy construction machinery; parking for contractors and tradespersons; and traffic control;
- any trees (including roots) that are to be retained on the development site, and in close proximity to the proposed works should be appropriately protected during construction works (e.g. tree protection zones).
- The construction works shall be undertaken in accordance with the approved Construction Management Plan.

Condition 17:

Prior to lodgement of a Building Permit, Public Art to the minimum value of 1% of the total development cost shall be provided in accordance with the Town's Developer Contributions for Public Art Policy, to the satisfaction of the Town.

Condition 18:

Prior to occupation of the development, the owner shall register on the Certificate of Title(s) of the residential units, notifications, pursuant to Section 70A of the Transfer of Land Act 1893. Notice of the notifications are to be included on the diagram or plan of survey (deposited plan). The notification is to state that the lot is located within an area that may be affected by potentially heightened ambient noise levels (activity, noise, light, traffic and late hours of operation) within public and private areas than that normally associated with a typical residential area.

The notifications are to be registered at the applicant/owners expense, to the satisfaction of the Town.

New Advice Notes

Advice Note 8:

The applicant is advised that any approval for built strata subdivision issued pursuant to the Strata Titles Act 1985 may include conditions that require the provision of public open space in the form of cash-in-lieu. It is recommended that the applicant lodge any built strata application prior to commencement of construction.

Advice Note 9:

The owner/applicant shall ensure that they have all necessary approvals to allow the proposed use of the ROW (laneway) adjoining the eastern boundary of the lot for vehicle access.

All other conditions and requirements detailed on the previous approval dated 21 December 2021 shall remain unless altered by this application.

ENGINEERING SERVICES**10.1.5 RESIDENTIAL AND RECREATIONAL VERGE PLAY EQUIPMENT**

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/30370
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider rejecting applications for verge play equipment that do not meet the requirements of the Management Protocol for Play Equipment on Street Verges or Attached to Street Trees.

OFFICER RECOMMENDATION IN BRIEF

That Council accepts the proposed outcome detailed in the officer's comment and recommendation section of the report for:

- 28 Kathleen Street;
- 54 Kathleen Street

BACKGROUND

At the June 2023 Ordinary Council Meeting, Council adopted the Management Protocol for Play Equipment on Street Verges or Attached to Street Trees.

The following provides a summary actions to date of the Play Equipment on Street Verges or Attached to Street Trees Management Program:

- 119 exempted applications acknowledged;
- 22 reminder letters sent to residents needing to apply for a permit with no responses received from them to date. Depending on the outcome of the reminder letters, these may be subject to a future report to Council to determine; and
- 6 permits have been issued.

Under the policy, Council approval is required before any verge play equipment is removed. Similar endorsement is required for any applications that do not meet the standards of the policy.

Play equipment at two(2) locations have been identified that fall under these circumstances.

OFFICER COMMENT

The current Management Protocol requires all play equipment needing a permit to be set back 1.5 metres back from the kerb (clause 2i). Council is asked to consider the following

verge play equipment applications that do not meet this requirement of the Management Protocol:

Location one: 54 Kathleen Street



The trampoline is currently positioned 1 metre from road and 1.5 metres from footpath. There is the option of either a reposition to achieve:

- Option A: 1.5 metres from road and 1m from footpath;
- Option B: 1.25 metres from the road and footpath (centralised); or
- Option C: Reject the application.

Given that this is located near a cul-de-sac (low vehicle volume and speed) and does not swing over a carriageway (clause 2j), the Officer's recommendation is for Council to accept Option B. This will then be monitored and reconsidered should there be any complaints or incidents.

Location 2: 28 Kathleen Street

This trampoline is 0.9 metre from road, 0.4 metre from driveway and 0 metre from the footpath. There is no space on this verge for play equipment of this nature to be placed on. For this reason, it is recommended that Council declined the application and require the play equipment be removed.

Council is asked to note that the time stamp on the photograph is based of global positioning system (GPS) location of where the photograph was taken (the neighbouring property), however the Officer can confirm that the play equipment is for 28 Kathleen Street, not 26 Kathleen Street.

ATTACHMENTS

10.1.5(a) Verge Play Equipment Applications Combined [under separate cover]

CONSULTATION

28 and 54 Kathleen Street have submitted applications and given the circumstances, a Council decision is required before any consultation can occur, particularly for 28 Kathleen Street where no other compliant options are available.

STATUTORY IMPLICATIONS

Local Government Act 1995

Regulation 17 Local Government (Uniform Provisions) Regulations 1996

POLICY IMPLICATIONS

The Management Protocol for Play Equipment on Street Verges or Attached to Street Trees.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

Reduction in available green space with play equipment occupying the verge and possible damage to verge trees continues to be a risk.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

- 1. APPROVES Option B for the play equipment for 54 Kathleen Street;**
- 2. REJECTS the application for 28 Kathleen Street and requires the play equipment be removed in accordance with the process mentioned in the Management Protocol.**

EXECUTIVE SERVICES**10.1.6 SENIOR EMPLOYEES POLICY****Directorate:****Author(s): William Matthew Scott, Chief Executive Officer****Authoriser(s): William Matthew Scott, Chief Executive Officer****File Reference: D23/30854****Applicant(s):****Author Disclosure of Interest: Nil**

SUMMARY

For Council to consider adopting the attached Senior Employee Policy to clearly designate what positions are to be classified as “Senior Employees” as per Section 5.37 of the Local Government Act 1995.

OFFICER RECOMMENDATION IN BRIEF

That Council adopts the attached Senior Employee Policy.

BACKGROUND

Under section 5.41 The Chief Executive Officer (CEO) is solely responsible for the employment, management, supervision, direction, and dismissal of all other employees, meaning that Council is not directly involved in employee matters, except in relation to the CEO position. Under section 5.37, Local Government Act 1995, the Council has the ability to designate individual employees or a class of employees as Senior Employees. The CEO is still responsible for the employment of Senior Employees, however, Section 5.37 requires the CEO to advise Council of the appointment or dismissal of a senior employee and limits initial contracts of Senior Employees to a maximum of 5 years (similar to the CEO). Given the statutory requirements associated with the employment of the CEO, the CEO is generally considered by default as a Senior Employee.

Prior to April 2020, the Town had a “Senior Employees and Appointment of Acting Chief Executive Officer Policy”, which under clause 3.1 Senior Employees, designated the Deputy Chief Executive Officer as a Senior Employee. At the April 2020 Ordinary Meeting of Council (OCM) this Policy was replaced with the current Appointment of Acting Chief Executive Officer Policy (<https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/28-april-2020-ordinary-council-meeting/267>). In doing so, the entire designation of Senior Employees section of the previous Policy was removed.

The Executive Management Structure of the Town of Cottesloe Administration is made up of:

- The Chief Executive Officer (CEO)
- The Director Corporate and Community Services (DCCS)
- The Director Development and Regulatory Services (DDRS)

- The Director Engineering Services (DES)

Given there is no clear Policy position as to who is a Senior Employee there is some confusion in regards to the status of the current Executives Positions (DCCS, DDRS & DES). The Western Australian Local Government Association (WALGA) has advised the easiest way to resolve this issue would be for Council to designate who is a Senior Employee via a Council Policy (as attached).

OFFICER COMMENT

On review of most Local Governments, Executive Positions are generally designated Senior Employees due to the close working relationship Executives have with Elected Members and level of authority and responsibility. Designating Senior Employees does not change the current employment conditions of the Executive Team. The attached Policy is based on similar policies from other Local Governments, which is usually achieved via a stand-alone Policy position, rather than incorporating the matter into other related policies, such as the Appointment of Acting CEO policies.

It is recommended that Council adopt the attached Policy, which would make the entire Executive Team Senior Employees, similar to the Appointment of Acting CEO Policy. Alternatively, Council could remove specific positions however, this is not recommended, unless all Executives, except the CEO were removed, so as to maintain consistency across the Executive Structure.

ATTACHMENTS

10.1.6(a) Senior Employee Policy [under separate cover]

CONSULTATION

WALGA

Various other Local Governments

STATUTORY IMPLICATIONS

Local Government Act 1995

5.37. Senior employees

(1) A local government may designate employees or persons belonging to a class of employees to be senior employees.

(2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.

(3) Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.

(4A) Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.

(4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

POLICY IMPLICATIONS

The proposed Policy is to provide a Council position as to who is considered a Senior Employee at the Town of Cottesloe. The current Appointment of Acting Chief Executive Officer Policy is silent on who is a Senior Employee.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

RESOURCE IMPLICATIONS

Designating Senior Employees via the proposed Policy does not have any impact on the existing budgetary allocations associated with these positions.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council ADOPT the attached Draft Senior Employee Policy.

10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES

Nil

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

12.1 ELECTED MEMBERS

12.2 OFFICERS

13 MEETING CLOSED TO PUBLIC

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

MOTION FOR BEHIND CLOSED DOORS

That, in accordance with Section 5.23(2) (a), Council discuss the confidential reports behind closed doors.

13.1.1 CHIEF EXECUTIVE PERFORMANCE REVIEW

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (a) as it contains information relating to a matter affecting an employee or employees.

MOTION FOR RETURN FROM BEHIND CLOSED DOORS

In accordance with Section 5.23 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

14 MEETING CLOSURE